

## BUSINESS ASSOCIATE AGREEMENT

### Health Information Privacy

The following terms used in the Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designed Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

#### Specific definitions:

- (a) Business Associate. "Business Associate" shall generally have the same meaning as the term business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean New Jersey Dental Association.
- (b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean any dentist who is a member of the New Jersey Dental Association.
- (c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules as 45 CFR Part 160 and Part 164.

### Obligations and Activities of Business Associate

Business Associate agrees to:

- (a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
- (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;
- (c) Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
- (d) In accordance with 45 CFR 164.502 (e)(1)(ii) and 164.308 (b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;
- (e) Make available protected health information in a designated record set to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.524;
- (f) To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E or 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and
- (g) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

### **Permitted Uses and Disclosures by Business Associate**

- (a) Business associate may only use or disclose protected health information in connection with the response to inquiries by NJDA member dentists and to actions taken on their behalf.
- (b) Business associate may use or disclose protected health information as required by law.
- (c) Business associate agrees to make uses and disclosures and requests for protected health information consistent with covered entity's minimum necessary policies and procedures.
- (d) Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity.

### **Terms and Termination**

- (a) Term. The Term of this Agreement shall be effective when an inquiry is made by a member dentist, and shall terminate on December 31 of the year in which a dentist's membership lapses or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.
- (b) Termination for Cause. Business associate authorizes termination of this Agreement by covered entity, if covered entity determines business associate has violated a material term of the Agreement and business associate has not cured the breach or ended the violation within 30 days after written notice from the covered entity.
- (c) Obligations of Business Associate Upon Termination.

Upon termination of this Agreement for any reason, business associate, with respect to protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, shall:

1. Retain only that protected health information which is necessary for business associate to continue its proper management and administration or to carry out its legal responsibilities;
2. Return to covered entity or destroy the remaining protected health information that the business associate still maintains in any form;
3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as business associate retains the protected health information;
4. Not use or disclose the protected health information retained by business associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at paragraphs (e) and (f) above under "Permitted Uses and Disclosures By Business Associate" which applied prior to termination; and
5. Return to covered entity or, destroy the protected health information retained by business associate when it is no longer needed by business associate for its proper management and administration or to carry out its legal responsibilities.

- (d) Survival. The obligations of business associate under this Section shall survive the termination of the Agreement.

**Miscellaneous**

- (a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- (b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.
- (c) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

New Jersey Dental Association

By: Arthur Meisel  
Arthur Meisel  
Executive Director

Dated: September 19, 2013