

## BUSINESS ASSOCIATE AGREEMENT

This Agreement, effective on June 11, 2014, is made by and between KSPH/MMA, the **Business Associate** and the County of Prince George group health plan, the **Covered Entity**.

### 1. DEFINITIONS.

- 1.1 **Business Associate** shall mean KSPH.
- 1.2 **Covered Entity** shall mean the County of Prince George group health plan.
- 1.3 **Individual** shall have the same meaning as the term "individual" in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- 1.4 **Privacy Rule** shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- 1.5 **Protected Health Information** shall have the same meaning as the term "protected health information" in 45 CFR 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- 1.6 **Required by Law** shall have the same meaning as the term "required by law" in 45 CFR 164.103.
- 1.7 **Secretary** shall mean the Secretary of the Department of Health and Human Services or his designee.
- 1.8 **Benefits Consulting Services** shall mean those services necessary to assist the Covered Entity with the design, funding, administration, communication and compliance of their health and welfare benefit plans.
- 1.9 **Electronic Protected Health Information** shall have the same meaning as the term "electronic protected health information" in 45 CFR 160.103.
- 1.10 **Security Incident** shall have the same meaning as the term "security incident" in 45 CFR 164.304.
- 1.11 **Security Rule** shall mean the Security Standards and Implementation Specifications at 45 CFR Part 160 and Part 164, subpart C.

All other capitalized terms not defined herein shall have the meanings assigned in the Privacy Rule.

## **2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.**

- 2.1 Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law.
- 2.2 Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- 2.3 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.
- 2.4 Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- 2.5 Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- 2.6 Business Associate agrees to provide access, at the request of Covered Entity, within 10 business days of such a request, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
- 2.7 Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, within 10 business days of such a request.
- 2.8 Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity during normal business hours, or at the request of the Covered Entity to the Secretary, within 10 business days of such a request, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- 2.9 Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with CFR 164.528.

- 2.10 If Business Associate creates, receives, maintains or transmits electronic-PHI on behalf of Covered Entity at any time during the term of the agreement, Business Associate agrees to appropriately safeguard the electronic-PHI as follows:
- a. **Safeguards.** Business Associate will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic-PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by the Security Rule.
  - b. **Agents.** Business Associate shall ensure that any agent, including a subcontractor, to whom it provides electronic-PHI, agrees to implement reasonable and appropriate safeguards to protect Covered Entity's PHI.
  - c. **Reporting.** Business Associate will report to Covered Entity any Security Incident of which it becomes aware.

### 3. **PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.**

- 3.1 General Use and Disclosure Provisions: Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information on behalf of, or to provide services to, Covered Entity for the following purposes, if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by Covered Entity.

Benefits Consulting Services, including but not limited to:

- Requesting, obtaining and reviewing competitive quotes
- Providing service on enrollment issues
- Providing service on billing and claim issues
- Renewal review and negotiation
- Cost projections
- Requesting, obtaining and evaluating stop loss quotations
- Experience review and funding analysis.

### 4. **OBLIGATIONS OF COVERED ENTITY.**

- 4.1 Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice.
- 4.2 Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- 4.3 Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if

such changes affect Business Associate's permitted or required uses and disclosures.

- 4.4 Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522.

## 5. PERMISSIBLE REQUESTS BY COVERED ENTITY.

- 5.1 Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

## 6. TERM AND TERMINATION.

- 6.1 Term. The Term of this Agreement shall be effective as of June 11, 2014, and shall terminate when all of the Protected Health Information 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, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

- 6.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation, and Covered Entity shall terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, or immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible.

- 6.3 Effect of Termination.

- 6.3.1 Except as provided in the following paragraph, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

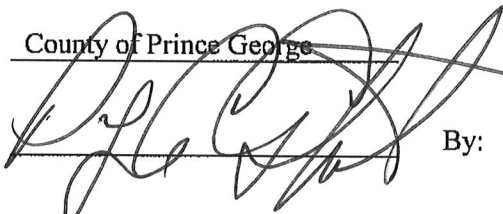
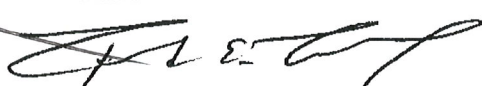
6.3.2 In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

## 7. MISCELLANEOUS.

- 7.1 Regulatory References. A reference in this Agreement to a section in the Privacy means the section as in effect or as amended, and for which compliance is required.
- 7.2 Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- 7.3 Survival. The respective rights and obligations of Business Associate under Section 6.3 of this Agreement shall survive the termination of this Agreement.
- 7.4 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule.

### COVERED ENTITY

### BUSINESS ASSOCIATE

By:	<u>County of Prince George</u> 	By:	<u>KSPH/MMA</u> 
Print Name:	<u>Percy C. Ashcraft</u>	Print Name:	<u>David Talbert</u>
Title:	<u>County Administrator</u>	Title:	<u>Senior Vice President</u>
Date:	<u>7/7/14</u>	Date:	<u>June 26, 2014</u>

**Approved As To Form:**

  
County Attorney