

AGREEMENT FOR PLACEMENT OF STUDENT NURSES

BETWEEN INDIANA STATE UNIVERSITY (ISU)

AND

YAMHILL COUNTY,

I. DATE

A. This agreement ("Agreement") is entered into as of the date of its execution by and between ISU, College of Nursing, Health and Human Services ("ISU") and Yamhill County, a political subdivision of the State of Oregon, acting by and through its Health and Human Services Department, Public Health ("County" or "Yamhill County Public Health").

II. PURPOSE

A. It is understood and agreed by the parties that the purpose of the relationship established by this Agreement is to facilitate the clinical learning experiences of students enrolled in all programs in the ISU, College of Nursing, Health, and Human Services ("Students") through placement with Yamhill County Public Health.

B. In consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed between the parties as follows:

III. PLAN FOR INSTRUCTION

A. Placement of Students with Yamhill County Public Health will be planned in accordance with the calendar of the ISU, by the Dean of ISU, and by the Director of Yamhill County Public Health ("Director") or their designates, at least three (3) months prior to the assignment of Students.

B. Specific times of the placements of Students to Yamhill County Public Health will be arranged according to the Students' clinical learning experience and the ability of Yamhill County Public Health to accept such placements.

IV. RESPONSIBILITIES OF INDIANA STATE UNIVERSITY
(COLLEGE OF NURSING, HEALTH, AND HUMAN
SERVICES)

A. ISU and Students shall function within all applicable rules, regulations, and policies of Yamhill County Public Health. Yamhill County Public Health shall notify ISU and Students in writing of such rules, regulations, and policies.

B. ISU assumes full responsibility for planning and executing the clinical learning experience, including programming, administration, curriculum content, faculty appointments, faculty administration and requirements for matriculation, promotion and graduation. Prior to executing the clinical learning experience, days and hours of the clinical learning experience shall also be planned by ISU in consultation and cooperation with Yamhill County Public Health.

C. ISU and Students assume responsibility for the teaching and guidance of the Students in clinical learning experiences. During the entire term of this Agreement, ISU faculty will be available to Students in the clinical areas. Clinical assignments for students will be made by the ISU faculty member in consultation with the Director and designated staff of Yamhill County Public Health.

D. ISU shall provide to Yamhill County Public Health the anticipated number, type of schedule planned, the kind of educational experiences desired, and the year in the program of Students at least one (1) month prior to the semester in which they are placed for clinical learning experience.

E. ISU shall provide to Yamhill County Public Health staff, the objectives for Students' clinical learning experience.

F. ISU shall provide, for each Student during the entire term of this Agreement, liability insurance coverage for professional malpractice with a limit of one million and no/100 (\$1,000,000) dollars for injury or damage to any one person and a limit of three million and no/100 (\$3,000,000) dollars for injury or damage arising from any one accident (in Indiana, \$250,000/\$750,000, according to the Patient Compensation Fund of Indiana).

G. ISU shall provide, during the entire term of this Agreement, worker's compensation insurance as required by Oregon statute.

H. ISU shall provide, during the entire term of this Agreement, general liability insurance coverage for all participating Students. This general liability insurance coverage must have minimum limits of at least \$2,000,000 per occurrence and \$3,000,000 annual aggregate.

I. ISU shall provide Yamhill County Public Health with a Certificate of Insurance with endorsement pages, evidencing the above insurance coverage upon execution of this Agreement and shall immediately notify Yamhill County Public Health in advance of any significant modification, termination or cancellation of such policies.

J. ISU shall withdraw any Student from the clinical learning experience when the Student is unacceptable to Yamhill County Public Health for reasons of health, performance, or other reasonable causes.

K. ISU shall provide each Student, if and as needed, with a name badge identifying the Student and ISU. ISU shall ensure Students are properly attired when reporting for clinical experience.

L. ISU shall provide Students with training about protection for exposure to bloodborne pathogens. ISU shall advise the Student to report any accidental exposure immediately to the Yamhill County Public Health contact person, senior registered nurse on the ward and/or office manager.

M. ISU shall ensure that all Students maintain current cardiopulmonary resuscitation certification.

N. ISU shall ensure that all Students provide documentation to ISU showing they have at least started the Hepatitis B vaccination series before clinical placement with Yamhill County Public Health begins. If health status and immunization reports are requested by Yamhill County Public Health, they will be provided prior to the first day of clinical placement. ISU is responsible for verifying that each Student has a current TB skin test (within the past 12 months), proof of two MMR (measles/mumps/rubella) immunizations if born after 1957 and providing documentation of a titer if born prior to 1957 and additionally (for all Students) proof of two doses of Varicella vaccine or history of chicken-pox.

O. ISU shall provide post-exposure follow-up evaluation and care for exposure to Bloodborne pathogens.

P. ISU shall provide Students with training about hazardous chemicals in the workplace and about the disposal of regulated wastes.

Q. ISU shall provide follow-up evaluation and care as needed for exposures to hazardous chemicals and/or wastes.

R. ISU shall advise Students to report any accidental exposures to hazardous chemicals and/or wastes immediately to the Yamhill County Public Health faculty/coordinator contact person and/or senior registered nurse on the ward and/or office manager.

S. ISU shall determine the fitness of Students assigned to Yamhill County Public Health and will work with Students to order a national and state criminal background check ("CBC") report that provides a seven-year look back period based on Students self-disclosing counties lived in during that period. Students will authorize ISU to receive their results and to share information as appropriate with Yamhill County Public Health. Students whose report indicates a "clear" status will be referred to Yamhill County Public Health. Results that may produce a question, be unclear, undefined or a "not clear" report may be excluded from the clinical learning experience and/or may be discussed between Yamhill County Public Health and designated ISU representative to ascertain if Yamhill County Public Health permits placement of Student at clinical site. Placement will be at the sole reasonable discretion of Yamhill County Public Health. ISU agrees to follow Yamhill County Public Health direction and guidelines.

T. At the same time ISU performs the CBC check, ISU will check the U.S. Department of Health and Human Services, Office of the Inspector General (OIG), List of

Excluded Individuals/Entities (LEIE) online searchable database, to make a duly diligent effort to ensure that Students are not excluded from participation in Federal Health Care Programs. If any Student is found to be excluded, ISU, will notify Yamhill County Public Health and follow their direction and guidelines on the matter. ISU takes no responsibility for currency of online database or other factors that may affect knowledge of this status that are beyond the scope and control of ISU.

U. If Yamhill County Public Health requires a drug-test(s) during or prior to clinical placement, the Yamhill County Public Health's, or if mutually agreed upon, the ISU's drug-testing procedures and protocol will be followed. Students will be responsible for the cost of the drug test and may share the specific results of the drug test with Yamhill County Public Health if they choose. If ISU procedure is followed, ISU will only report a "clean" or "not clean" result to Yamhill County Public Health.

Results that may produce a question, be unclear, undefined or a "not clear" report may be excluded from the program and/or may be discussed between Yamhill County Public Health and designated ISU representative to ascertain if Yamhill County Public Health permits placement of Student at clinical site. Placement will be at the sole reasonable discretion of Yamhill County Public Health. ISU agrees to follow Yamhill County Public Health direction and guidelines.

V. RESPONSIBILITIES OF Yamhill County Public Health

A. County shall accept Students for clinical learning experiences in those courses for which placement has been mutually revised, planned, and arranged, without discrimination based on sex, race, age, color, marital status, religion, national origin or handicap.

B. County shall make available those clinical learning experiences agreed upon.

C. The staff of Yamhill County Public Health retains the responsibility and accountability for care and for patient/client outcomes, including in situations where nursing care and related duties are provide by Students within a patient care unit.

D. County shall provide orientation to the ISU faculty and Students to familiarize them with clients; the Yamhill County Public Health philosophy, policies and procedures; the physical facilities, and such other aspects as are pertinent to the education of Students.

E. County shall provide interview and conference space, as available, following mutually arranged schedules of use.

F. County shall make available the Yamhill County Public Health's library facilities to Students and ISU faculty for use on the County premises.

G. County shall recommend to ISU the need to withdraw any Student from the

clinical area when the Student is unacceptable to Yamhill County Public Health for reasons of health, performance, or other reasonable causes.

H. In the case of an occurrence of a bloodborne pathogens exposure incident for either Students or ISU faculty, County shall assume the responsibility for obtaining testing consent from the source patient and testing the source patient for HIV/HBV infections. This will be done in compliance with the OSHA bloodborne pathogen standard. The source patient will be asked to sign a consent to release the results to the exposed worker.

VI. MUTUAL RESPONSIBILITIES

A. County and ISU shall confer on plans, problems, and changes related to the clinical learning experience.

B. County and ISU shall perform duties and obligations at no cost to the other.

C. Each party releases the other party of any liability that may result from any acts of a party's own agents, servants, employees, and officers and students occurring out of the operation of this program for any injury or damage sustained by it or any person in privity therewith. Notwithstanding the above, Yamhill County Public Health's liability is limited by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act. ISU's liability is limited by provisions of the Indiana Tort Claims Act and other protections afforded ISU under the Indiana Constitution as an instrumentality of the State of Indiana.

D. Prior to beginning the learning experience at Yamhill County Public Health, ISU shall provide participating Students with basic training regarding confidentiality and privacy of protected health information under the Health Insurance Portability and Accountability Act, and all regulations issued there under (collectively, "HIPAA"), and Yamhill County Public Health shall provide Students with specific training in Yamhill County Public Health HIPAA policies upon Student's arrival at Yamhill County Public Health.

E. Maintain the confidentiality of Student educational records in accordance with applicable federal and state regulations.

VII. TERM; AMENDMENT

A. The term of this Agreement shall be five (5) years, unless earlier terminated as provided herein.

B. This Agreement will be reviewed annually. Any revision or addition covered by this Agreement will be done in writing and agreed upon by both parties.

VIII. TERMINATION

A. Each party may terminate this Agreement by at least one (1) calendar year's written notice to the other party. All Students enrolled in the ISU program at the time that notice to terminate this Agreement is given by either party to the other shall be permitted to complete at Yamhill County Public Health the clinical learning experience needed for graduation subject to the terms and conditions contained herein.

B. Yamhill County Public Health may terminate this Agreement effective upon delivery of written notice to Health Facility or College, respectively, or at such later date as may be established by either party under any of the following conditions:

1. If funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow for the continuation of services. This Agreement may be modified to accommodate a reduction in funds.
2. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate under this agreement.
3. If any license or certificate required by law or regulation to be held by Health Facility or College to provide the services required by this agreement is for any reason denied, revoked, or not renewed

IX. MISCELLANEOUS

A. If any part of this Agreement shall be held unenforceable, the rest of this Agreement will nevertheless remain in full force and effect.

B. ISU agrees to hold harmless, indemnify, and defend County and Yamhill County Public Health against claims, actions, liability or costs, including attorney's fees or defense costs, arising out of acts or omissions by ISU or its Students, officers, agents employees, but not against claims arising out of acts or omissions by such agents, or employees or Students undertaken or committed at the direction of Yamhill County Public Health or its officers, employees or agents. To the extent permitted by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act, County and Yamhill County Public Health agrees to hold harmless, indemnify, and defend ISU against claims, actions, liability or costs, including attorney's fees or defense costs arising out of acts or omissions by or at the direction of County or Yamhill County Public Health, its officers, employees, or agents, but not against claims arising out of acts or omissions by such agents, or employees undertaken or committed at the direction of ISU or its officers, employees or agents.

C. ISU and Yamhill County Public Health intend that ISU's relationship to Yamhill County Public Health at all times and, for the purposes under this Agreement, is to be that of independent contractor. ISU, its agents, employees, and Students are not considered an agent or employee of Yamhill County Public Health for any purpose, and

neither ISU nor its' agents, employees, or Students are entitled to any of the benefits that Yamhill County Public Health provides its' employees.

D. Both parties agree to comply with all applicable requirements of federal, state, and local laws, ordinances and regulations applicable to the work under this Agreement including, without limitation, the provisions of ORS 279A, 279B, 279C; the provisions of: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and the 2008 amendment to the Americans with Disabilities Act; ORS 659A.142 and ORS 659A.400 through ORS659A.409; (v) the Age Discrimination Act; ORS 659.800 et al, and all amendments of regulations and administrative rules established pursuant to those laws; (vi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Both parties agree to prohibit unlawful discrimination based on race, color, religion, ethnicity, use of native language, national origin, sex, sexual orientation, marital status, disability, veteran status, age, or any other status protected under applicable federal, state, or local laws. ISU agrees that ISU has complied with the tax laws of the state of Oregon or a political subdivision of the state of Oregon, including ORS 305.620, 305.380(4) and ORS Chapters 316, 317 and 318.

E. Confidentiality. ISU acknowledges that it or its Students may, in the course of their performance under this Agreement, be exposed to or acquire information that is the confidential information of County or Yamhill County Public Health or its clients. Any and all (i) client information, (ii) information provided by County and marked confidential, Protected Health Information or EPHI as described or defined in Exhibit A, or (iv) information identified as confidential in a separate writing, that becomes available to ISU or its Students in the performance of this Agreement shall be deemed to be confidential information of County and Yamhill County Public Health ("Confidential Information"). Any reports or other documents or items, including software, that result from ISU or its Student's use of the Confidential Information are also deemed Confidential Information. ISU and Students agree to hold Confidential Information in strict confidence, using at least the same degree of care that ISU and Students use in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information for any purposes whatsoever, except as may be provided elsewhere under this Agreement or in conformance with Exhibit A. ISU and Students agree that, upon termination of this Agreement or at County's request, ISU or Students will turn over to County all documents, papers and other matter in their possession that embody Confidential Information

F. ISU and Students shall maintain the confidentiality of all client records as required by applicable state and federal law, including without limitation, ORS 179.495 to 179.507, 45 CFR Part 205, 42 CFR Part 2, any administrative rule adopted by the Oregon Health Authority (OHA), implementing the foregoing laws, and any written policies made available to ISU and Student by County, Yamhill County Public Health or by the OHA. ISU and Students shall create and maintain written policies and procedures related to the disclosure of client information, and shall make such policies and procedures available to County for review and inspection as reasonably requested by County.

G. In the event an action, suit or proceeding, including appeal there from, is brought for failure to observe any of the terms of this Agreement, each party shall be

solely responsible for its own attorney's fees, expenses, costs and disbursements for said action, suit, proceeding or appeal.

H. Failure of Yamhill County Public Health or ISU to enforce any provision of this Agreement shall not constitute a waiver by Yamhill County Public Health or ISU of that or any other provision.

I. ISU shall not enter into any subcontracts under this Agreement without County's prior written consent. ISU shall not assign or transfer its interest in this Agreement, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or in any other manner, without the prior written consent of County. No approval by County of any assignment or transfer of interest shall be deemed to create any obligation of County in addition to those set forth in this Agreement. Consent to subcontract shall not relieve obligations/duties under this Agreement.

J. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns.

K. Parties shall not be held responsible for delay or default caused by fire, riot, acts of God, and war which was beyond the Parties' reasonable control.

L. This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. ISU, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

M. This Agreement, and any disputes arising out of or related hereto, shall be governed exclusively by the internal laws of the State of Oregon without regard to its conflicts of laws rules. Any claim, action, suit or proceeding between Yamhill County Public Health and ISU that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Oregon for Yamhill County. **ISU HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THESE COURTS AND WAIVES ANY OBJECTION TO VENUE IN THESE COURTS AND ANY CLAIM THAT THIS FORUM IS AN INCONVENIENT FORUM.**

N. This Agreement may be executed by facsimile and in counterparts, which taken together shall form one legal instrument.

X. DISTRIBUTION

One (1) copy of the signed Agreement will be retained by ISU with the remaining signed copies distributed by ISU to the following:

1. Indiana State University, Academic Affairs
2. Director of Yamhill County Public Health
3. Indiana State Board of Nursing, Health Professions Service Bureau
when required.

BY: Caroline Mallo
Dean, College of Health, and Human
Services- Indiana State University

Date: 4/29/18

BY: Jana Shoup Ischabold
Signature & Title
~~Yamhill County Public Health~~
County Administrator

Date: 7-2-18

Accepted by Yamhill County
Board of Commissioners on
7/12/18 by Board Order
18-253

EXHIBIT A
BUSINESS ASSOCIATE/QUALIFIED SERVICE ORGANIZATION AGREEMENT

RECITALS

A. The CONTRACTOR may use and disclose Protected Health Information and Electronic Protected Health Information ("EPHI") in the performance of its obligations under the Agreement; and

B. County operates a drug and alcohol treatment program subject to the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 USC §290dd-2 and 42 CFR Part 2 (collectively, "Part 2"); if CONTRACTOR is a Qualified Service Organization (QSO) under Part 2 it also must agree to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information with respect to the performance of its obligations under the Agreement; and

C. The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164, require that COUNTY, as a Covered Entity, obtain satisfactory assurances from its Business Associates, as that term is defined in the Privacy Rule and Security Rule, that they will comply with the Business Associate requirements set forth in 45 CFR 164.502(e) and 164.504(e) and as amended by the Health Information Technology for Economic and Clinical Health ("HITECH") Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 ("ARRA"); CONTRACTOR is a Business Associate of COUNTY and desires to provide such assurances with respect to the performance of its obligations under the Agreement pursuant to this Business Associate/Qualified Service Organization Agreement ("BAA"); and

D. Both COUNTY and CONTRACTOR are committed to compliance with the standards set forth in Part 2, the Privacy Rule and Security Rule as amended by the HITECH Act, and as they may be amended further from time to time, in the performance of their obligations under the Agreement.

NOW, THEREFORE, in consideration of mutual and valuable consideration which the parties hereby acknowledge as received, the parties agree as follows:

AGREEMENT. The parties agree that the following terms and conditions shall apply to the performance of their obligations under the Agreement, effective upon execution of this BAA. Capitalized terms used, but not otherwise defined in this BAA, shall have the same meaning as those terms in Part 2, the Privacy Rule and Security Rule.

1. SERVICES. Pursuant to the Agreement, CONTRACTOR provides certain services for or on behalf of COUNTY, as described in the Agreement, which may involve the use and disclosure of Protected Health Information and EPHI. CONTRACTOR may make use of Protected Health Information and EPHI to perform those services if authorized in the Agreement and not otherwise limited or prohibited by this BAA, Part 2, the Privacy Rule, the Security Rule and other applicable federal or state laws or regulations. All other uses of Protected Health Information and EPHI are prohibited.

2. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR.

(a) CONTRACTOR agrees to not use or disclose Protected Health Information or EPHI other than as permitted or required by the Agreement (as amended by this BAA), and as permitted by Part 2, the Privacy Rule, the Security Rule or as required by Law. Notwithstanding any other language in this BAA, CONTRACTOR acknowledges and agrees that any patient information it receives from COUNTY that is protected by Part 2 regulations is subject to protections that prohibit CONTRACTOR from disclosing such information to agents or subcontractors without the specific written consent of the subject individual.

(b) CONTRACTOR agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information and EPHI other than as provided for by the Agreement as amended by this BAA, and if necessary will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by the Part 2 regulations.

(c) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of Protected Health Information or EPHI by CONTRACTOR in violation of the requirements of the Agreement, as amended by this BAA.

(d) CONTRACTOR agrees to report to COUNTY, as promptly as possible, any use or disclosure of the Protected Health Information or EPHI not provided for by the Agreement, as amended by this BAA, of which it becomes aware.

(e) CONTRACTOR agrees to ensure that any agent, including a contract hearing officer or other subcontractor, to whom it provides Protected Health Information or EPHI received from, or created or received by CONTRACTOR on behalf of COUNTY, agrees to the same restrictions and conditions that apply through the Agreement, as amended by this BAA, to CONTRACTOR with respect to such information.

(f) CONTRACTOR agrees to provide access, at the request of COUNTY, and in the time and manner designated by COUNTY, to Protected Health Information and EPHI in a Designated Record Set (the hearing file), to COUNTY or, as directed by COUNTY, to an Individual in order to meet the requirements under 45 CFR 164.524.

(g) CONTRACTOR agrees to make any amendment(s) to Protected Health Information and EPHI in a Designated Record Set that the COUNTY directs or agrees to pursuant to 45 CFR 164.526 at the request of COUNTY or an Individual, and in the time and manner designated by COUNTY.

(h) CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures and any Protected Health Information or EPHI, relating to the use and disclosure of Protected Health Information and EPHI received from, or created or received by CONTRACTOR on behalf of COUNTY, available to COUNTY or to the Secretary, within the time and in the manner designated by COUNTY or the Secretary, for purposes of the Secretary determining COUNTY's compliance with Part 2, the Privacy Rule or Security Rule.

(i) CONTRACTOR agrees to refer requests for disclosures of Protected Health Information and EPHI to the COUNTY for response, except for requests related to conducting the contested case hearing. To the extent CONTRACTOR discloses Protected Health

Information or EPHI for purposes not related to conducting the contested case hearing, CONTRACTOR agrees to document such disclosures to the extent such documentation is required for COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.

(j) CONTRACTOR agrees to provide to COUNTY or an Individual, in time and manner to be designated by COUNTY, information collected in accordance with Section 2(i) of this BAA, to permit COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.

(k) CONTRACTOR agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of the COUNTY.

(l) In the event of Discovery of a Breach of Unsecured Protected Health Information, CONTRACTOR shall:

(i) Notify the COUNTY of such Breach. Notification shall include identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by CONTRACTOR to have been accessed, acquired or disclosed during such Breach and any other information as may be reasonably required by the COUNTY necessary for the COUNTY to meet its notification obligations;

(ii) Confer with the COUNTY as to the preparation and issuance of an appropriate notice to each individual whose Unsecured Protected Health Information has been, or is reasonably believed by CONTRACTOR to have been accessed, acquired or disclosed as a result of such Breach;

(iii) Where the Breach involves more than 500 individuals, confer with the COUNTY as to the preparation and issuance of an appropriate notice to prominent media outlets within the State or as appropriate, local jurisdictions; and,

(iv) Confer with the COUNTY as to the preparation and issuance of an appropriate notice to the Secretary of DHHS of Unsecured Protected Health Information that has been acquired or disclosed in a Breach. CONTRACTOR understands that if the Breach was with respect to 500 or more individuals, such notice to the Secretary must be provided immediately, and therefore, time is of the essence in the obligation to confer with the COUNTY. If the Breach was with respect to less than 500 individuals, a log may be maintained of any such Breach and the log shall be provided to the Secretary annually documenting such Breaches occurring during the year involved.

(v) Except as set forth in (vi) below, notifications required by this section are required to be made without unreasonable delay and in no case later than 60 calendar days after the Discovery of a Breach. Therefore, the notification of a Breach to the COUNTY shall be made as soon as possible and CONTRACTOR shall confer with the COUNTY as soon as practicable thereafter, but in no event, shall notification to the COUNTY be later than 30 calendar days after the Discovery of a Breach. Any notice shall be provided in the manner required by the HITECH Act, sec 13402(e) and (f), Public Law 111-5, 45 CFR 164.404 through 164.410 and as agreed upon by the COUNTY.

(vi) Any notification required by this section may be delayed by a law enforcement official in accordance with the HITECH Act, sec 13402(g), Public Law 111-5.

(vii) For purposes of this section, the terms "Unsecured Protected Health Information" and "Breach" shall have the meaning set forth in 45 CFR § 164.402. A Breach will be considered as "Discovered" in accordance with the HITECH Act, sec 13402(c), Public Law 111-5, 45 CFR 164.404(a)(2).

(m) CONTRACTOR shall comply with 45 C.F.R. 164.308, 164.310, 164.312 and 164.316 and all requirements of the HITECH Act, Public Law 111-5, that relate to security and that are made applicable to Covered Entities, as if CONTRACTOR were a Covered Entity.

(n) CONTRACTOR shall be liable to the COUNTY, and shall indemnify the COUNTY for any and all direct costs incurred by the COUNTY, including, but not limited to, costs of issuing any notices required by HITECH or any other applicable law, as a result of CONTRACTOR's Breach of Unsecured Protected Health Information.

3. PERMITTED USES AND DISCLOSURES BY CONTRACTOR.

(a) General Use and Disclosure Provisions.

(1) Except as otherwise limited or prohibited by this BAA, CONTRACTOR may use or disclose Protected Health Information and EPHI to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the Agreement and this BAA, provided that such use or disclosure would not violate Part 2, the Privacy Rule or Security Rule if done by COUNTY or the minimum necessary policies and procedures of COUNTY.

(2) COUNTY has determined that disclosures to CONTRACTOR under the Agreement are necessary and appropriate for COUNTY's Treatment, Services, Payment and/or Health Care Operations under Part 2, the HIPAA Privacy Rule and Security Rule and Required By Law under Or Laws 1999, ch. 849 (HB 2525).

(3) All applicable federal and state confidentiality or privacy statutes or regulations, and related procedures, continue to apply to the uses and disclosures of information under this BAA, except to the extent preempted by Part 2 or the HIPAA Privacy Rule and Security Rule.

(b) Specific Use and Disclosure Provisions.

(1) Except as otherwise limited in this BAA, CONTRACTOR may use Protected Health Information and EPHI for the proper management and administration of the CONTRACTOR or to carry out the legal responsibilities of the CONTRACTOR.

(2) Except as otherwise limited in this BAA, CONTRACTOR may disclose Protected Health Information and EPHI for the proper management and administration of the CONTRACTOR, provided that disclosures are Required By Law, or CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and 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 the CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been

breached.

(3) CONTRACTOR may use Protected Health Information and EPHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

(4) CONTRACTOR may not aggregate or compile COUNTY's Protected Health Information or EPHI with the Protected Health Information or EPHI of other Covered Entities unless the Agreement permits CONTRACTOR to perform Data Aggregation services. If the Agreement permits CONTRACTOR to provide Data Aggregation services, CONTRACTOR may use Protected Health Information and EPHI to provide the Data Aggregation services requested by COUNTY as permitted by 45 CFR 164.504(e)(2)(i)(B), subject to any limitations contained in this BAA. If Data Aggregation services are requested by COUNTY, CONTRACTOR is authorized to aggregate COUNTY's Protected Health Information and EPHI with Protected Health Information or EPHI of other Covered Entities that the CONTRACTOR has in its possession through its capacity as a CONTRACTOR to such other Covered Entities provided that the purpose of such aggregation is to provide COUNTY with data analysis relating to the Health Care Operations of COUNTY. Under no circumstances may CONTRACTOR disclose Protected Health Information or EPHI of COUNTY to another Covered Entity absent the express authorization of COUNTY.

4. OBLIGATIONS OF COUNTY.

(a) COUNTY shall notify CONTRACTOR of any limitation(s) in its notice of privacy practices of COUNTY in accordance with 45 CFR 164.520, to the extent that such limitation may affect CONTRACTOR's use or disclosure of Protected Health Information and EPHI. COUNTY may satisfy this obligation by providing CONTRACTOR with COUNTY's most current Notice of Privacy Practices.

(b) COUNTY shall notify CONTRACTOR of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information or EPHI, to the extent that such changes may affect CONTRACTOR's use or disclosure of Protected Health Information and EPHI.

(c) COUNTY shall notify CONTRACTOR of any restriction to the use or disclosure of Protected Health Information or EPHI that COUNTY has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect CONTRACTOR's use or disclosure of Protected Health Information or EPHI.

5. PERMISSIBLE REQUESTS BY COUNTY.

(a) COUNTY shall not request CONTRACTOR to use or disclose Protected Health Information or EPHI in any manner that would not be permissible under Part 2, the Privacy Rule or Security Rule if done by COUNTY, except as permitted by Section 3(b) above.

(b) COUNTY may conduct a survey of CONTRACTOR with respect to CONTRACTOR's compliance with the terms of this BAA and applicable law for the establishment of policies and procedures for the safeguarding of any Protected Health Information and EPHI provided to CONTRACTOR by COUNTY. CONTRACTOR shall implement any recommendations of COUNTY resulting from such surveys as may be reasonably necessary to ensure compliance with the terms of this BAA and applicable law for the safeguarding of any

Protected Health Information and EPHI provided to CONTRACTOR by COUNTY.

6. TERM AND TERMINATION.

(a) Effective Date; Term. This BAA shall be effective on the date on which all parties have executed it and all necessary approvals, if any, have been granted. This BAA shall terminate on the earlier of (i) the date of termination of the Agreement, or (ii) the date on which termination of the BAA is effective under Section 6(b).

(b) Termination for Cause. In addition to any other rights or remedies provided in this BAA, upon either the COUNTY's or CONTRACTOR's knowledge of a material breach by the other party of that party's obligations under this BAA, the party not in breach shall either:

(1) Notify the other party of the breach and specify a reasonable opportunity in the Notice of Breach to the party in breach to cure the breach or end the violation, and terminate the Agreement and this BAA if the party in breach does not cure the breach of the terms of this BAA or end the violation within the time specified;

(2) Immediately terminate the Agreement and this BAA if the party in breach has breached a material term of this BAA and cure is not possible in the reasonable judgment of the party not in breach; or

(3) If neither termination nor cure is feasible, the party not in breach shall report the violation to the Secretary.

(4) The rights and remedies provided in this BAA are in addition to any rights and remedies provided in the Agreement.

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this Section 6(c), upon termination of the Agreement and this BAA, for any reason, the party in breach shall, at the other party's option, return or destroy all Protected Health Information and EPHI received from the other party, or created or received by CONTRACTOR on behalf of COUNTY. This provision shall apply to Protected Health Information and EPHI that is in the possession of CONTRACTOR or agents of CONTRACTOR. CONTRACTOR shall retain no copies of the Protected Health Information or EPHI.

(2) In the event that CONTRACTOR determines that returning or destroying the Protected Health Information or EPHI is infeasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or destruction infeasible. Upon COUNTY's written acknowledgement that return or destruction of Protected Health Information or EPHI is infeasible, CONTRACTOR shall extend the protections of this BAA to such Protected Health Information and EPHI and limit further uses and disclosures of such Protected Health Information and EPHI to those purposes that make the return or destruction infeasible, for so long as CONTRACTOR maintains such Protected Health Information or EPHI.

7. MISCELLANEOUS.

(a) Regulatory References. A reference in this BAA to a section in Part 2, the Privacy Rule,

or Security Rule, or the HITECH Act means the section in effect as of the effective date of this BAA or as the Rules may be subsequently amended from time to time.

(b) Amendment; Waiver. The Parties agree to take such action as is necessary to amend the Agreement and this BAA from time to time as is necessary for COUNTY to comply with the requirements of Part 2, the Privacy Rule, Security Rule, HIPAA and the HITECH Act. No provision hereof shall be deemed waived unless in writing, duly signed by authorized representatives of the parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy under this BAA.

(c) Survival. The respective rights and obligations of CONTRACTOR under Section 6(c), this Section 7(c), and Section 7(e) of this BAA shall survive the termination of the Agreement and this BAA.

(d) Interpretation; Order of Precedence. Any ambiguity in this BAA or the Agreement shall be resolved to permit COUNTY to comply with Part 2, the Privacy Rule, Security Rule and the HITECH Act. The terms of this BAA amend and supplement the terms of the Agreement, and whenever possible, all terms and conditions in this BAA and the Agreement are to be harmonized. In the event of a conflict between the terms of this BAA and the terms of the Agreement, the terms of this BAA shall control; provided, however, that this BAA shall not supersede any other federal or state law or regulation governing the legal relationship of the parties, or the confidentiality of records or information, except to the extent that HIPAA preempts those laws or regulations. In the event of any conflict between the provisions of the Agreement (as amended by this BAA) and Part 2, the Privacy Rule or the Security Rule, the more stringent rule shall apply.

(e) No Third-Party Beneficiaries. COUNTY and CONTRACTOR are the only parties to this BAA and are the only parties entitled to enforce its terms. Nothing in this BAA gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this BAA.

(f) Successors and Assigns. The provisions of this BAA and the Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns, if any.

(g) Except As Amended. Except as amended by this BAA, all terms and conditions of the Agreement shall remain in full force and effect.

8. SIGNATURES.

By signing this BAA, the parties certify that they have read and understood this BAA, that they agree to be bound by the terms of this BAA and the Agreement, as amended, and that they have the authority to sign this BAA.

CONTRACTOR:

By: _____



Title: DEAN

Date: 6/29/18

COUNTY:

By: *Jana Shoup Ischabold*

County Administrator

Title: _____

Date: 7-2-18