

Amendment to Participating Provider Agreement

Member Business Associate Agreement

This Member Business Associate Agreement (“Agreement”) is adopted by Central Oregon Independent Practice Association, Inc. (“COIPA”) and Participating Provider of COIPA (“Member”), as an addendum to the Participating Provider Agreement between COIPA and Member, and is enforceable and effective as of September 22, 2014 for an existing Member or on the date a Member becomes a Participating Provider of COIPA.

Recitals

A. COIPA has entered into and may in the future enter into written agreements that require COIPA to be provided with, to have access to, or to create Protected Health Information (“Underlying Agreements”), that are subject to federal regulations issued pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and accompanying codified regulations at 45 C.F.R. parts 160 and 164 (“HIPAA Regulations”).

B. The primary purpose of this Agreement is to permit COIPA, as a business associate, to engage in and assist Member with conducting quality assessment and improvement activities, population-based activities relating to improving health or reducing health care costs, protocol development, case management, and care coordination as permitted by the HIPAA Regulations.

C. This Agreement will supplement each Underlying Agreement only with respect to COIPA’s use, disclosure, or creation of Protected Health Information under an Underlying Agreement to allow Member, as a covered entity, to comply with the HIPAA Regulations.

The parties agree:

SECTION 1. Definitions Used By HIPAA

Unless otherwise defined in this Agreement, all capitalized terms used in this Agreement have the meanings ascribed in the HIPAA Regulations, provided, however, that “PHI” and “ePHI” shall mean Protected Health Information and Electronic Protected Health Information, respectively, as defined in the HIPAA Regulations, limited to the information COIPA received from or created or received on behalf of Member as Member’s business associate. “Administrative Safeguards” shall have the same meaning as the term “administrative safeguards” in the HIPAA Regulations, with the exception that it shall apply to the management of the conduct of COIPA’s workforce, not Member’s workforce, in relation to the protection of that information.

SECTION 2. OBLIGATIONS OF COIPA AND MEMBER REGARDING PROTECTED HEALTH INFORMATION

2.1. Obligations of COIPA. With regard to its Use and/or Disclosure of PHI, COIPA agrees to:

- 2.1.1 not Use or Disclose PHI other than as permitted or required by this Agreement or as Required By Law. COIPA may Use and Disclose Protected Health Information only if its Use or Disclosure is in compliance with each applicable requirement of the Business Associate provisions of the HIPAA Regulations.
- 2.1.2 use appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this Agreement.
- 2.1.3 report to Member any Use or Disclosure of PHI not provided for by this Agreement of which COIPA becomes aware.
- 2.1.4 ensure that any agents and subcontractors to whom it provides PHI received from, or created or received by COIPA on behalf of Member agree to the same restrictions and conditions set forth in the Business Associate provisions of the HIPAA Regulations that apply through this Agreement to COIPA with respect to such information.
- 2.1.5 within twenty (20) days of receiving a written request from Member, make available to Member the PHI necessary for Member to respond to requests from Individuals for access to PHI about them in the event that the PHI in COIPA's possession constitutes a Designated Record Set. In the event any Individual requests access to PHI directly from COIPA, COIPA shall within five (5) business days forward such request to Member. Any denials of access to the PHI requested shall be the responsibility of Member.
- 2.1.6 within thirty (30) days of receiving a written request from Member, make available to Member the PHI for amendment and incorporate any amendments to the PHI in accordance with the HIPAA Regulations in the event that the PHI in COIPA's possession constitutes a Designated Record Set.
- 2.1.7 within thirty (30) days of receiving a written request from Member, make available to Member the information required for Member to provide an accounting of disclosures of PHI as required by the Privacy Rule. COIPA shall provide Member with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (iii) a brief description of the PHI disclosed, and (iv) one of the following, as applicable: (a) a brief statement of the purpose of such disclosure which includes an explanation that reasonably informs the individual of the basis for such disclosure or in lieu of such

statement, (b) a copy of a written request from the Secretary of Health and Human Services to investigate or determine compliance with HIPAA; or (c) a copy of the individual's request for an accounting. In the event the request for an accounting is delivered directly to COIPA, COIPA shall within seven (7) business days forward such request to Member.

- 2.1.8 make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary of HHS for purposes of determining Member's compliance with the Privacy Rule.
- 2.1.9 upon the expiration or termination of an Underlying Agreement, return to Member or destroy all PHI, including such information in possession of COIPA's subcontractors, as a result of the Underlying Agreement at issue and retain no copies, if it is feasible to do so. If return or destruction is infeasible, COIPA agrees to extend all protections, limitations and restrictions contained in this Agreement to COIPA's Use and/or Disclosure of any retained PHI, and to limit further Uses and/or Disclosures to the purposes that make the return or destruction of the PHI infeasible. This provision shall survive the termination or expiration of this Agreement and/or any Underlying Agreement.
- 2.1.10 use reasonable commercial efforts to mitigate any harmful effect that is known to COIPA of a Use or Disclosure of PHI by COIPA in violation of the requirements of this Agreement.
- 2.1.11 implement Administrative Safeguards, Physical Safeguards, and Technical Safeguards ("Safeguards") that reasonably and appropriately protect the Confidentiality, Integrity, and Availability of ePHI as required by the "Security Rule."
- 2.1.12 ensure that any agent and subcontractor to whom COIPA provides ePHI agrees to implement reasonable and appropriate safeguards to protect ePHI.
- 2.1.13 report promptly to Member any successful Security Incident of which COIPA becomes aware; provided, however, that with respect to attempted unauthorized access, Use, Disclosure, modification, or destruction of information or interference with system operations in an information system affecting ePHI, such report to Member will be made available upon written request.
- 2.1.14 make its policies, procedures and documentation required by the Security Rule relating to the Safeguards available to the Secretary of HHS for purposes of determining Member's compliance with the Security Rule.
- 2.1.15 if COIPA accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses Unsecured Protected Health Information as

defined by HITECH and the HIPAA Regulations, it shall, following the discovery of a breach of such information, notify Member of such breach. Such notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by COIPA to have been accessed, acquired, or disclosed during such breach.

2.1.16 to the extent COIPA is to carry out one or more of Member's obligations under the Privacy Rule, if any, COIPA will comply with the requirements of the Rule that apply to Member in the performance of such obligations.

2.2 Permitted Uses and Disclosures of PHI. Except as otherwise specified in this Agreement, COIPA may make any and all Uses and Disclosures of PHI necessary to perform its obligations under the Underlying Agreements. Unless otherwise limited herein, COIPA may:

2.2.1 Use the PHI in its possession for its proper management and administration and to carry out the legal responsibilities of COIPA;

2.2.2 Use or Disclose PHI to engage in, and assist Member with, conducting quality assessment and improvement activities, population-based activities relating to improving health or reducing health care costs, protocol development, case management, and care coordination as permitted by the HIPAA Regulations;

2.2.3 Disclose the PHI in its possession to a third party for the purpose of COIPA's proper management and administration or to carry out the legal responsibilities of COIPA, provided that the Disclosures are Required By Law or COIPA obtains reasonable assurances from the third party regarding the confidential handling of such PHI as required under the Privacy Rule;

2.2.4 provide Data Aggregation services relating to the Health Care Operations of the Member;

2.2.5 de-identify any and all PHI obtained by COIPA under this Agreement, and use such de-identified data, all in accordance with the de-identification requirements of the Privacy Rule;

2.2.6 make uses and disclosures and requests for PHI consistent with Member's and/or the Privacy Rule's minimum necessary standard and specifications; and

2.2.7 not use or disclose PHI in a manner that would violate the Privacy Rule, if done by Member, except for the specific uses and disclosures in this section above.

2.3 Obligations of Member. Member agrees to timely notify COIPA, in writing, of any arrangements between Member, as a Covered Entity and the Individual that is the

subject of PHI that may impact in any manner the Use and/or Disclosure of that PHI by COIPA under this Agreement. Member agrees that this Agreement authorizes COIPA, as a Business Associate of Member, to engage in and assist Member with the activities permitted by this Agreement and to contract with third parties for the purpose of accessing PHI pursuant to the Underlying Agreements.

2.4 Use of Subcontractors. Member agrees that COIPA may engage the services of other parties (“Subcontractors”) to perform COIPA’s obligations that are consistent with this Agreement and the Underlying Agreements. COIPA will ensure that any Subcontractor that creates, receives, maintains, or transmits PHI on behalf of COIPA agrees to the same restrictions and conditions that apply to COIPA under this Agreement.

SECTION 3. TERMINATION PROCEDURES

Should Member become aware of a pattern of activity or practice that constitutes a material breach of a material term of this Agreement by COIPA, Member shall provide COIPA with written notice of such breach in sufficient detail to enable COIPA to understand the specific nature of the breach. Member shall be entitled to terminate its participation in the Underlying Agreement associated with such breach if, after Member provides the notice to COIPA, COIPA fails to cure the breach within a reasonable time period not less than thirty (30) days specified by Member in such notice; provided, however, that such time period specified by Member shall be based on the nature of the breach involved.

SECTION 4. GENERAL PROVISIONS

4.1 Interpretation. The terms of this Agreement shall prevail in the case of any conflict with the terms of any Underlying Agreement to the extent necessary to allow Member, as a Covered Entity, to comply with the HIPAA Regulations.

4.2 No Third Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

4.3 Amendment. To the extent that any relevant provision of the HIPAA Regulations is materially amended in a manner that changes the obligations of business associates or covered entities, the parties agree to negotiate in good faith appropriate amendments to this Agreement to give effect to these revised obligations.

4.4 Signatures. If Member is employed by a covered entity, COIPA and Member acknowledge that for purposes implementing any required documentation of a business associate agreement, Member hereby authorizes Member’s employer to execute a business associate agreement on Member’s behalf. Nothing in this provision is intended to interfere with any contractual rights COIPA or Member may have pursuant to any payer contract between COIPA and a third party payer.

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment as of the date first set forth above.

PARTICIPATING PROVIDER MEMBER

CENTRAL OREGON INDEPENDENT PRACTICE ASSOCIATION

By: _____
(Signature)

By:  _____
(Signature)

(Print Name)

Stephen Mann, DO
(Print Name)

(Date)

August 25, 2014
(Date)