

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is made effective the _____ of _____, 20____, by and between _____, a healthcare Covered Entity (CE), and ALF Boss, Inc., hereinafter referred to as "Business Associate" or "BA".

By this Agreement, ALF Boss as a Business Associate (BA), enters into an agreement to provide certain services to the Covered Entity (CE) in compliance with the requirements of the Healthcare Insurance Portability and Accountability Act of 1996, as amended (Pub. L. No. 104-191). In the course of performing these services, BA may have access to Protected Health Information (PHI) as defined under 45 CFR § 164.501. In the event of an inconsistency between the provisions of this Agreement and the mandatory provisions of 45 CFR § 164.501 (the HIPAA Privacy Rule), the Privacy Rule shall control.

The Business Associate acknowledges and agrees that any PHI in any form (including electronic form) which is received by, created by, stored by, disclosed to, or made available to the BA, is subject to all terms and conditions of this Agreement.

Obligations and Activities of Business Associate

- a. Business Associate agrees to not use or disclose PHI other than as permitted or required by the Agreement or as required by Law.
- b. Business Associate agrees to use reasonable and appropriate physical, technical, and administrative safeguards to prevent unauthorized use or disclosure of PHI, or as provided for by this Agreement. Safeguards include, but are not limited to,
 - i. use of authentication to access any PHI received from Covered Entity
 - ii. use of authentication to secure devices controlled by BA
 - iii. use of backup/ restore technology for PHI maintained on devices controlled by BA
 - iv. use of reasonable building and facility security to safeguard PHI on device controlled by BA
 - v. use of safe procedures to erase and delete PHI from devices no longer used by BA
- c. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to BA of a use or disclosure of PHI by BA in violation of this Agreement.
- d. Business Associate agrees to report to the Covered Entity any use or disclosure of PHI of which it becomes aware that is not provided for by this Agreement.
- e. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from the Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to the BA.
- f. Business Associate agrees to provide access, at the written request of the Covered Entity, to any PHI covered under the terms of this Agreement.
- g. Business Associate agrees to make any amendment(s) to PHI that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526.
- h. Business Associate agrees to make internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI, available to the Covered Entity, or to the Secretary, Dept of Human Services, in a reasonable time and manner for purposes of determining ALF Boss's compliance with the Privacy Rule.
- i. Business Associate agrees to document and provide an accounting of such disclosures of PHI 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 PHI in accordance with 45 CFR § 164.528.

- j. Business Associate authorizes termination of this Agreement by Covered Entity if CE determines that the BA has violated a material term of this Agreement.

Permitted Disclosures

Except as otherwise limited in this Agreement, Business Associate may

- use or disclose PHI to perform functions, activities, or services for, or on behalf of the Covered Entity, provided that such use or disclosure would not violate the HIPAA Privacy Rule if done by Covered Entity itself.
- use PHI for the proper management and administration of the BA's business activities, or to carry out the legal responsibilities of the BA.
- disclose PHI if the BA 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 Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).

Covered Entity Obligations

The Covered Entity shall notify the Business Associate of any

- limitation(s) in its notice of privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect BA's use or disclosure of PHI.
- changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect BA's use or disclosure of PHI
- restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Rule if done by ALF Boss.

Term

The Term of this Agreement shall be effective as of _____ [Insert Effective Date], and shall terminate when all of the PHI provided by Covered Entity to ALF Boss, 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 PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

Termination for Cause

Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

1. Provide an opportunity for BA to cure the breach or end the violation, **and** terminate this Agreement if BA does not comply within the time specified by Covered Entity;
2. Immediately terminate this Agreement if BA has breached a material term of this Agreement and cure is not possible; or

3. If neither termination nor cure are feasible, Covered Entity may report the violation to the Secretary.

Effect of Termination

Upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by BA on behalf of Covered Entity. In the event that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity the conditions that make return or destruction infeasible. Business Associate shall retain no copies of the PHI. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

Amendment

The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for both parties to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

Survival

The respective rights and obligations of the Parties to this Agreement shall survive the termination of this Agreement.

Interpretation and Governing Laws

Any ambiguity in this Agreement shall be resolved to permit the Covered Entity and ALF Boss to comply with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended, **and** any State privacy laws. Federal HIPAA privacy requirements pre-empt less restrictive State laws. State laws are not pre-empted if they are contrary to and more stringent than the federal requirements.

Covered Entity

President (Business Associate)

Authorized by

Authorized by

Signature

Signature

Date

Date