

**ADDENDUM TO JOINT COMMISSION ON ACCREDITATION  
OF HEALTHCARE ORGANIZATIONS  
ACCREDITATION CONTRACT  
(Business Associate Agreement)**

THIS ADDENDUM supplements and is made a part of the Joint Commission on Accreditation of Healthcare Organizations ("JCAHO") Accreditation Contract (hereinafter, the "Underlying Agreement") submitted to JCAHO by \_\_\_\_\_ ("the Organization"). The Underlying Agreement, when accepted by JCAHO, establishes the terms of the relationship between JCAHO and the Organization.

**Whereas**, JCAHO and the Organization are parties to the Underlying Agreement pursuant to which JCAHO provides certain accreditation and related services to the Organization and, in connection with the provision of those services, the Organization discloses to JCAHO certain Protected Health Information ("PHI", as defined in 45 C.F.R. §164.501) that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA");

**Whereas**, the Organization is a "Covered Entity" as that term is defined in the HIPAA implementing regulations, 45 C.F.R. Part 160 and Part 164, Subparts A and E, the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule"); and 45 C.F.R. Part 164, Subpart C, the Security Standards for the Protection of Electronic Protected Health Information ("Security Rule");

**Whereas**, JCAHO, as a recipient of PHI from the Organization, is a "Business Associate" as that term is defined in the Privacy Rule;

**Whereas**, pursuant to the Privacy Rule and the Security Rule, all Business Associates of Covered Entities must agree in writing to certain mandatory provisions regarding the use and disclosure of PHI; and

**Whereas**, the purpose of this Addendum is to comply with the requirements of the Privacy Rule and the Security Rule, including, but not limited to, the Business Associate contract requirements at 45 C.F.R. §§164.314(a), 164.502(e), §164.504(e), and as may be amended.

**NOW, THEREFORE** in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **Definitions.** Unless otherwise provided in this Addendum, capitalized terms have the same meanings as set forth in the Privacy Rule or the Security Rule.
2. **Scope of Use and Disclosure by JCAHO of Protected Health Information**
  - a. JCAHO shall be permitted to Use and Disclose PHI that is disclosed to it by the Organization as necessary to perform its obligations under the Underlying Agreement.
  - b. Unless otherwise limited herein, in addition to any other Uses and/or Disclosures permitted or authorized by this Addendum or Required by Law, JCAHO may:
    - i. Use the PHI in its possession for its proper management and administration and to fulfill any legal responsibilities of JCAHO;

- ii. Disclose the PHI in its possession to a third party for the purpose of JCAHO's proper management and administration or to fulfill any legal responsibilities of JCAHO; provided, however, that the Disclosures are Required by Law or JCAHO has received from the third party written assurances that (a) the information will be held confidentially and used or further Disclosed only as Required by Law or for the purposes for which it was Disclosed to the third party; and (b) the third party will notify JCAHO of any instances of which it becomes aware in which the confidentiality of the information has been breached;
- iii. Aggregate the PHI with that of other Organizations for the purpose of providing the Organization with data analyses relating to the Health Care Operations of the Organization. JCAHO may not Disclose the PHI of one Organization to another Organization without the written authorization of the Organizations involved; and
- iv. De-identify any and all PHI created or received by JCAHO under this Addendum; provided, that the de-identification conforms to the requirements of the Privacy Rule.

3. **Obligations of JCAHO**. In connection with its Use and Disclosure of PHI, JCAHO agrees that it will:

- a. Use or further Disclose PHI only as permitted or required by this Addendum or as Required by Law.
- b. Use reasonable and appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this Addendum.
- c. To the extent practicable, mitigate any harmful effect that is known to JCAHO of a Use or Disclosure of PHI by JCAHO in violation of this Addendum.
- d. Report to the Organization any Use or Disclosure of PHI not provided for by this Addendum of which JCAHO becomes aware.
- e. Require contractors or agents to whom JCAHO provides PHI to agree to the same restrictions and conditions that apply to JCAHO pursuant to this Addendum.
- f. Make available to the Secretary of Health and Human Services JCAHO's internal practices, books and records relating to the Use and Disclosure of PHI for purposes of determining the Organization's compliance with the Privacy Rule, subject to any applicable legal privileges.
- g. Within (15) days of receiving a request from the Organization, make available the information necessary for the Organization to make an accounting of Disclosures of PHI about an individual.
- h. Within ten (10) days of receiving a written request from the Organization, make available PHI necessary for the Organization to respond to Individuals' requests for access to PHI about them in the event that the PHI in JCAHO's possession constitutes a Designated Record Set.
- i. Within fifteen (15) days of receiving a written request from the Organization incorporate any amendments or corrections to the PHI in accordance with the Privacy Rule in the event that the PHI in JCAHO's possession constitutes a Designated Record Set.
- j. Implement Administrative, Physical and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic PHI that it creates, receives, maintains or transmits on behalf of the Organization, and make

its policies and procedures, and documentation required by the Security Rule relating to such safeguards, available to the Secretary of HHS for purposes of determining the Organization's compliance with the Security Rule;

- k. Ensure that any agent, including a subcontractor, to whom it provides Electronic PHI agrees to implement reasonable and appropriate safeguards to protect that Electronic PHI; and
- l. Promptly report to the Organization any Security Incident with respect to Electronic PHI of which it becomes aware.

4. **Obligations of the Organization.** The Organization agrees that it:

- a. Has included, and will include, in the Organization's Notice of Privacy Practices required by the Privacy Rule that the Organization may Disclose PHI for Health Care Operations purposes.
- b. Has obtained, and will obtain, from Individuals' consents, authorizations and other permissions necessary or Required by Laws applicable to the Organization for JCAHO and the Organization to fulfill their obligations under the Underlying Agreement and this Addendum.
- c. Will promptly notify JCAHO in writing of any restrictions on the Use and Disclosure of PHI about Individuals that the Organization has agreed to that may affect JCAHO's ability to perform its obligations under the Underlying Agreement or this Addendum.
- d. Will promptly notify JCAHO in writing of any changes in, or revocation of, permission by an Individual to Use or Disclose PHI, if such changes or revocation may affect JCAHO's ability to perform its obligations under the Underlying Agreement or this Addendum.

5. **Termination.**

- a. **Termination for Breach.** The Organization may terminate this Addendum if the Organization determines that JCAHO has breached a material term of this Addendum. Alternatively, the Organization may choose to provide JCAHO with notice of the existence of an alleged material breach and afford JCAHO an opportunity to cure the alleged material breach. In the event JCAHO fails to cure the breach to the satisfaction of the Organization, the Organization may immediately thereafter terminate this Addendum.
- b. **Automatic Termination.** This Addendum will automatically terminate upon the termination of the Underlying Agreement.
- c. **Effect of Termination.**
  - i. Termination of this Addendum will result in termination of the Underlying Agreement.
  - ii. Upon termination of this Addendum or the Underlying Agreement, JCAHO will return or destroy all PHI received from the Organization or created or received by JCAHO on behalf of the Organization that JCAHO still maintains and retain no copies of such PHI; provided that if such return or destruction is not feasible, JCAHO will extend the protections of this Addendum to the PHI and limit further Uses and Disclosures to those purposes that make the return or destruction of the information infeasible.

6. **Amendment.** JCAHO and the Organization agree to take such action as is necessary to amend this Addendum from time to time as is necessary for the Organization to comply with the requirements of the Privacy Rule and the Security Rule.
7. **Survival.** The obligations of JCAHO under section 5.c (ii) of this Addendum shall survive any termination of this Addendum.
8. **No Third Party Beneficiaries.** Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
9. **Effective Date.** This Addendum shall be effective on \_\_\_\_\_

**Surveyed Organization**

**Signature:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

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

**JCAHO**

**Signature:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

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