

# Business Associate Policy (HIPAA)

## Myra EB Systems

**HIPAA:** 45 CFR § 164.314, 45 CFR § 164.504)

**Keywords:** Business Associates, BAA

---

### Background

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires that covered entities have policies and procedures in place regarding contractual arrangements with other entities to whom the covered entity discloses protected health information for use on its behalf.

### Purpose

This policy provides a process for establishing a written agreement with each of Myra EB Systems's Business Associates ("BA") as required by the HIPAA Privacy and Security Rules.

### Scope

Myra EB Systems is a business entity that is considered to be a **COVERED ENTITY** with respect to protected health information (PHI), as provided by the standards, requirements, and implementation specifications of HIPAA Privacy and Security Rules. Therefore, this policy applies to Myra EB Systems and all the members of its workforce with access to PHI. Additionally, all third parties, subcontractors, or vendors, that provide services to Myra EB Systems that involve the creation, receipt, maintenance, or transmission of private health information on behalf of the Employer to fulfill its contractual duties, must comply fully with HIPAA's requirements.

### Policy

**Myra EB Systems contracts with various outside entities to perform functions or provide services on its behalf that may involve the disclosure of PHI to, or the creation, receipt, maintenance, or transmission of PHI by, the outside person or entity. These outside persons or entities are Myra EB Systems's Business Associates ("BA"). The policy of [COMPANY NAME] is to obtain written assurances from BAs that they will appropriately safeguard any PHI they create or receive on Myra EB Systems's behalf. Such written assurances must be in place before Myra EB Systems discloses PHI to the Business Associate.**

### Procedure

- Myra EB Systems will follow established procedures regarding contract review, revision, and approval to assure that any contract is in compliance with state and federal law.
- For each contract, Myra EB Systems must determine whether a Business Associate Agreement ("BAA") is necessary. Note: A BAA is not required when the BA is a healthcare provider and all disclosures to the BA concern the treatment of a patient.
- Business Associate Provisions. Prior to disclosing any PHI to a BA, Myra EB Systems will obtain satisfactory assurances from the BA that the BA will appropriately safeguard the PHI it creates, receives, maintains, or transmits on behalf of Myra EB Systems, in the form of a written agreement that provides that the BA will:
  - Not use or disclose PHI other than as permitted or required by the agreement with Myra EB Systems or as required by law;
  - Use appropriate safeguards to prevent use or disclosure of the PHI other than as provided by the agreement with Myra EB Systems and use administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI;
  - Report to Myra EB Systems any access, use, or disclosure of the information not provided for by its contract and any security incident of which it becomes aware; and following the discovery of any breach of unsecured PHI, notify Myra EB Systems in writing of such breach without unreasonable delay and in no case later than 60 calendar days;
  - Ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the business associate agree in writing to the same restrictions and conditions that apply to the business associate with respect to such

- information and implement reasonable and appropriate safeguards to protect the PHI;
- o Make available to Myra EB Systems the information necessary for Myra EB Systems to comply with an individual's right to access to PHI; and if BA maintains an electronic health record, provide such information in electronic format to enable Myra EB Systems to fulfill its obligations under the HITECH Act;
  - o Make PHI available for amendment and amend the business associates records as necessary;
  - o Make available the information required to provide an accounting of disclosures;
  - o Make its internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary of HHS for purposes of determining compliance with the Privacy Rule;
  - o At termination of the contract, if feasible, return or destroy all PHI that the business associate still maintains in any form and retain no copies of such information, or, if such return or destruction is not feasible, extend the protections of the contract to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
  - o To the extent the business associate is to carry out [COMPANY NAME]'s obligations under the HIPAA Privacy Rule, comply with the requirements of the HIPAA Privacy Rule that apply to the covered entity in the performance of such obligations.
- If a BAA is necessary and the third party provides its own business associate agreement, Myra EB Systems will review the BA's business associate agreement to ensure that it meets all requirements of the Privacy Rule.
  - If a BAA is necessary, and the third party does not provide its own BAA, Myra EB Systems will submit a BAA for approval by the third party.
  - If the BA refuses to sign the BAA, the HIPAA Privacy Rule prohibits Myra EB Systems from disclosing any PHI to the BA. If the BA requires access to PHI in order to perform the function or service on behalf of Myra EB Systems, Myra EB Systems shall not contract with the BA.
  - Myra EB Systems shall maintain the original signed BAA and any contract addenda containing BA language.
  - The information disclosed to the BA must be restricted to the minimum amount necessary to enable the BA to perform the function or provide the services for which Myra EB Systems has contracted with the BA.

Notice of Termination of a Contract with a BA. Myra EB Systems shall notify the Privacy Officer when issuing or receiving a notice of contract termination involving a BA. Myra EB Systems will coordinate with the BA regarding the BA's obligations to return or destroy all PHI or, if return or destruction is not feasible, to extend the protections of the BA requirements to the PHI and to limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible. The contract and contract addendum must be retained for six years after the contract was last in effect.

## **APPENDIX A**

### **Sample Business Associate Agreement**

#### **BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("Agreement"), dated as of [DATE], is effective upon signing this Agreement and is entered into by and between Myra EB Systems ("Covered Entity") and [BUSINESS ASSOCIATE NAME] ("Business Associate"). Covered Entity and Business Associate are hereinafter referred to collectively as the "Parties."

WHEREAS, Sections 261 through 264 of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as modified by the Health Information Technology for Economic and Clinical Health Act, known collectively as "the Administrative Simplification provisions," direct the Department of Health and Human Services to develop standards to protect the security, confidentiality, and integrity of health information; and

WHEREAS, pursuant to the Administrative Simplification provisions, the Secretary of Health and Human Services has issued regulations at 45 CFR Parts 160 and 164, as the same may be amended from time to time (the "HIPAA Security and Privacy Rule"); and

WHEREAS, the Parties wish to enter into or have entered into an arrangement whereby Business Associate will provide certain services to or perform certain functions on behalf of Covered Entity, and, pursuant to such arrangement, Business Associate may be considered a "business associate" of Covered Entity as defined in the HIPAA Security and Privacy Rule; and

WHEREAS, Business Associate may, in the performance of such functions and/or the provision of such services, access Protected Health Information (as defined below) in the possession, custody, or control of Covered Entity, or may create or receive Protected Health information on behalf of Covered Entity for the limited purposes identified in this Agreement; and

WHEREAS, pursuant to the Federal Standards for Privacy and Security of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164, as established under the Health Insurance Portability and Accountability Act (HIPAA), Covered Entity cannot disclose Protected Health Information to, or authorize the creation or receipt of Protected Health Information on its behalf by, Business Associate unless Covered Entity obtains from Business Associate satisfactory assurances that Business Associate will properly safeguard such information; and

WHEREAS, Business Associate is willing to provide such assurances to Covered Entity under the terms specified herein.

NOW, THEREFORE, in consideration of the Parties' continuing obligations under the arrangement, compliance with the HIPAA Security and Privacy Rule, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

## I. DEFINITIONS

(a) Except as otherwise defined herein, any and all capitalized terms in this Agreement shall have the definitions set forth in the HIPAA Security and Privacy Rule. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Security and Privacy Rule, as amended, the HIPAA Security and Privacy Rule shall control. Where provisions of this Agreement are different from those mandated in the HIPAA Security and Privacy Rule, but are nonetheless permitted by the HIPAA Security and Privacy Rule, the provisions of this Agreement shall control.

(b) "Protected Health Information." The term "Protected Health Information" means individually identifiable health information including, without limitation, all information, data, documentation, and materials, including without limitation, demographic, medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. "Protected Health Information" includes without limitation "Electronic Protected Health Information" as defined below.

(c) "Electronic Protected Health Information." The term "Electronic Protected Health Information" means Protected Health Information that is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.

(d) "Security Incident." The term "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.

Business Associate 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 display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity's behalf shall be subject to this Agreement.

## II. PERMITTED USES AND DISCLOSURES

(a) Business Associate may use or disclose Protected Health Information only as permitted or required by this Agreement or as required by law. Except as specifically set forth herein, Business Associate may not use or disclose Protected Health Information in a manner that would violate the HIPAA Security and Privacy Rule if such use or disclosure were done by Covered Entity. Specifically, Business Associate may use or disclose Protected Health Information (1) for meeting its obligations as set forth in any agreements between the Parties evidencing their business relationship, or (2) as required by applicable law, rule or regulation, or by an accrediting or credentialing organization to whom Covered Entity is required to disclose such information, or (3) as otherwise permitted under this Agreement, the Parties' business relationship (if consistent with this Agreement and the HIPAA Security and Privacy Rule), or the HIPAA Security and Privacy Rule, or (4) as would be permitted by the HIPAA Security and Privacy Rule as if such use or disclosure were made by Covered Entity.

(b) Business Associate may de-identify Protected Health Information only at the specific direction of and only for the use of Covered Entity. Business Associate may not sell Protected Health Information except at the direction of Covered Entity and in compliance with the requirements of the HIPAA Security and Privacy Rule.

(c) Notwithstanding the prohibitions set forth in this Agreement, Business Associate may:

(i) Use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate;

(ii) Disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that as to any such disclosure (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 will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(iii) Provide data aggregation services relating to the health care operations of Covered Entity pursuant to any agreements between the Parties evidencing their business relationship. For purposes of this Agreement, data aggregation means the combining of Protected Health Information by Business Associate with the Protected Health Information received by 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.

### III. CONFIDENTIALITY AND SECURITY REQUIREMENTS

(a) Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by this Agreement or as required by law. To the extent Business Associate carries out obligations of Covered Entity under the HIPAA Security and Privacy Rule, Business Associate shall comply with the applicable provisions of the HIPAA Security and Privacy Rule as if such use or disclosure were made by Covered Entity. Covered Entity will not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the HIPAA Security and Privacy Rule if done by Covered Entity, except as otherwise provided herein. Business Associate agrees to comply with Covered Entity's policies regarding the minimum necessary use or disclosure of Protected Health Information.

(b) Business Associate agrees to provide HIPAA training to all of its personnel who service Covered Entity's account or who otherwise will have access to Covered Entity's Protected Health Information.

(c) At termination of this Agreement, the Parties' business arrangement, or upon request of Covered Entity, whichever occurs first, if feasible, Business Associate will return (in a manner or process approved by the Covered Entity) or destroy all Protected Health Information received from Covered Entity, or created, maintained or received by Business Associate on behalf of Covered Entity, that Business Associate still maintains in any form and retain no copies of such information. If such return or destruction is not feasible, Business Associate will (i) retain only that Protected Health Information necessary under the circumstances; (ii) return or destroy the remaining Protected Health Information that the Business Associate still maintains in any form; (iii) extend the protections of this Agreement to the retained Protected Health Information; (iv) limit further uses and disclosures to those purposes that make the return or destruction of the Protected Health Information not feasible; and (v) return or destroy the retained Protected Health Information when it is no longer needed by Business Associate. This paragraph shall survive the termination of this Agreement and shall apply to Protected Health Information created, maintained, or received by Business Associate and any of its subcontractors.

(d) Business Associate agrees to ensure that its agents, including any subcontractors, that create, receive, maintain or transmit Protected Health Information on behalf of Business Associate agree to the same (or greater) restrictions and conditions that apply to Business Associate with respect to such information, and agree to implement reasonable and appropriate safeguards to protect any of such information that is Electronic Protected Health Information. Business Associate agrees to enter into written agreements with any subcontractors in accordance with the requirements of the HIPAA Security and Privacy Rule. In addition, Business Associate agrees to take reasonable steps to ensure that its employees' actions or omissions do not cause Business Associate to breach the terms of this Agreement.

(e) Business Associate will implement appropriate safeguards to prevent use or disclosure of Protected Health Information other than as permitted in this Agreement. Business Associate will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by the HIPAA Security and Privacy Rule.

(f) To the extent applicable, Business Associate will comply with (i) Covered Entity's Notice of Privacy Practices; (ii) any limitations to which Covered Entity has agreed in regard to an Individual's permission to use or disclose his or her Protected Health Information; and (iii) any restrictions to the use or disclosure of Protected Health Information to which Covered Entity has agreed or is required to agree.

(g) Business Associate will make its internal practices, books, and records available to the Secretary of the Department of Health and Human Services for purposes of determining compliance with the terms of the HIPAA Security and Privacy Rule, and, at the request of the Secretary, will comply with any investigations and compliance reviews, permit access to information, and cooperate with any complaints, as required by law. Without unreasonable delay and, in any event, no more than 48 hours of receipt of the request or notification, Business Associate will notify Covered Entity in writing of any request by any governmental entity, or its designee, to review Business Associate's compliance with law or this BAA, to pursue a complaint, or to conduct an audit or assessment of any kind.

(h) Business Associate shall report to Covered Entity any use or disclosure of Protected Health Information that is not in compliance with the terms of this Agreement, as well as any Security Incident and any actual or suspected Breach, of which it becomes aware, without unreasonable delay, and in no event later than sixty days after such discovery. Security Incidents and Breaches shall be treated as discovered by Business Associate as of the first day on which such Security Incident or Breach is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Notification to the Covered Entity shall contain the elements required by 45 C.F.R. § 164.410. In addition, Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement, as well as to provide complete cooperation to Covered Entity should Covered Entity elect to review or investigate such noncompliance or Security Incident.

Business Associate shall cooperate in Covered Entity's breach analysis and/or risk assessment, if requested. Furthermore, Business Associate shall cooperate with Covered Entity in the event that Covered Entity determines that any third parties must be

notified of a Breach, provided that Business Associate shall not provide any such notification except at the direction of Covered Entity. Business Associate shall indemnify and hold harmless Covered Entity for any injury or damages arising from any noncompliance with this Agreement or any Security Incident or Breach attributable to the negligence of Business Associate, including the failure to execute the terms of this Agreement.

#### IV. AVAILABILITY OF PHI

(a) Business Associate agrees to make available Protected Health Information in a Designated Record Set to Covered Entity to the extent and in the manner required by Section 164.524 of the HIPAA Security and Privacy Rule.

(b) Business Associate agrees to make available Protected Health Information in a Designated Record Set for amendment and to incorporate any amendments to Protected Health Information in accordance with the requirements of Section 164.526 of the HIPAA Security and Privacy Rule and at the direction of Covered Entity.

(c) Business Associate agrees to maintain and make available the information required to provide an accounting of disclosures, as required by Section 164.528 of the HIPAA Security and Privacy Rule. Business Associate will comply with Covered Entity's policy regarding accounting of disclosures.

(d) Business Associate agrees to comply with any requests for restriction on certain disclosures of Protected Health Information pursuant to Section 164.522 of the HIPAA Security and Privacy Rule to which Covered Entity has agreed and of which Business Associate is notified by Covered Entity.

(e) In the event an Individual makes a request under this Section IV directly to Business Associate, Business Associate will notify Covered Entity in writing of such request within three (3) business days and shall cooperate with, and act only at the direction of, Covered Entity in responding to such request.

#### V. TERMINATION

This Agreement shall be effective as of the date first set forth above and shall terminate upon the earlier of (i) the termination of all agreements between the parties, and (ii) the termination by Covered Entity for cause as provided herein. Notwithstanding anything in this Agreement to the contrary, Covered Entity shall have the right to terminate this Agreement immediately if Covered Entity determines that Business Associate has violated any material term of this Agreement. If Covered Entity reasonably believes that Business Associate will violate a material term of this Agreement and, where practicable, Covered Entity gives written notice to Business Associate of such belief within a reasonable time after forming such belief, and Business Associate fails to provide adequate written assurances to Covered Entity that it will not breach the cited term of this Agreement within a reasonable period of time given the specific circumstances, but in any event, before the threatened breach is to occur, then Covered Entity shall have the right to terminate this Agreement immediately.

#### VI. MISCELLANEOUS

Except as expressly stated herein or in the HIPAA Security and Privacy Rule, the parties to this Agreement do not intend to create any rights in any third parties. The obligations of Business Associate under this Agreement shall survive the expiration, termination, or cancellation of this Agreement and/or the Parties' business relationship, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.

This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party. None of the provisions of this Agreement are intended to create, nor will they be deemed to create any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship.

This Agreement will be governed by the laws of the State of [STATE]. No change, waiver, or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

The parties agree that, in the event that any documentation of the arrangement pursuant to which Business Associate provides services to Covered Entity contains provisions relating to the use or disclosure of Protected Health Information that are more restrictive than the provisions of this Agreement, the more restrictive provisions will control. The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate's use and disclosure of Protected Health Information.

In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect. In addition, in the event a party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of the HIPAA Security and Privacy Rule, such party shall notify the other party in writing. For a period of up to thirty days, the parties shall address in good faith such concern and amend the terms of this Agreement, if necessary to bring it into compliance. If, after such thirty-day

period, a party believes in good faith that the Agreement fails to comply with the HIPAA Security and Privacy Rule, then either party has the right to terminate upon written notice to the other party.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

COVERED ENTITY: BUSINESS ASSOCIATE:

[Provider Name] [Business Associate Name]

By: \_\_\_\_\_ By: \_\_\_\_\_

[Name] [Name]

Title: \_\_\_\_\_ Title: \_\_\_\_\_

**APPENDIX B  
Business Associate Agreement Checklist**

**REQUIRED PROVISIONS**

<b>Provision</b>	<b>Content</b>	<b>Source</b>	<b>Yes/No</b>
Use and Disclosure	Business Associate will not use or disclose Protected Health Information (“PHI”) other than as permitted or as required by law	45 C.F.R. 164.504 (e)(2)(ii)(A)	
Minimum Necessary Requirement	Business Associate will disclose only the minimum PHI necessary to perform or fulfill a specific function required or permitted by the Agreement	45 C.F.R. 164.502(b); 164.514(d)	
Safeguards	Business Associate will use appropriate safeguards to maintain the security of the PHI and to prevent unauthorized uses and/or disclosures	45 C.F.R. 164.504(e)(2)(ii) (B)	
Mitigation	Business Associate will mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI in violation of the Agreement	45 C.F.R. 164.530(f)	
Reporting	Business Associate will report to Covered Entity any unauthorized use or disclosure of PHI of which it becomes aware, including breaches of unsecured PHI and any security incident of which it becomes aware	45 C.F.R. 164.504(e)(2)(ii) (C)	

### REQUIRED PROVISIONS

Subcontractors	If permitted by law to provide PHI to an agent/subcontractor, Business Associate will ensure such agent/subcontractor agrees in writing to the same restrictions and conditions which apply to the Business Associate	45 C.F.R. 164.504(e)(2)(ii) (D) (if permissible by 42 C.F.R. Part 2)	
Right of Access	Business Associate will provide access to PHI to the Covered Entity or to the Individual who is the subject of the PHI	45 C.F.R. 164.504(e)(2)(ii) (E); 164.524	
Right of Amendment	Business Associate will make any amendments to PHI at the direction or request of the Covered Entity	45 C.F.R. 164.504(e)(2)(ii) (F); 164.526	
Right to an Accounting of Disclosures	Business Associate will document disclosures of PHI as required for Covered Entity to respond to an Individual request for an accounting of disclosures	45 C.F.R. 164.504(e)(2)(ii) (G); 164.528	
Books and Records	Business Associate will make books, records, internal practices, policies and procedures available to the Secretary of DHHS	45 C.F.R. 164.504(e)(2)(ii)(I)	
Permitted Uses and Disclosures	Business Associate can use or disclose PHI for the purpose of [Insert purpose(s)], if such use or disclosure would not violate HIPAA or 42 C.F.R. Part 2 or the minimum necessary policies and procedures of the Covered Entity	45 C.F.R. 164.504(e)(2)(ii) (A)	
Permissible Requests by Covered Entity	Covered Entity will not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA or 42 C.F.R. Part 2	45 C.F.R. 164.504(e)	
Termination	Upon material breach by Business Associate, Covered Entity may terminate immediately	45 C.F.R. 164.504(e)(2)(iii)	
Effect of Termination	Business Associate must return PHI to Covered Entity or destroy PHI	45 C.F.R. 164.504(e)(2)(ii)(J)	

### RECOMMENDED PROVISIONS

Provision	Content	Yes/No
Books and Records	Business Associate will make books, records, internal practices, policies and procedures available to the Covered Entity	
Business Activities	<ul style="list-style-type: none"> <li>• Business Associate may use and/or disclose PHI for the proper management and administration of its business, except as otherwise limited by the Agreement or 42 C.F.R. Part 2</li> <li>• Business Associate may use and/or disclose PHI to carry out its legal responsibilities, except as otherwise limited by the Agreement or 42 C.F.R. Part 2</li> <li>• <i>Must be permissible under 42 C.F.R. Part 2</i></li> </ul>	
Reporting Violations of Law	Business Associate may use PHI to report violations of law as permitted by HIPAA and 42 C.F.R. Part 2	
Individual Authorization	Covered Entity will notify Business Associate of any changes in or revocation of, authorization by an Individual to use or disclose PHI	
Notice of Restrictions	Covered Entity will notify Business Associate of any Individual requests for restrictions to the use or disclosure of PHI	
Confidentiality Obligations	Business Associate acknowledges it is fully bound by HIPAA and 42 C.F.R. Part 2	

### RECOMMENDED PROVISIONS

Insurance	<ul style="list-style-type: none"> <li>• Covered Entity may require Business Associate to obtain and maintain insurance coverage against improper uses and disclosures</li> <li>• Recommend requiring Business Associate to name Covered Entity as an additional insured</li> </ul>	
Termination	<ul style="list-style-type: none"> <li>• Term may be until all PHI is returned to Covered Entity or destroyed</li> <li>• Upon breach by Business Associate, Covered Entity may provide an opportunity for Business Associate to cure breach</li> <li>• If neither cure nor termination is feasible, Covered Entity may report breach to the Secretary of DHHS</li> </ul>	
Effect of Termination	If return or destruction is infeasible, Business Associate will extend protections of the Agreement to the PHI	
Preemption	<ul style="list-style-type: none"> <li>• Mandatory provisions of HIPAA preempt provisions of the Agreement</li> <li>• Provisions of the Agreement not mandated by HIPAA but nonetheless permitted by HIPAA will control</li> <li>• In the event of inconsistencies between HIPAA and 42 C.F.R. Part 2, the more restrictive rule will control</li> </ul>	
Compliance with Laws	Parties will comply with any and all federal, state and local laws pertaining to client confidentiality including, but not limited to, state mental health and developmental disability confidentiality law, state and federal drug and alcohol confidentiality laws and state AIDS/HIV confidentiality laws	
Indemnification	Business Associate shall indemnify and hold Covered Entity harmless from and against all claims, liabilities, judgments, fines, assessments, penalties, awards or other expenses, of any kind or nature whatsoever, including, without limitation, attorney's fees, expert witness fees, and costs of investigation, litigation or dispute resolution, relating to or arising out of any breach or alleged breach of this Agreement by Business Associate.	