
BUSINESS ASSOCIATE AGREEMENT**North Sound Mental Health Administration
and
Whatcom County**

This Business Associate Agreement (“Agreement”), is entered into by and between North Sound Regional Support Network, dba North Sound Mental Health Administration (“NSMHA”) on behalf of itself, and its current and future subsidiaries and affiliates, and Whatcom County (“Business Associate”), including all current and future lines of business, affiliates and subsidiaries. NSMHA and Business Associate may have entered into various arrangements and may in the future enter into additional arrangements (collectively, the “Contracts”) pursuant to which Business Associate provides various items or services to NSMHA or for NSMHA’s clients. This Agreement modifies and supplements the terms and conditions of the Contracts, and the provisions set forth herein shall be deemed a part of the Contracts.

1. **Definitions:** The federal privacy regulations at 45 C.F.R. parts 160 and 164 and the Health Insurance Portability and Accountability Act (42 USC Section 201, et seq.), shall be collectively referred to herein as “HIPAA”. All capitalized terms used in this Agreement have the meaning defined in HIPAA, unless otherwise defined herein.
2. **Purpose:** Protected Health Information (PHI): The purpose of this Agreement is to provide assurances regarding our respective responsibilities to maintain strict confidentiality under applicable Federal and State laws and regulations relating to NSMHA’s patient medical information, financial information, and other patient identifiable health information to which Business Associate gains access pursuant to the Contracts (collectively “PHI”). For purposes of this Agreement, PHI shall be defined consistent with 45 CFR, Section 164.501. The provisions of this Agreement are specifically intended to meet the Business Associate contract requirements of the HIPAA privacy standards spelled out in Section 45 CFR, Section 164.504. Business Associate and NSMHA intend that their respective privacy and security policies, procedures, and practices shall meet (or exceed to the extent provided herein) all applicable Federal and State requirements pertaining to the privacy and confidentiality of PHI as soon as possible, but in no event later than the mandatory HIPAA compliance date.
3. **Confidentiality of PHI:** Business Associate shall comply with all applicable Federal and State laws and regulations relating to maintaining and safeguarding the confidentiality of PHI. Business Associate shall assure that Business Associate’s employees, subcontractors, and agents comply with such laws and regulations and the provisions of this Agreement. Neither Business Associate nor any of its employees, subcontractors, or agents shall use or further disclose PHI in any manner that would violate the requirements of this Agreement or the HIPAA privacy regulations as set forth in 45 CFR, Sections 160 and 164. Business Associate may use and disclose PHI when necessary for Business Associate’s proper management and administration, or to carry out Business Associate’s specific legal responsibilities pursuant to the Contracts. Business Associate shall not request or disclose more information than the minimum amount necessary to allow Business Associate to perform its functions pursuant to the Contracts. Business Associate shall not use or further disclose PHI in any manner that would violate the HIPAA privacy standards as set forth in 45 CFR, Sections 160 and 164.
4. **Safeguards for PHI:** Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than expressly provided for in this Agreement. Business Associate shall assure that any agents or subcontractors to whom it provides any PHI under this Agreement shall agree to the same restrictions and conditions of Business Associate under this Agreement to assure that such agent or

1 subcontractor complies in all respects with the provisions of this Agreement and the HIPAA privacy
2 standards.
3

- 4 5. **Individual Access to PHI:** Business Associate agrees to provide individuals with access to their PHI in
5 a Designated Record Set as requested by NSMHA or as otherwise required to meet requirements of
6 HIPAA privacy standards including 45 CFR 164.524.
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- 8 6. **Third Party Requests for Access to PHI:** Business Associate agrees to promptly notify NSMHA of
9 Business Associate's receipt of any request, subpoena, qualified protective order, or other legal process to
10 obtain PHI. The provisions of this section shall survive the termination of this Agreement.
11
- 12 7. **Amendments to PHI:** Business Associate agrees to make amendment(s) to PHI in a Designated Record
13 Set as authorized by NSMHA in compliance with 45 CFR 164.526.
14
- 15 8. **Accounting for Disclosures of PHI:** Business Associate shall cooperate with NSMHA by providing
16 appropriate information to NSMHA to fulfill both parties' responsibilities under 45 CFR, Section 164.528.
17 Business Associate agrees to provide an accounting of any disclosures of PHI for up to the six-year period
18 preceding the date of the request for an accounting. Such information shall include:
19
- 20 a. The date of the disclosure;
 - 21 b. The name and address of the person or entity who received the PHI;
 - 22 c. A brief description of the disclosed PHI;
 - 23 d. A brief statement of the purpose of the disclosure including an explanation of the basis for such
24 disclosure; and
 - 25 e. Such other information as may be required by applicable laws or regulations.
26

27 Business Associate must provide all such information to NSMHA on a timely basis not later than seven
28 (7) calendar days after NSMHA requests such information, unless otherwise specified by NHMSA. The
29 provisions of this section shall survive termination of this Agreement.
30

- 31 9. **Access to Business Associate's Books and Records:** Business Associate shall make available to the
32 Secretary of the Department of Health and Human Services its internal practices, books and records
33 relating to the use and disclosure of PHI received from, or created or received by, Business Associate on
34 behalf of NSMHA for the purpose of determining Business Associate's compliance with the requirements
35 of this Agreement and the HIPAA privacy standards. The provisions of this section shall survive
36 termination of this Agreement.
37
- 38 10. **Reporting and Auditing of Improper Use of PHI:** Business Associate shall promptly report to
39 NSMHA any use or disclosure of NSMHA client PHI that is unauthorized or otherwise violates the terms
40 of this Agreement.
41
- 42 11. **HIPAA Requirements:** Business Associate and NSMHA agree to work cooperatively to meet applicable
43 requirements of the HIPAA regulations.
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- 45 12. **Termination of Applicable Contract:** NSMHA shall have the right to terminate any or all of the
46 Contracts if Business Associate has violated a material term of this Agreement. Upon any such
47 termination, Business Associate shall promptly return or destroy all PHI received from NSMHA in
48 connection with the terminated Contracts. If the return or destruction of PHI is not feasible, Business
49 Associate shall continue the protections required under this Agreement to the PHI consistent with the
50 requirements of this Agreement and the HIPAA privacy standards. In the event that Business Associate
51 ceases to do business or otherwise terminates its relationship with NSMHA, Business Associate agrees to
52 promptly return or destroy all PHI received from NSMHA in a timely manner. Business Associate may
53 not assign this Agreement, in whole or in part, without NSMHA's prior consent. All terms and

1 conditions of this Agreement will be binding upon and inure to the benefit of and be enforced by the
 2 parties hereto and their respective successors and permitted assigns.
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- 4 **13. Business Associate's Privacy and Security Policies and Practices:** Business Associate's privacy and
 5 security policies and practices shall meet or exceed current standards set by applicable state and federal
 6 law for the protection of PHI including, without limitation, user authentication, data encryption,
 7 monitoring and recording of database access, internal privacy standards and a compliance plan designed to
 8 provide assurances that the requirements of this Agreement are met. Business Associate shall:
 9
- 10 a. Implement administrative, physical, and technical safeguards that reasonably and appropriately
 - 11 protect the confidentiality, integrity and availability of NSMHA's electronic PHI;
 - 12 b. Ensure that Business Associate's agents and subcontractors to whom it provides PHI, implement
 - 13 administrative, physical, and technical safeguards that reasonably and appropriately protect the
 - 14 confidentiality, integrity, and availability of NSMHA's PHI; and
 - 15 c. Report to NSMHA any security incident of which it becomes aware.
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17 **14. Miscellaneous**

- 18 a. **Indemnification:** Business Associate shall be responsible for and shall indemnify and hold NSMHA
 19 harmless (including all costs and attorney fees) from all claims for personal injury, property damage
 20 and disclosure of confidential information and from the imposition of governmental fines or penalties
 21 resulting from the acts or omissions of Business Associate and any subcontractor. NSMHA shall be
 22 responsible and shall indemnify and hold Business Associate harmless (including all costs and attorney
 23 fees) from all claims for personal injury, property damage and disclosure of confidential information
 24 and from the imposition of governmental fines or penalties resulting from the acts or omissions of
 25 NSMHA.
 26
- 27 b. **Insurance:** Business Associate certifies that it maintains a broad comprehensive insurance program
 28 as a member of the Washington Counties Risk Pool. Proof of coverage shall be provided upon
 29 request.
 30
- 31 c. **Independent Contractor:** Under this Agreement, Business Associate shall at all times be acting and
 32 performing in the status of independent contractor to NSMHA. Business Associate shall not by
 33 virtue of this Agreement be deemed a partner or joint venturer of NSMHA. No person employed by
 34 Business Associate will be an employee of NSMHA, and NSMHA shall have no liability for payment
 35 of any wages, payroll taxes, and other expenses of employment for any employee of Business
 36 Associate. Business Associate is constituted the agent of NSMHA only for the purpose of, and to the
 37 extent necessary to, carrying out its obligations under this Agreement.
 38
- 39 d. **Notices:** Any notice, request, demand, report, approval, election, consent, or other communication
 40 required or permitted under the terms of this Agreement (collectively, "Notice") shall be in writing
 41 and either delivered personally, by registered or certified mail, return receipt requested, postage
 42 prepaid, or by reputable overnight courier, addressed as follows:
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44
 45 North Sound Mental Health Administration
 46 117 North 1st, Suite 8,
 47 Mount Vernon, WA 98273
 48 Attention: Executive Director
 49 With a copy to: Wendy Klamp, Privacy Officer
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To Business Associate:
 Whatcom County Health Department
 509 Girard Street
 Bellingham, WA 98227-0935
 Attention: Gary Williams, Human Services Division Supervisor

14.5 **Amendment:** This Agreement may not be amended, modified or terminated orally, and no amendment, modification, termination or attempted waiver shall be valid unless in writing signed by both parties.

If the foregoing meets with your understanding and approval, please show your acceptance and agreement by signing and returning one copy of this Agreement to the undersigned, at which point this Agreement shall become effective as of the date indicated below. By signing below, the undersigned warrants that he/she is an authorized agent of Business Associate, and his/her signature is binding upon Business Associate.

NORTH SOUND MENTAL HEALTH ADMINISTRATION

Charles R. Benjamin
Executive Director

Date

WHATCOM COUNTY:

Authorized Signature

Date