

RESOLUTION

WHEREAS, the Lake County Board approved a standard business associate agreement to satisfy the County's responsibilities in connection with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) in March 2003; and

WHEREAS, Blue Cross Blue Shield of Illinois, a business associate of Lake County under HIPAA regulations, requested substantive changes to the standard business associate agreement; and

WHEREAS, substantive changes to the standard business associate agreement require County Board approval; and

WHEREAS, a copy of the County's Business Associate Agreement with Blue Cross Blue Shield of Illinois is attached and made part hereof.

NOW, THEREFORE, BE IT RESOLVED, by this County Board of Lake County, Illinois, that the Chairman of the County Board is authorized to execute the attached Business Associate Agreement with Blue Cross Blue Shield of Illinois.

DATED, at WAUKEGAN, LAKE COUNTY, ILLINOIS, on this 11th day of May 2004,
A.D.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement, effective _____, 20____
("Effective Date"), is made by and between _____
("Covered Entity") and _____ ("Business Associate").
Covered Entity and Business Associate are also referred to in this Agreement individually as
"Party" and collectively as the "Parties".

1. **Definitions.** Unless otherwise provided in this Agreement, capitalized terms used in this Agreement have the same meaning as set forth in HIPAA Regulations at 45 C.F.R. §§ 160.103 and 164.501
2. **Permitted Uses and Disclosure of Protected Health Information.**
 - 2.1 **Services.** Business Associate may assist in the performance of:
 - a. a function or activity involving the use or disclosure of individually identifiable health information OR
 - b. Any other function or activity regulated by HIPAA.
3. **Responsibilities with Respect to Protected Health Information.**
 - 3.1 **Responsibilities of Business Associate.** With regard to the use and/or disclosure of Protected Health Information, Business Associate hereby agrees:
 - a. Business Associate will not use or disclose Protected Health Information received from Covered Entity in any way other than as permitted or required pursuant to the relationship described in Section 2 of this Agreement or as otherwise required by law.
 - b. Business Associate will put in place reasonable precautions and appropriate safeguards necessary to prevent use or disclosure of Protected Health Information other than as provided by this Agreement.
 - c. Business Associate will 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 provisions of this Agreement.
 - d. Business Associate will report to Covered Entity's Privacy Officer when Business Associate becomes aware of uses or disclosures not provided for by this Agreement.
 - e. Business Associate will ensure that any agents, including subcontractors, to whom Business Associate provides Protected Health Information received from, or created or received by the Business Associate on behalf

of the Covered Entity agrees to the same restrictions and conditions that apply to the Business Associate with respect to such information.

- f. At the request of Covered Entity, Business Associate will provide access to Protected Health Information maintained by Business Associate, within 20 working days, to Covered Entity or as directed by Covered Entity to an Individual, in order to meet the requirements of 45 C.F.R. § 164.524.
- g. Business Associate will make available Protected Health Information for amendment and incorporate any amendments to Protected Health Information maintained by Business Associate, within 20 working days of request by Covered Entity, in accordance with 45 C.F.R. § 164.526 relating to amendments of Protected Health Information.
- h. Business Associate will make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, to the Secretary within 20 working days of Covered Entity's written request, or as otherwise designated by the Secretary, for the purpose of the Secretary determining Covered Entity's compliance with the Privacy Rules.
- i. Business Associate will 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 45 C.F.R. § 164.528.
- j. Business Associate will provide to Covered Entity or an Individual within 20 working days from Covered Entity's written request, information collected in accordance with Section 3.1(i) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosure of Protected Health Information maintained by Business Associate, in accordance with 45 C.F.R. § 164.528.
- k. Business Associate will provide all appropriate training and education of its on-site subcontractors or agents regarding the confidentiality of Protected Health Information and HIPAA regulations. This provision shall not apply to any subcontractor or agent who has signed a valid Business Associate Agreement with the Business Associate regarding the Covered Entity's Protected Health Information.
- l. Upon termination of its Agreement to provide service to Covered Entity, Business Associate, upon request, will return all Protected Health

Information within 20 working days from the termination of the agreement. Business Associate further agrees to recover and return any Protected Health Information in the possession of its subcontractors or agents. If it is not feasible for Business Associate to return any and all Protected Health Information, Business Associate will, within 20 working days from the termination of the agreement, notify Covered Entity in writing and state reasons why the return of Protected Health Information is not feasible. In such case, the rights, duties, and obligations relating to Protected Health Information established under this Agreement shall survive termination of the Agreement. Business associate further agrees not to destroy any Protected Health Information held on behalf of the Covered Entity without giving the Covered Entity 20 working days written notice of the intent to destroy such records.

- m. Covered Entity Acknowledges that an individual may request a restriction on the use or disclosure of Protected Health Information in accordance with 45 C.F.R. 164.522 and agrees that if such restriction would affect Claim Administrator's use or disclosure of Protected Health Information, Covered Entity will exercise its discretion and may deny the individual's request. Prior to responding to an individual's request Covered Entity shall ask Claim Administrator if the proposed restriction will affect its functions, activities, or services under the Agreement.

4. **Term and Termination.**

- 4.1 **Term:** This Agreement shall become effective on the date of signing 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 returned to Covered Entity, or, if it is infeasible to return Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- 4.2 **Termination for Cause:** Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - a. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
 - b. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - c. If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary.

4.3 Effect of Termination:

- a. Upon termination of this Agreement, Business Associate, when feasible, will return 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.
- b. In the event that Business Associate determines that returning the Protected Health Information is infeasible, Business Associate will provide to Covered Entity notification of the conditions that make return infeasible. Notification must be made in writing and must be received within 20 working days of termination of this Agreement. Upon notification that return of Protected Health Information is infeasible, Business Associate will extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return infeasible, for so long as Business Associate maintains such Protected Health Information. Business associate further agrees not to destroy any Protected Health Information held on behalf of the Covered Entity without giving the Covered Entity 20 working days written notice of the intent to destroy such records.

5. **Miscellaneous.**

- 5.1 Amendments: This Agreement may not be modified, nor shall any provisions hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties or except as to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.
- 5.2 Notices: Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:
Tara G. Gruber
HCSC Privacy Office
P.O. Box 804836
Chicago, IL 60680-4110

If to Covered Entity, to:
Victor Pena and/or Elaine Johnson
Lake County

18 N. County St. 7th Floor
Waukegan, IL 60085

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided.

- 5.3 Regulatory References: A reference in this Agreement to a section in the Health Insurance Portability and Accountability Act shall mean the section as in effect or as amended.
- 5.4 Survival: The respective rights and obligations of Business Associate under Section 4.3 of this Agreement shall survive the termination of this Agreement.
- 5.5 Interpretation: Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- 5.6 Severability. The provisions of this Agreement shall be severable, and if Any provision of this Agreement shall be held or declared to be illegal, invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained.
- 5.7 Response to Subpoenas: In the event that Claim Administrator receives a Subpoena or similar notice or request for any judicial, administrative or Other party arising out of or in connection with this Agreement, Including, but not limited to, any unauthorized Use or Disclosure of Protected Health Information or any failure in Claim Administrator's Security measures, Claim Administrator shall promptly forward a copy Of such subpoena, notice or request to Covered Entity and afford Covered Entity the opportunity to exercise any rights it may have under law.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf.

COVERED ENTITY

BUSINESS ASSOCIATE

By: _____

By: _____

Print Name: _____

Print Name _____

Print Title: _____

Print Title: _____

Date: _____

Date: _____