

University of Washington Health Care Components

PP-12 Attachment B
Rev. 1/22/2007

BUSINESS ASSOCIATE Agreement

This Agreement is entered into between the University of Washington _____ and _____ (hereinafter "Business Associate"). The University of Washington is a hybrid entity and has designated its health care components and non-health care components. Pursuant to 45 CFR §164.103 and §164.105(a)(2)(iii)(C), the University's designation includes _____ (hereinafter "Covered Entity").

This Agreement is incorporated into all existing and current contract(s) between the parties (the "Underlying Contract(s)") under which Business Associate is carrying out activities or functions involving the use of protected health information (PHI), as this term is defined in 45 CFR Parts 160 and 164, and it replaces any prior agreement(s) entered concerning such PHI. Covered Entity is committed to providing high quality patient care, education, and research. In furtherance of its mission, Covered Entity wishes to conduct transactions involving the disclosure of PHI to Business Associate for the purpose of conducting the activities set forth in the Underlying Contract(s).

Some or all of the information to be disclosed is required by law to be protected against unauthorized use, disclosure, modification or loss. In order to comply with applicable legal requirements for the protection of information, the parties agree as follows:

A. ALLOWABLE USES OF PHI

PHI may be used only for the following purposes:

1. _____
2. _____
3. _____

B. OBLIGATIONS OF BUSINESS ASSOCIATE

Section 1. **Use or disclosure of Protected Health Information.** Business Associate shall not use or disclose PHI received from Covered Entity in any manner that would constitute a violation of federal law, including but not limited to the Health Insurance Portability and Accountability Act of 1996 and any regulations enacted pursuant to its provisions ("HIPAA Standards"), or applicable provisions of Washington state law. Business Associate shall ensure that any use or disclosure by its directors, officers, employees, contractors, and agents of PHI received from Covered Entity, or created or received on behalf of Covered Entity is in accordance with the provisions of this Agreement and applicable federal and state law. Business Associate shall not use or disclose PHI in any manner other than that permitted or required by the Covered Entity for the purpose of accomplishing services to or on behalf of Covered Entity in accordance with the Underlying Contracts. Notwithstanding the foregoing, Business Associate may use PHI for the proper management and administration of the Business Associate and to carry out its legal responsibilities.

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Section 2. **Reporting of Unauthorized Use or Disclosure of PHI.** Business Associate shall, within five (5) working days of becoming aware of an unauthorized use or disclosure of PHI by Business Associate, its officers, directors, employees, contractors, agents or by a third party to which Business Associate disclosed PHI, report any such disclosure to Covered Entity. Such notice shall be made to the following:

UW Medicine Compliance
1959 NE Pacific St
Box 356340
Seattle WA 98195

Section 3. **Agreements by Third Parties.** Business Associate shall obtain satisfactory assurances from any agent or subcontractor who will have access to PHI that is received from Covered Entity, or created or received on behalf of the Covered Entity, and shall ensure that the agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to Business Associate through this Agreement with respect to PHI. Business Associate shall require that any agent or subcontractor notify Business Associate of any instances in which PHI is used or disclosed in an unauthorized manner. Business Associate agrees to notify Covered Entity of any such unauthorized use or disclosure. Business Associate shall take steps to cure the breach of confidentiality and end the violation, or shall terminate the agency agreement or subcontract.

Section 4. **Access to Information.** If Business Associates maintains a Designated Record Set (DRS) on behalf of Covered Entity, Business Associate agrees to provide access to PHI about an individual contained in a DRS to Covered Entity. Business Associate shall make available to Covered Entity such PHI for so long as the information is maintained in the DRS. If any individual requests access to PHI directly from Business Associate, Business Associate shall forward such request to the Covered Entity. Business Associate shall not deny any individual's request for access to the individual's PHI. Any denials of access to PHI requested will be the responsibility of Covered Entity.

Section 5. **Availability of PHI for Amendment.** Within five days of a request from Covered Entity for the amendment of an individual's PHI or a record regarding an individual contained in a DRS (for so long as the PHI is maintained in the DRS), Business Associate shall provide such information to Covered Entity for amendment and incorporate any such amendments in the PHI as required by 45 C.F.R. §164.526.

Section 6. **Accounting of Disclosures.** Business Associate agrees to implement an appropriate record keeping process to enable it to provide the following information regarding disclosures of PHI: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. If Business Associate receives a request for an accounting of disclosures, Business Associate shall forward such request to Covered Entity within a reasonable time frame to allow Covered Entity to prepare and deliver any required accounting of disclosures.

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Section 7. **Availability of Books and Records.** Business Associate agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from Covered Entity, or created or received on behalf of Covered Entity, available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining Covered Entity's and Business Associate's compliance with the HIPAA Standards. Business Associate promptly shall provide to Covered Entity a copy of any documentation that Business Associate provides to the Secretary.

Section 8. **Return or Destruction of Information.** At the termination of the Underlying Contract(s), Business Associate shall return or destroy all PHI received from Covered Entity, or created or received on behalf of Covered Entity, that Business Associate still maintains in any form and retain no copies of PHI. If Business Associate determines that return or destruction of any PHI is not feasible, Business Associate shall notify Covered Entity of the reasons why return or destruction is not feasible. If destruction or return of PHI is not feasible, Business Associate shall not use PHI received from Covered Entity, or created or received on behalf of Covered Entity, in a manner other than those permitted or required by state and federal laws or for the purposes described herein.

Section 9. **Electronic Protected Health Information ("ePHI").** If Business Associate creates, receives, maintains or transmits ePHI on behalf of Covered Entity, Business Associate agrees to (1) implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Covered Entity's ePHI; (2) ensure that any third party agent or subcontractor who receives Covered Entity's ePHI from Business Associate agrees to implement equivalent physical and technical safeguards; and (3) report any security incidents involving Covered Entity's ePHI that Business Associate is aware of within a reasonable time period.

Section 10. **Potential Data Security Breach.** As required by RCW 42.56.590 Public Records - Personal Information – Notice of Security Breaches, if Business Associate has reason to believe that personal information transmitted pursuant to this Agreement may have been accessed or disclosed without proper authorization and contrary to the terms of this Agreement, Business Associate will, as soon as is practical, give UW Medicine notice and take actions to eliminate the cause of the breach. To the extent UW Medicine deems warranted, in its sole discretion, UW Medicine will provide notice to individuals whose personal information may have been improperly accessed or disclosed. Business Associate shall indemnify, hold harmless, and defend UW Medicine from and against any penalties, claims or damages arising from or pertaining to a breach of this agreement, or the violation of any state or federal law applicable to the use, disclosure or protection of personal information subject to this Agreement. Such indemnification will likely include the full costs of such notice to impacted individuals, including the costs to retain an outside consulting firm to undertake the effort.

UW Medicine has the right, at any time, to monitor, audit, and review activities and methods in implementing this Agreement in order to assure compliance therewith, within the limits of Business Associate's technical capabilities.

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C. Miscellaneous.

Section 11. **Termination.** Notwithstanding any provision to the contrary in the Underlying Contract(s), Covered Entity may terminate its participation in the Underlying Contract(s) immediately upon written notice to Business Associate without liability for such termination, in the event that Covered Entity determines that Business Associate has violated a material provision of this Agreement.

Section 12. **Third Party Beneficiaries.** Nothing in this Addendum is intended to create any third party beneficiaries.

Section 13. **Definitions.**

Personal Information means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(a) Social security number;

(b) Driver's license number or Washington identification card number; or

(c) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

Breach of the security of the system means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency.

All terms not otherwise defined herein shall be defined in accordance with 45 CFR Parts 160 and 164.

UW Medicine Representative

Business Associate Representative

Date

Date