

## **BUSINESS ASSOCIATE AGREEMENT**

**WHEREAS** Pompano Beach Fire Rescue Department (hereinafter "Covered Entity") and The Commission on Accreditation of Ambulance Services ("CAAS"), (hereinafter "Business Associate") have entered into an agreement requiring Business Associate to receive Protected Health Information from Covered Entity, which information is subject to protection under the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act ("HITECH"), and the regulations thereunder (collectively referred to herein as "HIPAA.")

**WHEREAS**, in order to fulfill the requirements of HIPAA and protect patients' privacy, and with the acknowledgment of good and reasonable consideration for the above information, the parties agree as follows:

### **I. The purpose of this agreement is to:**

- (1) establish the permitted and required Uses and Disclosures of Protected Health Information by CAAS;
- (2) provide that CAAS will not Use or further Disclose the information other than as permitted or required by the contract or as required by law;
- (3) require CAAS to implement appropriate safeguards to prevent unauthorized Use or Disclosure of the information, including implementing requirements of the HIPAA Security Rule with regard to Electronic Protected Health Information;
- (4) require CAAS to report to the Covered Entity any Use or Disclosure of the information not provided for by its contract, including incidents that constitute Breaches of Unsecured Protected Health Information;
- (5) require CAAS to Disclose Protected Health Information as specified in its contract to satisfy a Covered Entity's obligation with respect to Individuals' requests for copies of their Protected Health Information, as well as make available Protected Health Information for amendments (and incorporate any amendments, if required) and accountings;
- (6) to the extent CAAS is to carry out a Covered Entity's obligation under the Privacy Rule, require CAAS to comply with the requirements applicable to the obligation;
- (7) require CAAS to make available to HHS its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information received from, or created or received by CAAS on behalf of, Covered Entity for purposes of HHS's determining Covered Entity's compliance with HIPAA;
- (8) at termination of the contract, if feasible, require CAAS to return or destroy all Protected Health Information received from, or created or received by CAAS on behalf of, the Covered Entity, or to continue to safeguard it;

- (9) require CAAS to ensure that any Subcontractors it may engage on its behalf that will have access to Protected Health Information agree to the same restrictions and conditions that apply to CAAS with respect to such information; and
- (10) authorize termination of the contract by the Covered Entity if CAAS violates a material term of the contract.

## **II. Definitions**

When used in this Agreement, the following terms shall have the same meaning as they do in the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164 (also known as the “HIPAA Rules”), or the HIPAA or HITECH acts: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, Use, Electronic Protected Health Information, Privacy Rule, Security Rule.

## **III. Obligations and Activities of CAAS**

CAAS agrees to:

- (a) Use. Not Use or Disclose Protected Health Information other than as permitted or required by this Agreement or as Required by Law;
- (b) Safeguards. Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic Protected Health Information, to prevent Use or Disclosure of Protected Health Information other than as provided for by the Agreement;
- (c) Reporting. Report to Covered Entity any Use or Disclosure of Protected Health Information not provided for by the Agreement of which it becomes aware, including Breaches of Unsecured Protected Health Information as required at 45 CFR 164.410, and any Security Incident of which it becomes aware. Breach notification shall be the responsibility of the Covered Entity;
- (d) Subcontracting. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of CAAS agree to the same restrictions, conditions, and requirements that apply to CAAS with respect to such information;
- (e) Availability of information. Make available Protected Health Information in a Designated Record Set to the Covered Entity or as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.524;
- (f) Amendments. Make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45

CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526;

(g) Disclosure Accounting. Maintain and make available upon reasonable notice during regular business hours the information required to provide an accounting of Disclosures to the Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.528;

(h) Compliance. To the extent CAAS is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and

(i) Auditing. Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

#### **IV. Permitted Uses and Disclosures by CAAS**

(a) CAAS may only Use or Disclose Protected Health Information for the purposes of providing evaluating the Covered Entity's application for Accreditation under the standards promulgated by CAAS. Upon completion of the representation, CAAS shall either destroy or continue to safeguard the information.

(b) CAAS may Use or Disclose Protected Health Information as Required By Law.

(c) CAAS may not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth below.

(d) CAAS may Use Protected Health Information for its own proper management and administration or to carry out its own legal responsibilities.

(e) CAAS may Disclose Protected Health Information for its own proper management and administration or to carry out its own legal responsibilities, provided the Disclosures are Required By Law, or CAAS 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 purposes for which it was Disclosed to the person, and the person notifies CAAS of any instances of which it is aware in which the confidentiality of the information has been Breached.

(g) CAAS may provide Data Aggregation services relating to the Health Care Operations of the Covered Entity.

## V. Obligations of Covered Entity

(a) Covered Entity shall notify CAAS of any limitation(s) in its Notice of Privacy Practices, to the extent that such limitation may affect CAAS' Use or Disclosure of Protected Health Information, and shall provide CAAS with a HIPAA-compliant electronic method of remotely-accessing any PHI.

(b) Covered Entity shall notify CAAS of any changes in, or revocation of, the permission by an Individual to Use or Disclose his or her Protected Health Information, to the extent that such changes may affect CAAS' Use or Disclosure of Protected Health Information.

(c) Covered Entity shall notify CAAS of any restriction on the Use or Disclosure of Protected Health Information that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect CAAS's Use or Disclosure of Protected Health Information.

(d) Covered entity shall make the required notifications of any Breach reported to it by CAAS.

## VI. Term and Termination

(a) Term. The Term of this Agreement shall be effective as of the date signed by both parties below (the later date if not signed on the same day) and shall remain in force until it is terminated in writing by either party.

(b) Termination for Cause. Covered Entity may terminate this agreement at any time, if CAAS violates a material term of the contract.

(c) Obligations of CAAS Upon Termination.

Upon termination of this Agreement for any reason, CAAS, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by CAAS on behalf of Covered Entity, shall:

1. Retain only that Protected Health Information which is necessary for CAAS to continue its proper management and administration or to carry out its legal responsibilities in accordance with the contract executed by the Covered Entity during the Accreditation application process;
2. Return to Covered Entity or destroy the remaining Protected Health Information that CAAS still maintains in any form;
3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic Protected Health Information to prevent Use or Disclosure of the Protected Health Information, other than as provided for herein, for as long as CAAS retains the Protected Health Information;

4. Not Use or Disclose the Protected Health Information retained by CAAS other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out at IV. (e) and (f) which applied prior to termination; and
5. Return to Covered Entity or destroy the Protected Health Information retained by CAAS when it is no longer needed by CAAS for its proper management and administration or to carry out its legal responsibilities.

(d) Survival. The obligations of CAAS under this Section shall survive the termination of this Agreement.

## **VIII. Miscellaneous**

(a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

(b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

(c) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

(d) Severability. The provisions of this Agreement are severable, and, if any clause or provisions hereof shall be held invalid or unenforceable, such holding of invalidity or unenforceability shall attach only to such clause or provision, or part thereof, and shall not in any manner affect any other clause or provision in this Agreement.

(e) Waiver. No waiver of any breach of any provisions of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing.

(f) Amendments. This Agreement sets forth all the promises, agreements, conditions and understandings between the parties hereto relative to the subject matter hereof, and there are no promises, agreements, conditions or understandings, either written or oral, expressed or implied, between them, other than as herein set forth. Except as herein otherwise specifically provided, no subsequent alterations, amendments, changes or additions to this Agreement shall be binding upon either party unless reduced to writing and signed by each party.

(g) Governing Law. This Agreement and the performance hereof shall be governed, interpreted, construed and regulated by the laws of the State of Illinois. Disputes arising out of this Agreement shall be venued in Cook County, Illinois, or in the United States District Court for the Northern District of Illinois (for federal question jurisdiction only). The parties hereto agree to submit to the jurisdiction of the Court of the State of Illinois or the United States District Court for the Northern District of Illinois.

(h) Acknowledgements and Certifications. By affixing their respective signatures below, the parties certify that they have read and understand each and every provision of this Agreement. Each party further certifies that they have had the opportunity to review this Agreement with any Attorney of their choosing. Each party certifies that they possess the authority to enter into this Agreement, and that they enter into this Agreement “at arm’s length,” and that neither party has been subject to duress or other undue influence by any party during the negotiation of this Agreement. The execution and performance of this Agreement by each party has been duly authorized by all necessary laws, resolutions or corporate actions, and this Agreement constitutes valid and enforceable obligations of each party in accordance with its terms.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed.

CAAS:

Covered Entity: Pompano Beach Fire Rescue Department

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By:

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_