



The McLean County Board of Health Meeting
Wednesday, August 19, 2020, 5:30 p.m.,
at McLean County Health Department,
200 W. Front Street, Room 324, Bloomington, Illinois.

IN-PERSON MEETING

SPECIAL MEETING OF THE BOARD OF HEALTH

AGENDA

1. Call to Order
2. Roll Call
3. Public Participation
4. Action Items
 - A. Approval of Contracts for COVID-19 Contact Tracing grant positions
 - i. Project Director 02 - 04
 - ii. Field Contact Tracer 05 - 07
 - B. Approval of MOU and BAA with Illinois State University Health Services 08 -21
5. Adjournment

AGREEMENT FOR PROJECT DIRECTOR

THIS AGREEMENT, made this _____ day of ____ by and between the McLEAN COUNTY BOARD OF HEALTH, represented by its DIRECTOR, and, hereinafter known as the BOARD, and, _____, a project director hereinafter known as the PROJECT DIRECTOR.

WHEREAS, since early March 2020, Illinois has faced a pandemic that has caused extraordinary sickness and loss of life, infecting over 168,000 and growing, and taking the lives of thousands of residents known as the Coronavirus Disease 2019 (COVID-19), a novel severe acute respiratory illness that spreads rapidly through respiratory transmissions and that continues to be without an effective treatment or vaccine; and

WHEREAS, as funding is available through the COVID-19 Contact Tracing grant to contract services with individuals to perform and collect data related to tracing the contact and spread of COVID-19; and

WHEREAS the BOARD, under Illinois Compiled Statutes Ch. 55 ILCS 5/5, has the authority to expediate the suppression of disease through the use of a project director; and,

WHEREAS the PROJECT DIRECTOR AGREES TO:

1. Oversee grant implementation and budget administration.
2. Provide ongoing program planning, development, implementation and evaluation for a statewide Contact Tracing Program.
3. Develop and monitor program goals and objectives, preparation of program progress reports, conducting program evaluation, and maintaining program budget.
4. Establish criteria for quality control, staff training, and determining compliance of programs with state and federal guidelines for reporting.
5. Monitor and evaluates complex and controversial investigations.
6. Perform supervision of grant staff or contract employees.
7. Evaluate all aspects of the program, implementing improvements as necessary.
8. Oversee the coordination of the contact tracer training.
9. Analyze, evaluate, and review program components to develop policy recommendations and proposals.
10. Attend all meetings related to Contact Tracing Program activities, as schedule permits.
11. Attend all job-related training to enhance knowledge base of Contact Tracing Program.
12. Perform other related duties as assigned.

THE BOARD AGREES TO:

1. Provide adequate equipment, supplies, office space, and training within the constraints of its operating budget. It is understood that administrative policy is determined by the Director and executed through staff.
2. Provide supervision for the position through the Health Department Administrator position.
3. Participate in program evaluation activities as required by funding sources or regulatory bodies.
4. Provide compensation to the PROJECT DIRECTOR at an hourly rate of \$32.44.

IT IS FURTHER AGREED THAT:

1. The parties enter into this AGREEMENT on the date first stated above.
2. This AGREEMENT shall automatically terminate, without further action, upon the termination of the grant, its funding, or May 31, 2021, whichever occurs first. Additionally, this Agreement can be terminated by either party, with or without cause, upon a thirty (30) day written notice to the other party.
3. It is understood by both parties that PROJECT DIRECTOR is a contractual agent and is not an employee of the BOARD.
4. Nothing in this AGREEMENT shall prevent the PROJECT DIRECTOR from engaging in services apart from those provided to the BOARD.
5. The PROJECT DIRECTOR will bill the BOARD, via a bi-monthly invoice for services as outlined above, to the HEALTH DEPARTMENT ADMINSTRATOR by the 15th day of the following month, within federal hourly rate caps. Payment will be expected within 30 days.
6. The PROJECT DIRECTOR shall comply with all applicable laws, codes, ordinances, rules, regulations and lawful orders of any public authority that in any manner affect its performance of this AGREEMENT.
7. Parties agree to comply with all terms and provisions of the Equal Employment Opportunity Clause as required by the Illinois Human Rights Act, federal law, and local ordinance. No person shall be discriminated against or harassed on any of the following: actual or perceived race, color, religion, sex, age, national origin, citizenship status, disability, military status (including unfavorable discharge), marital status, gender identity, sexual orientation, or any other characteristic protected by applicable U.S. federal or state law.
8. This AGREEMENT may not be assigned or Subcontracted by PROJECT DIRECTOR to any other person or entity without the written consent of the BOARD.

9. This AGREEMENT shall be binding upon the Parties hereto and upon the successors in interest, assigns, representatives and heirs of such Parties.
10. This AGREEMENT shall not be amended unless in writing expressly stating that it constitutes an amendment to this AGREEMENT, signed by the Parties hereto. Neither the BOARD nor HEALTH DEPARTMENT shall be liable to PROJECT DIRECTOR for the cost of changes or additions to the work to be performed unless such changes or additions are accepted by the BOARD in a writing approved by and signed by a person with lawful authority granted by the BOARD to execute such writing.
11. PROJECT DIRECTOR agrees to save and hold harmless from any and all liability, claims, losses, damages, cost expenses, or attorney fees (with the exceptions of any liability imposed for willful and wonton acts or negligence on the part of BOARD) arising out of or in any way connected with the performance of contractual duties under this AGREEMENT.
12. This AGREEMENT is entered into in the County of McLean, Illinois and shall be governed by the laws of the State of Illinois and venue shall be proper in McLean County, Illinois.
13. It is understood that the terms of this AGREEMENT include all the agreements made by the BOARD and PROJECT DIRECTOR without regard to any oral conversations which may have taken place prior to its execution or subsequent thereto, and that any changes shall be made in writing and agreed to by both parties.
14. Severability: If any provision of this AGREEMENT shall be held invalid or unenforceable, the remainder of this CONTRACT shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

Project Director Date

McLEAN COUNTY BOARD OF HEALTH

Date

AGREEMENT FOR FIELD CONTACT TRACER

THIS AGREEMENT, made this _____ day of ____ by and between the McLEAN COUNTY BOARD OF HEALTH, represented by its DIRECTOR, and, hereinafter known as the BOARD, and, _____, a contact tracer hereinafter known as the FIELD CONTACT TRACER.

WHEREAS, since early March 2020, Illinois has faced a pandemic that has caused extraordinary sickness and loss of life, infecting over 168,000 and growing, and taking the lives of thousands of residents known as the Coronavirus Disease 2019 (COVID-19), a novel severe acute respiratory illness that spreads rapidly through respiratory transmissions and that continues to be without an effective treatment or vaccine; and

WHEREAS, as funding is available through the COVID-19 Contact Tracing grant to contract services with individuals to perform and collect data related to tracing the contact and spread of COVID-19; and

WHEREAS the BOARD, under Illinois Compiled Statutes Ch. 55 ILCS 5/5, has the authority to expediate the suppression of disease through the use of contact tracers for COVID-19; and,

WHEREAS the FIELD CONTACT TRACER AGREES TO:

1. Participate in training to learn procedures for contact tracing and scripts to follow.
2. Follow scripts when communicating with patients and contacts. Contact Tracers are not permitted to deviate from the script or provide information that is not included in the script.
3. Call patients who have been newly diagnosed with COVID-19 to provide support and gather information.
4. Help patients recall everyone with whom they have had close contact during the timeframe while they may have been infectious.
5. Call all contacts to discuss their potential exposure.
6. Communicate with contacts in a professional and empathetic manner.
7. Collect and record information on symptoms into an electronic tracking platform.
8. Oversee Alternate Housing laundry, food delivery, medication delivery, security and occupant check-in/check-out operations.
9. Assist with the operations of the McLean County Health Department's COVID-19 testing sites.
10. Perform other related duties as assigned.

THE BOARD AGREES TO:

1. Provide adequate equipment, supplies, office space, and training within the constraints of its

operating budget. It is understood that administrative policy is determined by the Director and executed through staff.

2. Provide supervision for the position through the Contact Tracer Supervisor position.
3. Participate in program evaluation activities as required by funding sources or regulatory bodies.
4. Provide compensation to the FIELD CONTACT TRACER at an hourly rate of \$21.29 for no more than ___ hours per week.

IT IS FURTHER AGREED THAT:

1. The parties enter into this AGREEMENT on the date first stated above.
2. This AGREEMENT shall automatically terminate, without further action, upon the termination of the grant, its funding, or May 31, 2021, whichever occurs first. Additionally, this Agreement can be terminated by either party, with or without cause, upon a thirty (30) day written notice to the other party.
3. It is understood by both parties that FIELD CONTACT TRACER is a contractual agent and is not an employee of the BOARD.
4. Nothing in this AGREEMENT shall prevent the FIELD CONTACT TRACER from engaging in services apart from those provided to the BOARD.
5. The FIELD CONTACT TRACER will bill the BOARD, via a bi-monthly invoice for services as outlined above, to the HEALTH DEPARTMENT ADMINSTRATOR by the 15th day of the following month, within federal hourly rate caps. Payment will be expected within 30 days.
6. The FIELD CONTACT TRACER shall comply with all applicable laws, codes, ordinances, rules, regulations and lawful orders of any public authority that in any manner affect its performance of this AGREEMENT.
7. Parties agree to comply with all terms and provisions of the Equal Employment Opportunity Clause as required by the Illinois Human Rights Act, federal law, and local ordinance. No person shall be discriminated against or harassed on any of the following: actual or perceived race, color, religion, sex, age, national origin, citizenship status, disability, military status (including unfavorable discharge), marital status, gender identity, sexual orientation, or any other characteristic protected by applicable U.S. federal or state law.
8. This AGREEMENT may not be assigned or Subcontracted by FIELD CONTACT TRACER to any other person or entity without the written consent of the BOARD.
9. This AGREEMENT shall be binding upon the Parties hereto and upon the successors in interest, assigns, representatives and heirs of such Parties.
10. This AGREEMENT shall not be amended unless in writing expressly stating that it constitutes an amendment to this AGREEMENT, signed by the Parties hereto. Neither the BOARD nor HEALTH

MEMORANDUM OF UNDERSTANDING
between
McLean County Health Department
and
Illinois State University Student Health Services

This Memorandum of Understanding (MOU) is entered into by and between the McLean County Health Department Board of Health and Illinois State University Student Health Services (UNIVERSITY). The McLean County Health Department Board of Health has authority under Illinois Compiled Statutes Ch. 55 ILCS 5/5 to direct the McLean County Health Department (MCHD).

I. Background

The McLean County Health Department (MCHD) has received funding through the Illinois Department of Public Health (IDPH) to expand contact tracing efforts in response to the COVID-19 pandemic.

The purpose of this MOU is to define the relationship between the McLean County Health Department and the UNIVERSITY to provide case investigation and contact tracing efforts to students at the UNIVERSITY through the Illinois Department of Public Health (IDPH) COVID-19 Contact Tracing grant.

The McLean County Health Department Board of Health and Illinois State University Student Health Services agree to the terms, conditions, and responsibilities expressed in this agreement.

II. Responsibilities of the McLean County Health Department

- a. Provide a Contact at MCHD who will coordinate and supervise employees hired or contracted through the Illinois Department of Public Health (IDPH) COVID-19 Contact Tracing grant (Contract Tracer Supervisor).
- b. Provide contact tracing employees hired or contracted through the IDPH COVID-19 Contact Tracing grant.
- c. Provide the technology necessary for the employees hired or contracted through the Contact Tracing grant to perform assigned duties.
- d. Ensure employees or contracted individuals have access to necessary state of Illinois systems for case investigation and contact tracing.
- e. Provide all training for employees hired or contracted through the IDPH Contact Tracing grant.

- f. Ensure that employees and contracted individuals adhere to HIPAA regulations for the privacy and protection of certain health information.

III. Responsibilities of the Illinois State University Student Health Services

- a. Provide a location where McLean County Health Department personnel can work while maintaining social distance.
- b. Provide furnishings in identified location necessary to complete contact tracing.
- c. Identify a **Contact Person** to coordinate with the Contact Tracer Supervisor.
- d. Provide access to any data that is input or obtained through contact tracing software.

IV. Both parties agree:

- a. To Comply with all applicable laws, regulations, rulings, or enactments of any governmental authority, and agrees to obtain (at its own expense) any necessary licenses, permissions, and accreditations necessary to maintain its operation.
- b. Obtain and provide professional liability insurance, or self-insurance, in the minimum amounts of \$1,000,000 per claim or occurrence, \$3,000,000 aggregate, for its students, employees, and agents, participating in this affiliation agreement, and maintain general liability insurance in the minimum amounts of \$1,000,000 per claim or occurrence, \$3,000,000 aggregate, for its employees participating in this affiliation agreement. Each party shall furnish the other party with proof of coverage of such insurance upon request.
- c. All notices required herein shall be in writing and shall be sent via registered or certified mail return receipt requested or by an overnight courier service to the persons listed below. A notice shall be deemed to have been given when received by the party at the address set forth below.
- d. Both parties agree to comply with all applicable federal and state nondiscrimination, equal opportunity and affirmative action laws, orders and regulations. Neither party will engage in unlawful discrimination or harassment against any person because of race, color, religion, sex, national origin, ancestry, age, marital status, disability, protective order status, unfavorable discharge from the military, or status as a disabled veteran or a veteran of the Vietnam era.
- e. This Agreement is to be governed and construed in accordance with the laws of the State of Illinois.
- f. For purposes of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (collectively "HIPAA"), certain changes implemented to HIPAA through the Health Information Technology for

Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009, Pub. Law No. 111-5 and its existing and future implementing regulations (collectively "HITECH"), HIPAA Omnibus Rule of 2013, and any other applicable Federal and State laws and regulations regarding the use, receipt, maintenance, storage, transmission, and/or disclosure of PHI to Business Associate, both parties acknowledge that contact tracers and contracted individual under the COVID-19 Contact Tracing grant are part of the MCHD's "workforce" as defined in HIPAA Privacy Regulations at 43 C.F.R. 160.103. The MCHD will provide the necessary training to its workforce and said individuals will be expected to comply with all applicable laws and regulations, and any other confidentiality requirements of the MCHD. The UNIVERSITY personnel will be granted access to the statewide contact tracing system known as Salesforce, and as such, a Business Associate agreement is required between the UNIVERSITY and MCHD.

- g. Nothing in this Agreement is intended to or shall create any rights or remedies in any third party.
- h. The failure of either party at any time to enforce any provision of this Agreement shall in no way be construed to be a waiver of such provisions or affect the validity of this Agreement or any part thereof, or the right of either party thereafter to enforce each and every provision in accordance with the terms of this Agreement.
- i. In the event that any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.
- j. This Agreement may not be assigned by either party without the prior written consent of the other party. Such consent shall not be unreasonably withheld.
- k. This Agreement, attachments, and incorporated references shall constitute the entire Agreement between the parties with respect to the subject matter herein and supersedes all prior communications and writings with respect to the content of said Agreement.
- l. This Agreement may not be modified by either party unless such modification is mutually acceptable to both parties, is reduced to writing, and signed by both parties.
- m. This Agreement shall not be binding until signed by all parties. The persons signing this Agreement represent and warrant that they have authority to bind their respective parties.
- n. Signed signature pages may be transmitted by facsimile or electronically by PDF document and any such signature shall have the same legal effect as an original.

V. Primary Contact

McLean County Health Department

Illinois State University Student Health Services

Name

Name

Title

Title

Address

Address

Address

Address

VI. Duration of the MOU

This MOU shall remain in place from the date of signing until the grant funds are exhausted unless otherwise agreed to by both parties. This MOU may be terminated at any time, with thirty (30) days advanced written notification by either party.

McLean County Health Department
Board of Health

Illinois State University Student
Health Services

Signature

Signature

Title

Title

Date

Date

BUSINESS ASSOCIATE/QUALIFIED SERVICE ORGANIZATION AGREEMENT

THIS BUSINESS ASSOCIATE/QUALIFIED SERVICE ORGANIZATION AGREEMENT (the "Agreement") is entered into between the McLean County Board of Health ("Covered Entity"), and Illinois State University Student Health Services ("Business Associate"), which shall be deemed effective as of the first day on which Business Associate first created, received, maintained, or transmitted Protected Health Information for or on behalf of Covered Entity or _____, 2020 (the "Effective Date").

WHEREAS, the U.S. Department of Health and Human Services issued regulations on "Standards for Privacy of Individually Identifiable Health Information" comprising 45 C.F.R. Parts 160 and 164, Subparts A and E (the "Privacy Standards"), "Security Standards for the Protection of Electronic Protected Health Information" comprising 45 C.F.R. Parts 160 and 164, Subpart C (the "Security Standards"), "Standards for Notification in the Case of Breach of Unsecured Protected Health Information" comprising 45 C.F.R. Parts 160 and 164, Subpart D (the "Breach Notification Standards"), and "Rules for Compliance and Investigations, Impositions of Civil Monetary Penalties, and Procedures for Hearings" comprising 45 C.F.R. Part 160, Subparts C, D, and E ("the "Enforcement Rule") promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), the Genetic Information and Nondiscrimination Act of 2008 ("GINA"), and the American Recovery and Reinvestment Act of 2009 (the Privacy Standards, the Security Standards, the Breach Notification Standards, and the Enforcement Rule are collectively referred to herein as the "HIPAA Standards").

WHEREAS, in conformity with the HIPAA Standards, Business Associate has, and/or will create, receive, maintain, or transmit certain Protected Health Information ("PHI") pursuant to the services provided under any and all agreements between Covered Entity and Business Associate (the "Service Agreements").

WHEREAS, Covered Entity is required by the HIPAA Standards to obtain satisfactory assurances that Business Associate will appropriately safeguard all PHI created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity.

WHEREAS, the parties desire to enter into this Agreement to memorialize their obligations with respect to PHI pursuant to the requirements of the HIPAA Standards in light of their Memorandum of Agreement signed _____.

NOW, THEREFORE, Covered Entity and Business Associate agree as follows:

Section 1. Definitions. Except as otherwise specified herein, capitalized terms used but not defined in this Agreement shall have the same meaning as those terms in 45 C.F.R. Parts 160 and 164 and in 42 C.F.R. Part 2. In the event of a conflict between the definitions in the HIPAA Standards and this Agreement, the definitions in the HIPAA Standards shall apply.

- (a) Breach, as used in Section 2 of this Agreement, means the unauthorized acquisition, access, use, or disclosure of PHI which compromises the security or privacy of such information.
- (b) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103.
- (c) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103.
- (d) C.F.R. means the Code of Federal Regulations.
- (e) Data Aggregation shall mean, with respect to Protected Health Information ("PHI" as defined below) created or received by the Business Associate, the combining of such PHI by the Business Associate with the PHI received by the Business Associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.
- (f) Designated Record Set shall mean a group of records maintained by or for the Covered Entity that is (i) the medical records and billing records about individuals maintained by or for the Covered Entity; (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about individuals. As used herein the term "Record" means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for the Covered Entity.
- (g) GINA means the Genetic Information and Nondiscrimination Act of 2008 (P.L. 110-233) and the regulations promulgated thereunder.
- (h) HIPAA means the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-91) and any successor statutes, rules and regulations, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- (i) HITECH Act means the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), Div. A, Title XIII and Div. B, Title IV, the Health Information Technology for Economic and Clinical Health Act and the regulations promulgated thereunder.
- (j) Individual has the same meaning as the term "individual" in 45 C.F.R. §160.103 and shall include a person who qualifies as personal representative in accordance with 45 C.F.R. § 164.502(g).

- (k) Protected Health Information("PHI") has the same meaning as the term "protected health information" as defined in 45 C.F.R. § 160.103, which generally includes all Individually Identifiable Health Information regardless of form; limited, however, to the information that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity. PHI excludes Individually Identifiable Health Information regarding a person who has been deceased for more than fifty (50) years.
- (l) ePHI means any Protected Health Information that is received, maintained, transmitted or utilized for any purpose in electronic form by Business Associate on behalf of Covered Entity.
- (m) Required by Law has the same meaning as the term "required by law" in 45 C.F.R. §164.103.
- (n) Secretary means the Secretary of the United States Department of Health and Human Services or his/her designee.
- (o) Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- (p) Security Standards shall mean Security Standards for the Protection of Electronic Protected Health Information, 45 CFR Part 160 and Part 164, Subpart C.
- (q) Standard Transaction means a transaction that complies with an applicable standard adopted under 45 C.F.R. Part 162.
- (r) Unsecured Protected Health Information("Unsecured PHI") is PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the guidance issue by HHS under Pub. L. 111-5, § 13402(h)(2).
- (s) Use means the sharing, employment, application, utilization, examination, or analysis of PHI within Business Associate's organization.

Section 2. Obligations and Activities of Business Associate.

- (a) Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law. Business Associate shall also comply with any further limitations on uses and disclosures of PHI by Covered Entity in accordance with 45 C.F.R. §164.522, provided that Covered Entity communicates such limitations to Business Associate.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement.

- (c) Business Associate shall use appropriate safeguards and comply with 45 C.F.R. Part 164, Subpart C with respect to ePHI that it creates, receives, maintains or transmits on behalf of Covered Entity.
- (d) Business Associate agrees to report immediately to Covered Entity any use or disclosure of PHI not provided for by this Agreement of which Business Associate becomes aware. Additionally, Business Associate shall report immediately to Covered Entity any Security Incident of which Business Associate becomes aware. At the request of Covered Entity, Business Associate shall identify the date, nature, and scope of the Security Incident, Business Associate's response to the Security Incident, and the identification of the party responsible for causing the Security Incident, if known.
- (e) Business Associate shall notify Covered Entity immediately, upon discovery of any Breach of Unsecured Protected Health Information. In addition, without undue delay and within seven (7) days, Business Associate shall provide such information to Covered Entity as required by the Breach Notification Standards.
 - (1) Business Associate shall assist Covered Entity, as requested, to provide notification to affected Individuals whose Unsecured PHI has been Breached, as well as the Secretary and the media, as required by HIPAA or other applicable law.
 - (2) Business Associate agrees to pay actual costs for notification and any associated mitigation incurred by Covered Entity, including but not limited to, costs associated with providing notice, printing, mailing, credit monitoring, identity theft protection, call center services, etc., if Covered Entity determines in its sole discretion that a Breach by Business Associate is significant enough to warrant such measures. Business Associate shall also reimburse Covered Entity for all reasonable costs, expenses, damages, and other losses resulting from any Unauthorized Use or Disclosure, Security Incident, or Breach involving PHI maintained by Business Associate or its subcontractors. The obligations of this paragraph shall survive the expiration or earlier termination of this Agreement.
 - (3) Business Associate agrees to establish procedures to investigate a Breach, mitigate losses, and protect against future Breaches, and to provide a description of these procedures and the specific findings of the investigation to Covered Entity in the time and manner reasonably requested by Covered Entity.
 - (4) Business Associate shall also defend, hold harmless and indemnify Covered Entity and its employees, agents, officers, directors, shareholders, members, contractors, parents, and subsidiary and affiliate entities from and against any claims, damages, liabilities, losses, obligations, and expenses, including reasonable attorney's fees, which Covered Entity may incur resulting from or arising out of or in any way connected with any willful and wanton acts by Business Associate.

Business Associate will cooperate with Covered Entity in the settlement and/or defense of such claim, at Business Associate's cost and expense.

- (f) Business Associate shall obtain and maintain an agreement with each agent or subcontractor that creates, receives, maintains, or transmits Covered Entity's PHI on behalf of Business Associate. In accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b), such agent or subcontractor shall agree to the same restrictions and conditions that apply to Business Associate pursuant to this Agreement with respect to such PHI. Business Associate shall impose appropriate sanctions against any such subcontractor that violates any requirements, restrictions or conditions that apply to Business Associate through this Agreement. If Business Associate's reasonable steps to cure such breach or violation are unsuccessful, Business Associate shall terminate the contract or arrangement with such subcontractor, if feasible.
- (g) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement or the HIPAA Standards. Upon request of Covered Entity, Business Associate shall promptly provide Covered Entity with any and all information relating to its discovery, investigation and mitigation activities, including copies of reports by forensics investigators.
- (h) Upon request of Covered Entity, Business Associate agrees to provide access to PHI in a Designated Record Set, as defined in 45 C.F.R. § 164.501, to an Individual in order for Covered Entity to comply with the requirements under 45 C.F.R. § 164.524. Further, if the PHI that is the subject of a request for access is maintained in one or more Designated Record Sets electronically and if the Individual requests an electronic copy of such information, Business Associate shall provide access to the PHI in the electronic form and format requested, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by Covered Entity and the Individual. Business Associate further agrees to make available PHI for amendment and incorporate any amendments to PHI in a Designated Record Set in order for Covered Entity to comply with 45 C.F.R. § 164.526. If Business Associate provides copies or summaries of PHI to an Individual, it may impose a reasonable, cost-based fee in accordance with 45 C.F.R. § 164.524(c)(4), provided that the fee includes only the cost of labor for copying the PHI requested by the Individual, whether in paper or electronic form, and supplies for creating the paper copy or electronic media if the Individual requests that the electronic copy be provided on portable media.
- (i) Business Associate agrees to make its internal practices, books, and records, including policies and procedures and PHI relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of

Covered Entity, available to Covered Entity, or at the request of the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Standards. In the event Business Associate receives a request from the Secretary, or any agency on behalf of the Secretary, Business Associate shall immediately notify Covered Entity, and upon Covered Entity's request, provide Covered Entity any copies of documents Business Associate provided to the Secretary.

- (j) Business Associate agrees to document those disclosures of PHI, and information related to such disclosures, as required to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and the HITECH Act. Business Associate further agrees to provide Covered Entity such information upon request to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI, in accordance with 45 C.F.R. § 164.528, or, if required by the HITECH Act, to provide an Individual an accounting of disclosures of PHI upon request made by the Individual directly to Business Associate.
- (k) In the event that Covered Entity uses or maintains an electronic health record with respect to PHI, Business Associate shall provide an accounting of disclosures of such PHI to an Individual during the three (3) years prior to the date of the request within thirty (30) days after Business Associate's receipt of such a request.
- (l) Business Associate acknowledges that it shall limit the use, disclosure or request of PHI to perform or fulfill a specific function required or permitted hereunder to a limited data set, or if needed, the Minimum Necessary, as defined by HIPAA Standards and relevant guidance, to accomplish the intended purpose of such use, disclosure or request.
- (m) If Business Associate conducts any Standard Transactions on behalf of Covered Entity, Business Associate shall comply with the applicable requirements of 45 C.F.R. Part 162.
- (n) If Business Associate agrees to carry out an obligation of Covered Entity under 45 C.F.R. Part 164, Subpart E, Business Associate shall comply with the requirements of 45 C.F.R. Part 164, Subpart E that apply to Covered Entity in the performance of such obligations.
- (o) Except as otherwise permitted by law, Business Associate shall not directly or indirectly receive remuneration in exchange for a disclosure of PHI without the Individual's authorization.
- (p) Business Associate agrees to notify the Covered Entity within ten (10) business days of the Business Associate's receipt of any request or subpoena

for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge.

- (q) Business Associate acknowledges and agrees that the Covered Entity will suffer irreparable damage upon the Business Associate's breach of this Agreement and that such damages shall be difficult to quantify. The Business Associate acknowledges and agrees that the Covered Entity may file an action for an injunction to enforce the terms of this Agreement against the Business Associate, in addition to any other remedy the Covered Entity may have.

Section 3. Permitted Uses and Disclosures of PHI by Business Associate.

- (a) General Use and Disclosure Provisions. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity only as specified in the Service Agreements between the parties, provided that such use or disclosure would not violate the Privacy Standards if done by Covered Entity.
- (b) Specific Use and Disclosure Provisions.
 - (1) Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate, or to carry out the legal responsibilities of Business Associate. Except as otherwise limited in this Agreement, Business Associate may disclose PHI (i) for the proper management and administration of Business Associate, or (ii) to carry out Business Associate's legal responsibilities if (a) the disclosure is Required by Law, or (b) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information 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 Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
 - (2) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
 - (3) Business Associate may not create, use or disclose de-identified information from Covered Entity's PHI without express written consent from Covered Entity's Chief Privacy Officer.

Section 4. Responsibilities of Qualified Service Organization To the extent that Business Associate is also considered a Qualified Service Organization with access to protected substance abuse treatment information, Business Associate agrees to the following:

- (a) In receiving, storing, processing or otherwise dealing with any protected substance abuse information from Covered Entity, Business Associate is fully bound by the provisions of the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.
- (b) If necessary, Business Associate will resist in judicial proceedings any efforts to obtain access to protected substance abuse information unless access is expressly permitted under 42 C.F.R. Part 2.
- (c) Business Associate acknowledges that any unauthorized disclosure of information under this Section 4 is a federal criminal offense.

Section 5. Term and Termination.

- (a) Term. The provisions of this Agreement shall commence on the Effective Date and, unless earlier terminated in accordance with the provisions of this Section, shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity.
- (b) Termination for Cause. Without limiting the termination rights of the parties pursuant to this Agreement and upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall either:
 - (1) Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, terminate this Agreement, if feasible; or
 - (2) Immediately terminate this Agreement if cure is not possible, if feasible.
- (c) Effect of Termination.
 - (1) Except as provided in paragraph (2) of this Section S(c), upon termination of this Agreement for any reason, Business Associate shall promptly return all such PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, or alternatively, certify in writing to Covered Entity that Business Associate has destroyed all such PHI in a manner specified by HHS guidance and acceptable to Covered Entity This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.
 - (2) In the event that Business Associate reasonably believes that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity prompt notification of the conditions that make return or destruction infeasible. If Covered Entity agrees that return or

destruction of the PHI is infeasible, as determined in its sole discretion, Business Associate shall extend the protections of this Agreement to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Business Associate agrees that its obligation with regard to notifying Covered Entity of any potential breach will also extend indefinitely beyond the term of this Agreement.

Section 6. Notices. Any notices or communications to be given pursuant to this Agreement shall be deemed provided if sent via electronic mail and by first class United States mail, postage prepaid, to the addresses given below:

If to Business Associate, to:

If to Covered Entity, to:

Ms. Jessica McKnight
Health Department
Administrator
200 W. Front Street
Bloomington, IL 61701

Section 7. Insurance. During the term of this Agreement, Business Associate shall continue to be self-insured and shall carry excess liability coverage.

Section 8. Miscellaneous.

- (a) Regulatory References. A reference in this Agreement to a section in the HIPAA Standards means the section then in effect.
- (b) Ownership. Covered Entity shall retain all ownership rights to the PHI that Business Associate creates, receives, maintains, or transmits, in order to perform functions, activities or services on behalf of Covered Entity and any information derived from such PHI.
- (c) No Offshore Work. In performing the functions, activities, or services for, or on behalf of, Covered Entity, Business Associate shall not, and shall not permit any of its subcontractors, to receive, process, handle, store, access, transmit, or make available any PHI to any entity or individual outside the United States without the prior written consent of Covered Entity.
- (d) Amendment. The parties agree to take such action as may be necessary to amend this Agreement from time to time to ensure the parties comply with the requirements of the HIPAA Standards and any other applicable law or regulation.
- (e) Survival. The respective rights and obligations of Business Associate under Sections 2(e), and S(c) of this Agreement shall survive the termination of this Agreement.
- (f) Interpretation. Any ambiguity in this Agreement shall be resolved to permit the parties to comply with the HIPAA Standards and applicable states and/or federal laws. In the event of any inconsistency or conflict between this

Agreement and the Service Agreements, the terms and conditions of this Agreement shall govern and control.

- (g) No Third Party Beneficiary. Nothing express or implied in this Agreement or in the Service Agreements is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever.
- (h) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.
- (j) No HIPAA Agency Relationship. It is not intended that an agency relationship (as defined under the Federal common law of agency) be established by this Agreement, either expressly or by implication, between Covered Entity and Business Associate for purposes of liability under HIPAA or the HITECH Act, or the Privacy, Security or Breach Notification Standards. No terms or conditions in this Agreement shall be construed to make or render Business Associate an agent of Covered Entity.
- (k) Multiple Counterparts. This Agreement may be executed in multiple counterparts all of which shall be considered an original Agreement.
- (l) This document supersedes and replaces any prior Business Associate Agreements between the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date

COVERED ENTITY

BUSINESS ASSOCIATE

By:

By:

Name:

Name:

Title:

Title: