

Exhibit A

Message Content: Patient health information, including Protected Health Information as defined by HIPAA, but excluding Specially Protected Information.

Permitted Purpose: Any use or disclosure permitted or required under 45 CFR § 164.502(a)(1)(i)-(v), (2)-(4), 510, 512(a)-(b), (d), (g), (h), and (j)-(l) unless prohibited by Applicable Law.

Additional Terms:

1. If Participant is subject to HIPAA, and as a result of the Agreement, HIN meets the definition of Business Associate or subcontractor Business Associate of Participant, or vice versa, the terms of Attachment A-1 shall apply.
2. If Participant is not subject to HIPAA, Participant will use commercially reasonable efforts to comply with the material provisions of HIPAA.
3. HIN participates in the CARIN Alliance Code of Conduct and the Parties agree to use commercially reasonable efforts to abide by such Code of Conduct related to Message Content Transacted under this Exhibit.
4. If Participant is subject to additional state law regarding privacy of patient health information, HIN and Participant will enter into an appropriate state-compliant BAA consistent with Applicable Law.

Attachment A-1

BUSINESS ASSOCIATE AGREEMENT

The provisions of this Business Associate Agreement (“BAA”) are effective as of the Agreement Effective Date, and are incorporated by this reference into the Agreement (which may also be referred to in this BAA as the “Underlying Agreement”) entered by and among the Parties.

RECITALS

- A. Parties have executed Participant Member Agreements with their respective Participant Members pursuant to which Parties transmit and receive PHI and other information.
- B. Parties have established a Business Associate Agreement with each of the Covered Entities that utilize their respective HIE services, and others, as required by HIPAA.
- C. Each Party acknowledges that (1) it is obligated to comply with HIPAA and HITECH and (2) it is a Subcontractor of the other Party.
- D. Each Party intends to protect the privacy and provide for the security of PHI pursuant to the terms of its respective Participant Member Agreements and this BAA, all in compliance with Applicable Law.
 - a. In consideration of the mutual promises below and the exchange of information pursuant to the Underlying Agreement, the Parties agree as follows:
 - 1. **Definitions.** Capitalized terms used in this BAA and not otherwise defined in this BAA or the Underlying Agreement shall have the meanings set forth in the Standards for Privacy of Individually Identifiable Health Information and the Security Standards for the Protection of Electronic Protected Health Information (45 C.F.R. Parts 160 and 164) promulgated by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or the Health Information Technology for Economic and Clinical Health Act (HITECH), as may be amended, modified, or renumbered.
 - 2. **Permitted Uses and Disclosures of PHI.**
 - a. **Uses and Disclosures of PHI.** Except as otherwise limited in this BAA, each of the Parties may use or disclose PHI to perform its obligations under the Agreement, provided, however, no Party shall disclose PHI in any manner that would constitute a violation of Applicable Law if so disclosed by a Party. The parties acknowledge and agree that each Party is a Business Associate of certain Participant Members and may have rights to use and disclose PHI pursuant to the Participant Member Agreements.
 - b. **Permitted Uses of PHI by Parties.** Except as otherwise limited in this BAA, each of the Parties may use PHI (i) for their proper management and administration, (ii) to carry out their respective legal responsibilities, (iii) to perform their respective obligations under the Underlying Agreement, and (iv) as Required by Applicable Law.

c. Permitted Disclosures of PHI by Parties. Except as otherwise limited in this BAA, each Party may disclose PHI (i) for their respective proper management and administration, (ii) to carry out their respective legal responsibilities, (iii) to perform their respective obligations under the Underlying Agreement, and (iv) as Required by Law. If a Party intends to disclose PHI to a third party (not including a Participant Member or a Covered Entity), prior to making any such disclosure for its own management and administration or to carry out its legal responsibilities, such Party will first obtain (i) reasonable written assurances from such third party that such PHI will be held confidential in a manner that is consistent with the terms of this BAA and only used and disclosed as Required by Law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to notify Party of any Breaches of confidentiality of the PHI, to the extent it has obtained knowledge of such Breach. Participant authorizes HIN to use PHI to create de-identified data and use such de-identified data for any lawful purpose subject to HIN's governance and ethics oversight policies. Any de-identified data will not be subject to this BAA.

3. **Obligations of Parties.**

- a. Appropriate Safeguards. Each Party shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI, in accordance with the Security Rule. The Parties shall each comply with the policies, procedures, and documentation requirements of the HIPAA Security Rule, including but not limited to, 45 CFR Section 164.316 (42 U.S.C. Section 17931).
- b. Breach Notification/Reporting of Improper Access, Use, or Disclosure. A discovering Party shall report to the other Party, and such other Party shall in turn report to its affected Participant Members, if required by HIPAA or the HITECH Act, any access, use, or disclosure of PHI not provided for by the Agreement and any Breach of PHI. A discovering Party shall report to the other Party any successful Security Incident of which it becomes aware. Such reports shall be made, by the discovering Party to the other Party, within five (5) Days following the discovering Party's discovery of such incident, and by the said other Party to its affected Participant Members within timeframes required by applicable Participant Member Agreements. Each Party agrees that upon discovering information that leads the Party to reasonably believe that a Breach may have occurred involving the Interface, or that affects its ability to fulfill its obligations under the Underlying Agreement, it shall Notify the other Party and provide such information as required by herein. The Notification must include, to the extent available at the time of the Notification, the information required to be included in a Notification by 45 CFR Section 164.404(c). The Party shall supplement the information contained in the Notification as it becomes available and cooperate with the other Party in accordance with this Agreement.
- c. Participant Member's Agents. Each Party shall ensure that any agent, including a Subcontractor, to whom it provides PHI, agrees (in writing) to substantially the same restrictions and conditions that apply through this BAA to such Party with respect to PHI.

- d. Access to PHI. Each Party shall at the request of the other Party, and in the time and manner reasonably designated by requesting Party, provide access to PHI maintained in a Designated Record Set by the Party, to the requesting Party in order to meet the requirements under the Privacy Rule, including, but not limited to, 45 CFR Section 164.524.
- e. Amendment of PHI. Each Party shall make any amendment(s) to PHI maintained in a Designated Record Set by the Party that the requesting Party directs or agrees to, pursuant to 45 CFR Section 164.526, and in the time and manner reasonably designated by requesting Party.
- f. Documentation of Disclosures. Each Party agrees to document such disclosures of PHI made by the Party (and information related to such disclosures) as would be required for a Participant Member's response to a request by an Individual, or by a Participant Member on behalf of an Individual, for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
- g. Accounting of Disclosures. Each Party agrees to provide to the other Party, in a reasonable time and manner designated by the requesting Party, information collected in accordance with Section 3(f) of this BAA, to permit requesting Party to respond to a request by an Individual, or by a Participant Member on behalf of an Individual, for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
- h. Minimum Necessary. Each Party shall request, use, and disclose only the minimum amount of PHI necessary to accomplish the purpose of the request, use, or disclosure to the extent that the minimum necessary standard is applicable to the disclosure under 45 CFR Section 164.502 (b). The Parties each acknowledge that the definition of the term "minimum necessary" is in presently evolving, and each agrees to keep itself informed of such guidance as shall, from time to time, be issued by the Secretary with respect to what the term "minimum necessary" comprises.
- i. Governmental Access to Records. Each Party agrees to make its internal practices, books, and records relating to the use and disclosure of PHI, available to the Secretary at the request of the Secretary for purposes of the Secretary determining a Participant Member's or a Party's compliance with the Privacy Rule and the Security Rule.
- j. Judicial and Administrative Proceedings. In the event HIN receives a subpoena, court or administrative order or other discovery request or mandate for release of PHI, HIN will respond as permitted by 45 CFR § 164.512(e) and (f). HIN shall notify Participant, unless otherwise prohibited, of the request as soon as reasonably practicable, but in any event within two (2) business days of receipt of such request.
- k. Victims of Abuse, Neglect or Domestic Violence. In the event HIN receives a request for release of PHI about an Individual who is the victim of abuse, neglect, or domestic violence to a government authority, HIN will respond as directed by Participant and as permitted by 45 CFR § 164.512(c). HIN shall notify Participant, unless otherwise prohibited, of the request as soon as reasonably practicable, but in any event within two (2) business days of receipt of such request.

4. **Term and Termination.**

- a. **Term.** The Term of this BAA shall commence as of the Agreement Effective Date and shall continue in effect for as long as the Underlying Agreement is in effect, unless earlier terminated under the terms of this BAA.
- b. **Termination for Cause.** A breach by any Party of any provision set forth in Sections 2 or 3 of this BAA may, in the sole discretion of the other Party, be deemed to constitute a material breach of this BAA if such breach is not cured, or a plan is not enacted to enable a cure, after ten (10) Days prior written Notice of such breach is given by the non-breaching Party. Upon occurrence of such material breach, the non-breaching Party(s) may immediately terminate this BAA and the Underlying Agreement, notwithstanding any provision to the contrary.
- c. **Effect of Termination.**
 - i. Except as provided in paragraph (ii) of this Section 4(c), upon termination of this BAA for any reason, each Party shall return or destroy all PHI received from the other Party, and shall retain no copies of the PHI, to the extent that such return or destruction is feasible. Each Party agrees to impose the same obligations, to return or destroy PHI, in writing, on each of its Subcontractors or agents to the extent they are or may be expected to come into possession of such PHI.
 - ii. In the event that a Party determines that returning or destroying PHI is infeasible, that Party shall provide, Notice to the other Party of the conditions that make return or destruction infeasible, and the Party in possession of the PHI shall extend the protections of this BAA 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 the Party maintains such PHI.

5. **Regulatory References.**

A reference in this BAA to a section in the Privacy Rule, the Security Rule, the Breach Notification Rule, or any other Applicable Law means the section as in effect or as amended, and for which compliance is required by the Parties or their respective Participant Members.

6. **Amendment.**

The Parties agree to take such action to amend this BAA from time to time as is necessary for Parties and/or their respective Participant Members to comply with Applicable Law. Such amendment must be in writing and signed by the Parties.

7. **Survival.**

The respective rights and obligations of the Parties under Section 4(c) of this BAA shall survive the termination of the BAA.

8. **No Third-Party Beneficiaries.**

Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Parties, their respective Participant Members, and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

9. **Interpretation.**

The provisions of this BAA shall prevail over any provisions in the Underlying Agreement that may conflict or appear inconsistent with any provision in this BAA. Any ambiguity in this

BAA shall be resolved in favor of a meaning that permits the Parties and Participant Members to comply with Applicable Law.

10. **De-Identified Information**

Except as otherwise limited in this Agreement, Business Associate may:

De-identify PHI and use or disclose such de-identified PHI in connection with the services provided under this BAA and for other legally permissible purposes, provided the de-identified PHI meets the standard and implementation specifications for de-identification under 45 CFR §164.514; and provided that:

- (i) Business Associate shall not, under any circumstances, re-identify, or attempt to re-identify, de-identified PHI, unless:
 - a. As directed in writing by Covered Entity for Covered Entity's own Treatment, Payment or Health care operations activities;
 - b. For public health activities or purposes as described in 45 CFR 164.512(b);
 - c. For research, as defined at 45 CFR 164.501, conducted in accordance with 45 CFR Part 46 requirements;
 - d. For reidentification of deidentified PHI for testing, analysis, or validation of deidentification, or related statistical techniques, if such re-identification is subject to a contract that bans any other use or disclosure of the reidentified information and requires the return or destruction of the information that was reidentified upon completion of the contract; or
 - e. If otherwise required by law.
- (ii) Business Associate shall not sell or license de-identified data derived from PHI. Business Associate shall not further disclose de-identified data derived from PHI to any third party, unless such third party agrees in writing to the same or stricter restrictions and conditions with respect to the de-identified PHI that apply to Business Associate pursuant to this Agreement.