



# WYOMING

*Agreement entered into on 06/11/2011 at the Blue Cross and Blue Shield of Wyoming*

## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into by and between Laramie County Government (“Covered Entity”) and Blue Cross Blue Shield of Wyoming (“Business Associate”).

This Agreement sets forth the terms and conditions with respect to the handling of Protected Health Information (PHI) pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E (“Privacy Rule”), the HIPAA Security Standards, 45 C.F.R. Part 160 and Part 164, Subparts A and C (“Security Rule”), the HIPAA Breach Notification Regulations, 45 C.F.R. Part 164, Subpart D (“Breach Notification Rule”), and the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”), all as amended. Business Associate recognizes and agrees that it is obligated by law and this Agreement to meet the applicable provisions of the HIPAA Rules.

### A. Privacy of PHI.

1. **Permitted Uses and Disclosures.** Business Associate is permitted to use and disclose PHI that it creates or receives for or from Covered Entity, and to request PHI on Covered Entity’s behalf, only as follows:
  - a. **Functions, Activities and Services on Covered Entity’s Behalf.** Business Associate may use Covered Entity’s PHI to perform authorized functions, activities, services, and operations on behalf of the Covered Entity in a manner consistent with the HIPAA Rules. Business Associate may also use Covered Entity’s PHI to provide Data Aggregation Services related to Covered Entity’s Health Care Operations and/or to de-identify the PHI it obtains or creates in the course of providing services to the Covered Entity.
  - b. **Business Associate’s Operations.** Business Associate may use the PHI it creates or receives for or from Covered Entity for Business Associate’s proper management and administration or to carry out Business Associate’s legal responsibilities to the Covered Entity, provided that, with respect to disclosure of the Covered Entity’s PHI, either:
    - (1) The disclosure is Required by Law; or
    - (2) Business Associate obtains reasonable assurance, evidenced by written contract, from its subcontractors, agents or any other third party to which Business Associate will disclose Covered Entity’s PHI that the subcontractor, agent, or third party will:

- (a) Hold such PHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the subcontractor, agent, or third party or as otherwise Required by Law;
- (b) Use appropriate safeguards to prevent unauthorized access to, us, or disclosure of the Protected Health Information; and
- (c) Promptly notify Business Associate (who will in turn promptly notify Covered Entity) of any instance in which the subcontractor, agent, or third party becomes aware that the confidentiality of Covered Entity's PHI was or may have been breached or compromised.

(3) The Protected Health Information is de-identified.

2. **Limited Data Set and Minimum Necessary.** Business Associate's use, disclosure, or request of PHI shall utilize a Limited Data Set, if practicable. Otherwise, in accordance with Covered Entity's minimum necessary policies and procedures, Business Associate shall, in its performance of the functions, activities, services, and operations allowed under the terms of this Agreement, make reasonable efforts to use, to disclose, and to request only the minimum amount of Covered Entity's PHI reasonably necessary to accomplish the intended purpose of the use, disclosure or request. In addition, Business Associate also agrees to follow appropriate minimum necessary policies in the performance of its obligations under this BAA. This minimum requirement does not apply to:

- (i) Disclosure to or request by a health care provider for Treatment;
- (ii) Use for or disclosure to an individual who is the subject of Organization's Protected Health Information, or that individual's personal representative;
- (iii) Use or disclosure made pursuant to an authorization compliant with 45 CFR § 164.508 that is signed by an individual who is the subject of Organization's Protected Health Information to be used or disclosed, or by that individual's personal representative;
- (iv) Disclosure to DHHS in accordance with Section 5(a) of this BAA;
- (v) Use or disclosure that is Required by Law; or
- (vi) Any other use or disclosure that is excepted from the minimum necessary limitation as specified in 45 CFR § 164.502(b)(2).

3. **Prohibition on Unauthorized Use or Disclosure.** Business Associate will neither use nor disclose Covered Entity's PHI except as permitted or required by this Agreement, as Required by Law, or as otherwise permitted in writing by Covered Entity. This BAA does not authorize Business Associate to use or disclose Organization's Protected Health Information in a manner that will violate the 45 CFR Part 164, Subpart E "Privacy of Individually Identifiable Health Information" ("Privacy Rule") if done by

Organization, except as set forth in Section 1(a)(ii) of thisBAA.

4. **Sale of PHI.** Business Associate shall not directly or indirectly receive remuneration in exchange for Covered Entity's PHI without the prior written consent of Covered Entity.
  5. **Marketing.** Business Associate shall not directly or indirectly receive payment for any use or disclosure of Covered Entity's PHI for marketing purposes without the prior written consent of Covered Entity.
  6. **42 C.F.R. Part 2 Disclosures.** Business Associate may also be a Qualified Service Organization (QSO) under Part 2 and must agree to certain mandatory provisions regarding the use and disclosure of PHI that is protected by Part 2.
  7. **Information Safeguards.**
    - a. **Privacy of Covered Entity's PHI.** Business Associate acknowledges that it has developed, implemented, and will maintain and use appropriate administrative, technical and physical safeguards to protect the privacy of Covered Entity's PHI. The safeguards must reasonably protect Covered Entity's Protect Health Information from any intentional or unintentional use or disclosure in violation of the HIPAA Privacy Rules, including but not limited to Privacy Rule, 45 CFR Part 164, Subpart E, and this Agreement, and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this Agreement.
    - b. **Security of Covered Entity's Electronic PHI.** Business Associate acknowledges that it has developed, implemented, and will maintain and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI that Business Associate creates, receives, maintains, or transmits on Covered Entity's behalf as required by the HIPAA Security Rules, including but not limited to 45 CFR Part 164, Subpart C. Business Associate shall implement policies and procedures and meet the Security Rule documentation requirements.
  8. **Sub-Contractors and Agents.** Business Associate shall require all of its subcontractors, agents, or third parties, to which Business Associate is permitted by this Agreement or in writing by Covered Entity to disclose Covered Entity's PHI, to provide reasonable assurance, evidenced by written contract, that subcontractor, agent, or third party will comply with the same privacy and security safeguard obligations and the terms of this Agreement with respect to Covered Entity's PHI to the same extent as Business Associate.
- B. Compliance with Transaction Standards.** If Business Associate conducts in whole or part electronic Transactions on behalf of Covered Entity for which the U.S. Department of Health and Human Services has established Standards, Business Associate will comply, and will require its subcontractors, agents or third parties involved with the conduct of such Transactions to comply, with each applicable requirement of the Transaction Rule, set forth at 45 C.F.R. Part 162. Business Associate will not enter into, or permit its subcontractors,

agents or third parties to enter into any Trading Partner Agreement in connection with the conduct of Standard Transactions on behalf of Covered Entity that:

1. Changes the definition, data condition, or use of a data element or segment in a Standard Transaction;
2. Adds any data element or segment to the maximum defined data set;
3. Uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification; or
4. Changes the meaning or intent of the Standard Transaction's implementation specification.

**C. Individual Rights.**

1. **Access.** Business Associate will within twenty (20) calendar days, upon Covered Entity's written request, make available to Covered Entity, or at Covered Entity's direction, to an individual (or the individual's personal representative), for the purpose of inspection and obtaining copies, Covered Entity's PHI about the individual that is in Business Associate's custody or control, consistent with the requirements of 45 C.F.R. §164.524, so that Covered Entity may meet its access obligations under 45 C.F.R. §164.524. Business Associate shall make such information accessible in an electronic format where directed by Covered Entity.
2. **Amendment.** Business Associate will, upon receipt of written notice from Covered Entity, promptly amend or permit Covered Entity access to amend any portion of Covered Entity's PHI so that Covered Entity may meet its amendment obligations under 45 C.F.R. §164.526.
3. **Disclosure Accounting.** So that Organization may meet its disclosure accounting obligations under 45 CFR § 164.528:
  - i) **Disclosures Subject to Accounting.** Business Associate will record the information specified in Section 3(c)(iii) below ("Disclosure Information") for each disclosure of Organization's Protected Health Information, not excepted from disclosure accounting as specified in Section 3(c)(ii) below, that Business Associate makes to Organization or to a third party.
  - ii) **Disclosures Not Subject to Accounting.** Business Associate will not be obligated to record Disclosure Information or otherwise account for the following disclosures of Organization's Protected Health Information:
    - A) That occurred before March 28, 2023;
    - B) For Treatment, Payment or Health Care Operations activities;

- C) To an individual who is the subject of Organization's Protected Health Information disclosed, or to that individual's personal representative;
  - D) Pursuant to an authorization compliant with 45 CFR § 164.508 that is signed by an individual who is the subject of Organization's Protected Health Information disclosed, or by that individual's personal representative;
  - E) For notification of and to persons involved in the care or payment related to the health care of an individual who is the subject of Organization's Protected Health Information disclosed and for disaster relief;
  - F) To law enforcement officials or correctional institutions in accordance with 45 CFR § 164.512(k)(5);
  - G) For national security or intelligence purposes in accordance with 45 CFR § 164.512(k)(2);
  - H) In a Limited Data Set;
  - I) Incident to a use or disclosure that Business Associate is otherwise permitted to make by this BAA; and
  - J) Otherwise excepted from disclosure accounting as specified in 45 CFR § 164.528.
- iii) Disclosure Information. With respect to any disclosure by Business Associate of Organization's Protected Health Information that is not excepted from disclosure accounting by Section 3(c)(ii) above, Business Associate will record the following Disclosure Information as applicable to the type of accountable disclosure made:
- A) Disclosure Information Generally. Except for repetitive disclosures of Organization's Protected Health Information as specified in Section 3(c)(iii)(B) below and for disclosures for large Research studies as specified in Section 3(c)(iii)(C) below, the Business Associate must record Disclosure Information as required by the HIPAA Privacy Rule for each accountable disclosure, including but not limited to: (i) the disclosure date, (ii) the name and (if known) address of the entity to which Business Associate made the disclosure, (iii) a brief description of Organization's Protected Health Information disclosed, and (iv) a brief statement of the purpose of the disclosure.
  - B) Disclosure Information for Repetitive Disclosures. For repetitive disclosures of Organization's Protected Health Information that Business Associate

makes for a single purpose to the same person or entity (including Organization), the Disclosure Information that Business Associate must record is either the Disclosure Information specified in Section 3(c)(iii)(A) above for each accountable disclosure, or (i) the Disclosure Information specified in Section 3(c)(iii)(A) above for the first of the repetitive accountable disclosures, (ii) the frequency, periodicity, or number of the repetitive accountable disclosures, and (iii) the date of the last of the repetitive accountable disclosures.

- C) Disclosure Information for Large Research Activities. For disclosures of Organization's Protected Health Information that Business Associate makes for particular Research involving 50 or more individuals and for which an Institutional Review Board or Privacy Board has waived authorization during the period covered by an individual's disclosure accounting request, the Disclosure Information that Business Associate must record is (i) the name of the Research protocol or activity, (ii) a plain language description of the Research protocol or activity, including its purpose and criteria for selecting particular records, (iii) a brief description of the type of Organization's Protected Health Information disclosed for the Research, (iv) the dates or periods during which Business Associate made or may have made these disclosures, including the date of the last disclosure that Business Associate made during the period covered by an individual's disclosure accounting request, (v) the name, address, and telephone number of the Research sponsor and of the researcher to whom Business Associate made these disclosures, and (vi) a statement that Organization's Protected Health Information relating to an individual requesting the disclosure accounting may or may not have been disclosed for a particular Research protocol or activity.

- iv) Availability of Disclosure Information. Unless otherwise provided by applicable law, Business Associate will maintain the Disclosure Information for at least six (6) years following the date of the accountable disclosure to which the Disclosure Information relates.

Business Associate will make the Disclosure Information available to Organization within thirty (30) days following Organization's request for such Disclosure Information to comply with an individual's request for disclosure accounting.

4. Restriction Agreements and Confidential Communications. Business Associate will comply with any agreement that Covered Entity makes that either restricts use or disclosure of Covered Entity's PHI pursuant to 45 C.F.R. §164.522(a), or requires confidential communication about Covered Entity's PHI pursuant to 45 C.F.R. §164.522(b), provided that Covered Entity notifies Business Associate of such agreement in writing. Covered Entity will promptly notify Business Associate in

writing of the termination or alteration of any such restriction agreement or confidential communication requirement and, with respect to termination of any such restriction agreement, instruct Business Associate whether any of Covered Entity's PHI will remain subject to the terms of the restriction agreement.

**D. Obligation Relating to Privacy Incidents, Breaches and Security Incidents.**

1. **Privacy Incidents and Breach.** Business Associate shall report to Covered Entity any use or disclosure of Covered Entity's PHI that is in violation of the applicable HIPAA Privacy Rules or that is not otherwise permitted by this Agreement or in writing by Covered Entity. Business Associate shall report the Incident or Breach, following discovery and without unreasonable delay, but in no event later than five (5) business days following its discovery of the Breach, any "Breach" of "Unsecured Protected Health Information" as these terms are defined by the Breach Notification Regulation. This obligation to notify shall include any unauthorized acquisition, access, use, or disclosure, even where Business Associate has determined that such unauthorized acquisition, access, use, or disclosure does not compromise the security or privacy of such information, unless such acquisition, access, use, or disclosure is excluded from the definition of breach in 45 CFR 164.402(2). Business Associate shall cooperate with Covered Entity in investigating the Incident or Breach and in meeting the Covered Entity's obligations under the Breach Notification Rules and any other breach notification laws.
2. **Security Incident.** Business Associate shall report to Covered Entity any attempted or successful unauthorized access, use, disclosure, modification, or destruction of Covered Entity's Electronic PHI or interference with Business Associate's system operations in Business Associate's information systems ("Security Incident"), of which Business Associate becomes aware. Business Associate shall report such Security Incident, as required in Section D(1) above, no later than five (5) business days following its discovery of any attempted or successful Security Incident of Unsecured Electronic PHI as these terms are defined by the Breach Notification Rules. Business Associate shall cooperate with Covered Entity in investigating the Security Incident and in meeting the Covered Entity's obligations under the Breach Notification Rules and any other breach notification laws.

Notwithstanding the foregoing, the parties hereby agree that this BAA is sufficient notification of the occurrence of multiple, unsuccessful security incidents including but not limited to attempted penetration of Business Associate's firewalls by computer viruses, attempted computer system hacks and other unsuccessful attacks on Business Associate's security and data infrastructure. Business Associate shall provide specific details on any such unsuccessful security incident upon Covered Entity's specific request.

3. **Reporting Requirements.** Business Associate's report of a Privacy Incident, Breach or Security Incident shall be made in writing to Covered Entity's appropriate representative not more than five (5) days after the Business Associate Discovers the Privacy Incident, Breach or Security Incident. In its written report, Business Associate

shall include the following details:

- a. The identification (if known) of each individual whose PHI has been or is reasonably believed by Business Associate to have been accessed, used or disclosed during such Privacy Incident, Breach or Security Incident;
  - b. Identify the nature of the non-permitted access, use or disclosure, including the date of the Privacy Incident, Breach or Security Incident and the date of discovery of the Privacy Incident, Breach or Security Incident;
  - c. Identify the Covered Entity's PHI accessed, used or disclosed as part of the Privacy Incident, Breach or Security Incident (e.g. full name, social security number, date of birth, etc.);
  - d. Identify any step individuals should take to protect themselves from potential harm resulting from the breach;
  - e. Identify who made the non-permitted access, use or disclosure and who received the non-permitted disclosure;
  - f. Identify what corrective action Business Associate took or will take to prevent further non-permitted access, uses or disclosures;
  - g. Identify what Business Associate did or will do to mitigate any deleterious effect of the non-permitted access, use or disclosure; and
  - h. Provide such other information as Covered Entity may reasonably request.
4. **Exceptions to Reporting Requirements.** Business Associate and Covered Entity recognize and agree that a significant number of unauthorized, meaningless attempts to access, use, disclose, modify or destroy Electronic PHI make real-time reporting formidable. For the below listed Unsuccessful Security Incidents that do **not** result in unauthorized access, use, disclosure, modification, or destruction of Electronic PHI or interference with an information system, Business Associate and Covered Entity agree that no notice or reporting is required:
- a. Pings on Business Associate's firewall;
  - b. Port scans;
  - c. Attempts to log on to a system or enter a database with an invalid password or username;
  - d. Denial-of-service attacks that do not result in a server being taken off-line; and
  - e. Malware (e.g., worms, viruses).

However, this exception in no way limits or waives Business Associate's requirement to report Successful Security Incidents to Covered Entity as outlined above.



**E. Termination of Agreement.**

1. **Right to Terminate for Breach.** The Parties may terminate this Agreement if either party determines, in its sole discretion, that the other party has breached any provision of this Agreement and, upon written notice to the Breaching Party of the breach, the Breaching Party fails to cure the breach within a reasonable period of time not to exceed thirty (30) days without the express, written consent of the Non-Breaching Party. The Non-Breaching Party may exercise this right to terminate Agreement by providing the Breaching Party with written notice of termination, stating the failure to cure the breach of the Agreement that provides the basis for the termination. Any such termination will be effective immediately or at such other date specified in the Party's notice of termination. If for any reason the Non-Breaching Party determines the Breaching Party has breached the terms of this Agreement and such breach has not been cured, but the Non-Breaching Party determines that termination of the Agreement is not feasible, Covered Entity may report such breach to the U.S. Department of Health and Human Services.

2. **Obligations upon Termination.**

a. **Return or Destruction of Covered Entity's PHI as Feasible.** Upon termination or other conclusion of this Agreement, Business Associate and any subcontractor, agent or third party to which Business Associate has disclosed Covered Entity's PHI to shall, if feasible, return to Covered Entity or destroy, as directed by Covered Entity, all of Covered Entity's PHI in whatever form or medium received from Covered Entity, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is the subject of Covered Entity's PHI. Business Associate and its subcontractors, agents or third parties, shall retain no copies of such PHI, except that Business Associate may maintain one copy for archival purpose to verify that it provided the services under the contract. Business Associate and its subcontractors, agents or third parties, upon request by Covered Entity, shall certify under oath to Covered Entity that all such PHI has been returned or destroyed. Business Associate will complete these obligations as promptly as possible, but not later than 30 calendar days following the effective date of the termination or other conclusion of this Agreement.

b. **Procedure When Return or Destruction is Not Feasible.** Business Associate will identify any of Covered Entity's PHI, including any that Business Associate has disclosed to subcontractors, agents or third parties, that cannot feasibly be returned to Covered Entity or destroyed and explain why return or destruction is infeasible. Where Covered Entity agrees that such return or destruction is infeasible, Business Associate and any subcontractor, agent or third party to which Business Associate has disclosed Covered Entity's PHI to, will limit its further use or disclosure of such information to those purposes that make return or destruction of such information infeasible. Business Associate will complete these obligations as promptly as possible, but not later than 30 calendar days following the effective date of the termination or other conclusion

of this Agreement.

- c. **Continuing Privacy and Security Obligations.** Business Associate's and its subcontractors', agents' and third parties' obligations to protect the privacy and safeguard the security of Covered Entity's PHI as required by law and as specified in this Agreement will be continuous and survive termination or other conclusion of this Agreement.
3. **Indemnity.** To the fullest extent permitted by law, Business Associate agrees to indemnify and hold harmless Covered Entity, its elected and appointed officials, employees and volunteers from any and all liabilities for injuries, damages, claims, penalties, actions, demands or reasonable expenses arising from or in connection with negligent acts, omissions, or willful misconduct cause by Business Associate pursuant to this Agreement except to the extent liability is caused by the sole negligence or willful misconduct of Covered Entity or its employees.
4. **Covered Entity's Obligations.**
- a. Covered Entity shall notify Business Associate of Covered Entity's Notice of Privacy Practices, including any limitation(s) in accordance with 45 CFR 164.520, to the extent the Notice of Privacy Practices and/or such limitation(s) may affect Business Associate's use or disclosure of Protected Health Information.
  - b. Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
  - c. Covered Entity shall notify Business Associate of any amendment or restriction to 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 Business Associate's use or disclosure of the Protected Health Information.
  - d. Covered Entity shall ensure that any Secured Protected Health Information, as defined under HITECH Act and guidance promulgated thereunder, transmitted by Organization to Business Associate shall be secured by a technology standard that is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute and is consistent with guidance issued by the Secretary specifically the technologies and methodologies that render Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals.
  - e. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule, the Security Rule, or the HIPAA Final Rule, except as permitted pursuant to the provisions of Section 1 of this BAA.

**F. General Provisions.**

1. **Definitions.** Capitalized terms used in this Agreement and not otherwise defined have the same meaning as those terms defined set forth in the HIPAA Rules.
2. **Inspection of Books and Records.** Business Associate will make available its internal practices, books, agreements, records, and policies and procedures relating to the use and disclosure of PHI, upon request or required by law, to the Secretary of DHHS for purposes of determining Covered Entity's and Business Associate's compliance with HIPAA and this Agreement.
3. **Amendment to Agreement.** Upon the compliance date of any final regulation or amendment to final regulation promulgated by DHHS that affects Business Associate's use or disclosure of Covered Entity's Protected Health Information or Standard Transactions, this Agreement will automatically amend such that the obligations imposed on Business Associate remain in compliance with the final regulation or amendment to final regulation.

Any other amendment or waiver of this Agreement shall require a separate writing executed by the parties that expressly modifies or waives a specific provision(s) of this Agreement.
- G. **Conflicts.** The terms and conditions of this Agreement will override and control any conflicting term or condition of Agreement. All non-conflicting terms and conditions of Agreement remain in full force and effect.
- H. **No Third Party Beneficiaries.** Covered Entity and Business Associate agree that there are no intended third party beneficiaries under, or other parties to, this Agreement.
- I. **Governmental/Sovereign Immunity.** Covered Entity does not waive its Governmental/Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-101 et seq., by entering into this Agreement. Further, Covered Entity fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract, or any other theory of law, based on this Agreement.
- J. **Governing Law; Jurisdiction; Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming or the Federal District Court, District of Wyoming.

**IN WITNESS WHEREOF**, Covered Entity and Business Associate execute this Agreement to be effective on the last date written below.

**BLUE CROSS BLUE SHIELD OF WYOMING**  
**A Wyoming Nonprofit Corporation**

By:



Printed Name: Lee Shannon

Title: Vice President of Marketing and Sales

Date: March 28, 2023

**LARAMIE COUNTY GOVERNMENT**

By:

Printed Name:

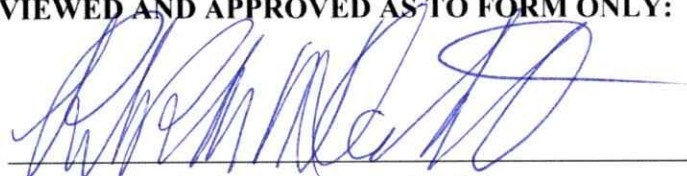
Title:

Date:

This Agreement is effective the date of the last signature affixed to this page.

**REVIEWED AND APPROVED AS TO FORM ONLY:**

By:



Laramie County Attorney's Office

Date

4/11/2023