



HIPAA Business Associate Agreement

County of Nevada
950 Maidu Avenue, Suite 230 Nevada City, Ca 95959
MSA Date: August 17, 2022

THIS HIPAA BUSINESS ASSOCIATE AGREEMENT (“Agreement”) is made by and between County of Nevada (hereinafter referred to as “Client”) and CliftonLarsonAllen LLP (hereinafter referred to as “CLA”). This Agreement is effective as of the date signed by Client.

RECITALS

WHEREAS, Client is a “covered entity” within the meaning of 45 CFR § 160.103;

WHEREAS, CLA provides accounting, consulting, or other services to Client and, in connection therewith, Client wishes to disclose “protected health information” within the meaning of 45 CFR § 160.103 to CLA and CLA wishes to receive protected health information and, on behalf of Client, create, maintain, or transmit protected health information (collectively, “Client’s PHI”);

WHEREAS, CLA is a “business associate” within the meaning of 45 CFR § 160.103;

WHEREAS, Client and CLA intend to protect the privacy and provide for the security of Client’s PHI in compliance with the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009, and the regulations and policy guidance thereunder (“HIPAA Rules”);

WHEREAS, the HIPAA Rules require that Client receive adequate assurances that CLA will comply with certain obligations with respect to Client’s PHI and, accordingly, the parties hereto desire to enter into this Agreement for the purpose of setting forth in writing the terms and conditions for the use, disclosure, and safeguarding of Client’s PHI, including provisions required by the HIPAA Rules as the same may be amended from time to time;

NOW, THEREFORE, in consideration of the foregoing recitals and mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

TERMS OF AGREEMENT

1. Obligations and Activities of CLA

(a) Permitted and Required Uses and Disclosures.

CLA shall not use or disclose Client's PHI except as permitted or required by this Agreement or as required by law. Specifically, CLA agrees as follows:

- (i) CLA may only use or disclose Client's PHI as necessary to perform the services set forth in the service agreement, if any, between Client and CLA, to perform functions, activities, or services for, or on behalf of, Client as requested by Client from time to time, or as required by law.
- (ii) CLA shall use or disclose only the "Minimum Necessary" amount of information, as such term is defined in the HIPAA Rules, required to conduct the authorized activities herein, except that CLA will limit disclosures to a limited data set as set forth in 45 CFR § 164.514(e)(2) as required by the HIPAA Rules.
- (iii) CLA may not use or disclose Client's PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by Client, except that CLA may use or disclose Client's PHI for the proper management and administration of CLA or to carry out the legal responsibilities of CLA, provided the use or disclosures are required by law or CLA obtains reasonable assurances from the person to whom the information is disclosed that Client's PHI will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies CLA of any instances of which it is aware in which the confidentiality of Client's PHI has been breached.
- (iv) CLA may use Client's PHI to provide "data aggregation services" relating to the health care operations of Client within the meaning of 45 CFR § 164.501.
- (v) CLA shall not disclose Client's PHI in a manner that would violate any restriction thereof which has been duly communicated to CLA.
- (vi) Except as permitted by the HIPAA Rules, CLA shall not directly or indirectly receive remuneration in exchange for any of Client's PHI unless authorized in writing by Client.

(b) Safeguards

CLA shall use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of Client's PHI other than as provided in this Agreement.

(i) Administrative Safeguards.

CLA shall implement all required administrative safeguards pursuant to 45 CFR § 164.308 as such are made applicable to business associates pursuant to the HIPAA Rules.

Additionally, CLA shall either implement or properly document the reasons for non-implementation of all administrative safeguards of 45 CFR § 164.308 that are designated as “addressable” as such are made applicable to business associates pursuant to the HIPAA Rules.

(ii) Physical Safeguards.

CLA shall implement all required physical safeguards pursuant to 45 CFR § 164.310 as such are made applicable to business associates pursuant to the HIPAA Rules.

Additionally, CLA shall either implement or properly document the reasons for non-implementation of all physical safeguards of 45 CFR § 164.310 that are designated as “addressable” as such are made applicable to business associates pursuant to the HIPAA Rules.

(iii) Technical Safeguards.

CLA shall implement all required technical safeguards pursuant to 45 CFR § 164.312 as such are made applicable to business associates pursuant to the HIPAA Rules.

Additionally, CLA shall either implement or properly document the reasons for non-implementation of all technical safeguards of 45 CFR § 164.312 that are designated as “addressable” as such are made applicable to business associates pursuant to the HIPAA Rules.

(c) Reporting of Disclosures

CLA shall report to Client any use or disclosure of Client’s PHI not provided for by this Agreement of which CLA becomes aware, including any acquisition, access, use or disclosure (i.e., “breach”) of “unsecured protected health information,” within the meaning of 45 CFR § 164.403, and any security incident of which CLA becomes aware. CLA shall make such report to Client without unreasonable delay and in no case later than sixty (60) calendar days following discovery of the breach. CLA’s notice to Client shall include all information needed by Client to provide notice to affected individuals and otherwise satisfy the requirements of 45 CFR § 164.410.

(d) CLA’s Subcontractors.

CLA may disclose Client’s PHI to one or more subcontractors and may allow its subcontractors to create, receive, maintain, or transmit Client’s PHI on behalf of CLA. CLA shall obtain satisfactory assurances from any such subcontractor that it will appropriately safeguard Client’s PHI in accordance with 45 CFR § 164.314(a) and shall ensure that the subcontractor agrees in writing to the same or more stringent restrictions, conditions, and requirements that apply to CLA with respect to Client’s PHI. Upon CLA contracting with a subcontractor regarding Client’s PHI, CLA shall provide Client written notice of such executed agreement and copy of agreement.

(e) Satisfying Requests for Access.

CLA shall make available to Client Client’s PHI in a “designated record set,” within the meaning of 45 CFR § 164.501, as Client may require to satisfy its obligations to respond to a request for access pursuant to 45 CFR § 164.524. If CLA receives a request for access directly from an individual or an individual’s designee, CLA shall forward such request within five (5) calendar

days to Client for Client to fulfill. Alternatively, if directed by Client and agreed to by CLA, CLA shall make available to the individual or the individual's designee Client's PHI in a designated record set, as necessary to satisfy the requirements of 45 CFR § 164.524. CLA shall provide such access within thirty (30) calendar days of receiving a request for access and shall confirm to Client in writing that such request has been fulfilled.

(f) Satisfying Requests for Amendment.

CLA shall make any amendments to Client's PHI in a designated record set, as Client may require to satisfy its obligations to respond to a request for amendment pursuant to 45 CFR § 164.526. If CLA receives a request for amendment directly from an individual or an individual's designee, CLA shall forward such request within ten (10) calendar days to Client for Client to fulfill. Alternatively, if directed by Client and agreed to by CLA, CLA shall make an amendment to Client's PHI in a designated record set, as necessary to satisfy the requirements of 45 CFR § 164.526. CLA shall make such amendment within sixty (60) calendar days of receiving a request for amendment and shall confirm to Client in writing that such request has been fulfilled.

(g) Internal Practices.

CLA shall make its internal practices, books and records relating to the use and disclosure of Client's PHI available to the Secretary of the United States Department of Health and Human Services or his or her designee for purposes of determining compliance with the HIPAA Rules.

(h) Accounting.

CLA shall document disclosures of Client's PHI and information related to such disclosures and otherwise maintain and make available the information required to provide an accounting of disclosures to the Client as necessary to permit the Client to respond to a request for an accounting pursuant to 45 CFR § 164.528. If CLA receives a request for an accounting directly from an individual or an individual's designee, CLA shall forward such request within ten (10) calendar days to Client for Client to fulfill. Alternatively, if directed by Client and agreed to by CLA, CLA shall provide an accounting as necessary to satisfy the requirements of 45 CFR § 164.528. CLA shall satisfy such request within sixty (60) calendar days of receiving a request for an accounting and shall confirm to Client in writing that such request has been fulfilled.

(i) Policies and Procedures; Documentation.

CLA shall develop appropriate policies and procedures relating to its compliance with the administrative, physical, and technical safeguards set forth in Section 1.b. and shall document, retain, and update such policies and procedures as required by 45 CFR § 164.316.

(j) Compliance as if Covered Entity.

To the extent CLA is to carry out one or more of the obligations imposed on the Client as a "covered entity" under Subpart E of 45 CFR Part 164, CLA shall comply with the requirements of said Subpart E that apply to the Client in the performance of such obligations.

2. Client Obligations.

Client shall provide notice to CLA of any of the following:

- (a) Any limitations in the notice of privacy practices of Client under 45 CFR § 164.520, as well as any changes to such limitations, to the extent that such limitation may affect CLA's use or disclosure of Client's PHI.
- (b) Any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect CLA's use or disclosure of Client's PHI.
- (c) Any restriction on the use or disclosure of protected health information that Client has agreed to or is required to abide by under 45 CFR § 164.522, to the extent that such restriction may affect CLA's use or disclosure of Client's PHI.

Client shall not request CLA to use or disclose Client's PHI in any manner that would not be permissible under the HIPAA Rules if done by Client, except that Client may request CLA to provide to Client "data aggregation services" relating to the health care operations of the Client within the meaning of 45 CFR § 164.501, as permitted by 45 CFR § 164.504(e)(2)(i)(B).

3. Termination of Agreement

- (a) This Agreement shall terminate on the earliest to occur of the date either party terminates the Agreement "for cause," as described in Section 3.b., the date CLA terminates as described in Section 3c., or pursuant to Section 5 upon either party's failure to negotiate or enter into an amendment to this Agreement.

- (b) **Termination for Cause.**

A breach of any provision of this Agreement by either party, as determined by the non-breaching party, shall constitute a material breach of the Agreement and shall provide grounds for termination of the Agreement for cause if the breaching party is unable to cure such breach to the other party's satisfaction within ten (10) days following written notice of such breach. The breaching party shall cooperate with the other party as necessary to mitigate the extent of any unauthorized disclosures of Client's PHI or any damages or potential damages and liability under the HIPAA Rules caused by any violation of this Agreement or other unauthorized use of Client's PHI.

- (c) **Termination by CLA.**

Upon thirty (30) days' advance written notice, CLA shall have the right to terminate this Agreement if Client imposes additional restrictions or requirements regarding the use, disclosure, or maintenance of Client's PHI that CLA reasonably determines will materially affect CLA's ability to perform its responsibilities under this Agreement or will materially increase CLA's costs to perform its responsibilities under this Agreement.

4. Treatment of Client's PHI after Termination.

Upon termination of this Agreement for any reason, CLA, with respect to Client's PHI, shall:

- (a) Retain only that portion of Client's PHI which is necessary for CLA to continue its proper

management and administration or to carry out its legal responsibilities;

- (b) Return to Client or, if agreed to by Client, destroy remaining Client's PHI that CLA still maintains in any form and retain no copies of such Client's PHI;
- (c) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of Client's PHI, other than as provided for in this Section, for as long as CLA retains any Client's PHI;
- (d) Not use or disclose Client's PHI retained by CLA other than for the purposes for which Client's PHI was retained and subject to the same conditions, as set forth in Section 2, which applied prior to termination;
- (e) Return to Client or, if agreed to by Client, destroy remaining Client's PHI retained by CLA when it is no longer needed by CLA for its proper management and administration or to carry out its legal responsibilities and retain no copies of such Client's PHI;
- (f) Obtain or ensure the destruction of any Client's PHI created, received, or maintained by any of CLA's subcontractors; and
- (g) Within thirty (30) calendar days after termination of this Agreement, certify in a written statement signed by a senior officer of CLA, that all Client's PHI has been returned or disposed of as required above.

If the parties mutually agree that return or destruction is not feasible, this Agreement shall continue to apply to Client's PHI and, without limitation to the foregoing, the obligations of CLA under this Agreement shall survive the termination of this Agreement with respect to any Client's PHI retained by CLA. CLA shall limit further use and disclosure of Client's PHI to those purposes that make the return or destruction of Client's PHI infeasible.

5. Amendment to Comply with Law.

The parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties agree to promptly enter into negotiations concerning the terms of an amendment to this Agreement embodying written assurances consistent with the HIPAA Rules or other applicable law upon the written request of either party. Either party may terminate this Agreement upon thirty (30) days' written notice in the event (i) the other party does not promptly enter into negotiations to amend this Agreement upon the request of the party giving notice or (ii) the other party fails to execute an amendment to this Agreement upon the request of the party giving notice.

6. No Third Party Beneficiaries.

Nothing expressed or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Client, CLA, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

7. Indemnification.

Each party shall indemnify, hold harmless, and defend the other party, its subsidiaries, affiliates, partners, and employees from and against all claims, suits, administrative proceedings, demands, losses, damages, or penalties, including reasonable attorneys' fees, arising out of party's misuse or improper disclosure of PHI, breach of this Agreement, or violation of the HIPAA Rules or any other law or regulation.

8. Interpretation.

This Agreement shall be interpreted as broadly as necessary to implement and comply with the HIPAA Rules. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with the HIPAA Rules. There shall be no presumption for or against either party, by reason of one of the parties causing this Agreement to be drafted, with respect to the interpretation or enforcement of this Agreement.

9. Notices.

All notices and other communications required or permitted hereunder or necessary or convenient in connection herewith shall be in writing and shall be deemed to have been given when hand delivered or mailed by registered or certified mail, as follows (provided that notice of change of address shall be deemed given only when received):

If to Client:

County of Nevada
950 Maidu Avenue, Suite 230 Nevada City, Ca 95959
Attention: Gina Will

If to CLA:

CliftonLarsonAllen LLP
220 South Sixth Street, Suite 300
Minneapolis, MN 55402-1436
Attention: Legal

or to such other names or addresses as Client or CLA, as the case may be, shall designate by notice to the other in the manner specified in this Section 9.

10. Survival.

The obligations contained in this Agreement which by their nature or context survive or are expressly intended to survive the termination of this Agreement will so survive and continue in full force and effect. Without limiting the generality of the foregoing, Sections 2, 4, and 7 shall survive the termination of this Agreement.

11. Severability.

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

12. Entire Agreement.

This Agreement constitutes the entire agreement between the parties on the matters contained herein. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are superseded by this Agreement.

13. Non-Waiver.

No failure or delay in exercising any right or remedy under this Agreement and no course of dealing between the parties operates as a waiver or estoppel of any right, remedy, or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purpose that it is given and is not to be construed as a waiver on any future occasion.

14. Governing Law.

This Agreement shall be governed, construed, and interpreted in accordance with the laws of the State of Minnesota without regard to such state's conflict of laws provisions.

Signatures

IN WITNESS WHEREOF, the parties have signed this Agreement.

CLA
CLA



Jeffrey Peek, Principal

SIGNED 5/31/2023, 3:00:59 PM PDT

Client
County of Nevada



Gina Will

SIGNED 5/31/2023, 3:22:01 PM PDT