

ATTACHMENT DD

**HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)  
BUSINESS ASSOCIATE AGREEMENT  
BETWEEN**

**THE NEVADA STATE DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION  
BUREAU OF DISABILITY ADJUDICATION**

hereinafter referred to as "Covered Entity"

and

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hereinafter referred to as "Provider"

This Agreement is entered into between Covered Entity and Provider, effective as of the date of final approval of the Provider Agreement.

Provider acknowledges and agrees that all protected health information that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording, and electronic medium by Covered Entity or its operating units to Provider on Covered Entity's behalf shall be subject to this agreement.

**OBLIGATIONS AND ACTIVITIES OF the PROVIDER**

1. Provider agrees to not use or disclose Protected Health Information (PHI/ePHI) other than as permitted by this Agreement or as Required by Law.
2. Provider agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided by this Agreement.
3. Provider agrees to mitigate, to the extent practicable, any harmful effect that is known to Provider of a use or disclosure of Protected Health Information by Provider in violation of the requirements of this Agreement.
4. Provider agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
5. Provider agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Provider on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Provider with respect to such information.
6. Provider agrees to provide access, at the request of the Covered Entity, and in the time and manner as set forth in the contract's Inspection and Audit provisions, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
7. Provider agrees to make any amendments to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, and in the time and manner as mutually agreed between the parties.
8. Provider agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Provider on behalf of, Covered Entity\_ available to the Covered Entity, or the

- Secretary, in a time and manner as set forth in the contract's Inspections and Audit provisions or designated by the Secretary, for the purpose of the Secretary determining Covered Entity's compliance with the Privacy Rule and Security Rule.
9. Provider agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual in accordance with 45 CFR 164.528.
  10. Provider agrees to provide to Covered Entity or an Individual, in time and manner as set forth in the contract's Inspection and Audit provisions, information collected in accordance with the previous section of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
  11. Provider agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the ePHI that it creates, receives, maintains, stores or transmits.
  12. Provider agrees to promptly report any breaches of privacy or security to the other party. Upon request, details shall be provided to include date of the incident, scope of the incident and actions taken to prevent reoccurrence.
  13. Provider agrees to ensure that any agent, including any subcontractor to whom it provides ePHI, agrees in writing, to implement reasonable and appropriate safeguards.

## PERMITTED USE AND DISCLOSURES BY PROVIDER

### General Use and Disclosure Provisions

1. Except as otherwise limited in this Agreement, Provider may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
2. Except as otherwise limited in this Agreement, Provider may use Protected Health Information for the proper management and administration of Provider or to carry out the legal responsibilities of Provider.
3. Except as otherwise limited by this Agreement, Provider may disclose Protected Health Information for the proper management and administration of Provider), provided that the disclosures are:
  - a. Required by Law, or
  - b. Provider obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and
  - c. The person notifies Provider of any instances of which it is aware in which the confidentiality of the information has been breached.
4. Except as otherwise limited by this Agreement, Provider may use Protected Health Information to provide Data Aggregation services for Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B)
5. Provider may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

## OBLIGATIONS OF COVERED ENTITY:

1. Covered Entity shall notify Provider of any limitations in its Notice of Privacy Practices in accordance with 45 CFR 164.520, to the extent that such limitation may affect (Provider's) use or disclosure of Protected Health Information.
2. Covered Entity shall notify Provider of any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, to the extent that such changes may affect Provider's use or disclosure of Protected Health Information.
3. Covered Entity shall notify Provider of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Provider's use or disclosure of Protected Health Information.

## PERMISSABLE REQUESTS BY COVERED ENTITY

The Covered Entity shall not request Provider to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

## TERM AND TERMINATION

1. **TERM:**  
The Term of this Agreement shall extend beyond the termination of the contract and shall terminate when all of the Protected Health Information provided by Covered Entity to Provider, or created or received by Provider on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination.
2. **EFFECT OF TERMINATION:**
  - a. Except as provided in paragraph (b.) of this section, upon termination of this Agreement, for any reason, Provider shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Provider on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Provider. Provider shall retain no copies of the Protected Health Information.
  - b. In the event that Provider determines that returning or destroying the Protected Health Information is infeasible, Provider shall provide to (Covered Entity) notification of the conditions that make return or destruction infeasible.

*Upon a mutual determination that return or destruction of Protected Health Information is infeasible, Provider shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make return or destruction infeasible, for so long as Provider maintains such Protected Health Information.*

## MISCELLANEOUS:

1. **AMENDMENT:** The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with all the requirements and the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191.

2. DEFINITION: The "Act" shall include, the Privacy Rule, the Security Rule, and ANY and ALL other rules and/or amendments to the Act that may be forthcoming.
3. SURVIVAL: The respective rights and obligations of Provider under EFFECT OF TERMINATION of this Agreement shall survive the termination of this Agreement.
4. INTERPRETATION: Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule and Security Rule.

PROVIDER

COVERED ENTITY

\_\_\_\_\_  
Business Name

**THE DEPARTMENT OF EMPLOYMENT, TRAINING  
AND REHABILITATION, REHABILITATION DIVISION**  
Department Name

\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
Authorized Signature                      Date

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Title

\_\_\_\_\_  
Title