

ARTICLE 14
INFORMATION PRIVACY AND SECURITY PROVISIONS

- 14.1 **Recitals.** This Article is intended to protect the privacy and security of County information that Contractor may create, receive, access, store, transmit, and/or destroy under this Agreement. In addition to the below Responsibilities, contractor shall be in compliance with the following rules, regulations, and agreements, *as applicable*:
- 14.1.1 Health Insurance Portability and Accountability Act, specifically, Public Law 104-191, the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005, 42USC section 17921 et seq., and 45CFR Parts 160 and 164, collectively referred to as “HIPAA;”
 - 14.1.2 County agreements with the State of California, collectively referred to as “State Agreements” and posted on the County’s website at: www.cosdcompliance.org, including:
 - 14.1.2.1 The Medi-Cal Privacy and Security Agreement Between the California Department of Health Care Services (DHCS) and the County;
 - 14.1.2.2 The Medi-Cal Behavioral Health Services Performance Agreement between DHCS and the County;
 - 14.1.2.3 The San Diego County Alcohol and Drug Program Administrator Agreement between DHCS and the County
 - 14.1.2.4 The Refugee Health Agreement between the California Department of Public Health (CDPH) and the County;
 - 14.1.2.5 The HIV/AIDS Case Reporting System Data Use Agreement between CDPH and the County;
 - 14.1.2.6 The Childhood Lead Poisoning Prevention Program between CDPH and the County; and
 - 14.1.2.7 The Standard Agreement between the County and the California Department of Aging.
 - 14.1.3 Title 42 Code of Federal Regulations, Chapter 1, Subchapter A, Part 2.
- 14.2 **Definitions.** Terms used, but not otherwise defined, in this Article shall have the same meaning as defined by HIPAA.
- 14.2.1 “Breach” of Protected Health Information (PHI) shall have the same meaning given to the term “breach” under HIPAA and “breach” of Personal Information (PI)/Personally Identifiable Information (PII) shall have the same meaning as given to it under the State Agreements.
 - 14.2.2 “Business Associate,” when applicable, shall mean the Contractor.
 - 14.2.3 “County PHI” shall have the same meaning as PHI under HIPAA, specific to PHI under this Agreement.
 - 14.2.4 “County PI/PII” shall have the same meaning as PI/PII under the State Agreements, specific to PI/PII under this Agreement.
 - 14.2.5 “Covered Entity,” when applicable, shall mean the County.
 - 14.2.6 “Security incident” shall have the same meaning as defined by the State.
- 14.3 **Responsibilities of Contractor.**
- 14.3.1 **Use and Disclosure of County PHI/PI/PII.** Contractor shall use the minimum County PHI/PI/PII required to accomplish the requirements of this Agreement or as required by Law. Contractor may not use or disclose County PHI/PI/PII in a manner that would violate HIPAA or the State Agreements if done by the County.
 - 14.3.2 **Safeguards.** Contractor shall develop and maintain a HIPAA-compliant information privacy and security program to prevent use or disclosure of County PHI/PI/PII, other than as required by this Agreement.
 - 14.3.3 **Mitigation.** Contractor shall mitigate, to the extent practicable, any harmful effects caused by violation of the requirements of this Article, as directed by the County.
 - 14.3.4 **Subcontractors.** Contractor shall ensure that any agent, including a subcontractor, to whom it provides County PHI/PI/PII, imposes the same conditions on such agents that apply to Contractor under this Article.
 - 14.3.5 **Cooperation with County.**
 - 14.3.5.1 Contractor shall provide access to County PHI/PI/PII, as well as internal practices and records related to County PHI/PI/PII, at the written request of County within ten (10) calendar days.
 - 14.3.5.2 Contractor will assist County regarding individual’s access, copy, amendment, accounting of disclosure, and other such requests for County PHI/PI/PII in the time and manner designated by County.

Pink highlight shows changes from Dec 2017
Yellow highlight shows changes from Jan 2017.
Blue highlight shows changes from July 2016.

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- 14.3.6 **Breach Reporting.** Contractor shall report breaches and suspected security incidents to County Contracting Officer's Representative and HHSA Privacy Officer, to include:
- 14.3.6.1 **Initial Report.**
- 14.3.6.1.1 Contractor shall email County immediately upon the discovery of a suspected security incident that involves data provided to County by the Social Security Administration, as per the State Agreements.
- 14.3.6.1.2 Contractor shall email County within one business day of the discovery of any suspected security incident or breach of County PHI/PI/PII
- 14.3.6.1.3 Contractor shall additionally submit a completed County "Privacy Incident Report," which is posted on County's website, www.cosdcompliance.org within one (1) business day.
- 14.3.6.2 **Investigation Report.** Contractor shall immediately investigate such suspected security incident or breach and provide the County a complete report of the investigation within seven (7) working days using County's "Privacy Incident Report" form.
- 14.3.6.3 **Notification.** Contractor will comply with County's request to notify individuals and/or media and shall pay any costs of such notifications, as well as any costs associated with the breach. County shall approve the time, manner and content of any such notifications before notifications are made.
- 14.3.7 **Designation of Individuals.** Contractor shall designate a Privacy Official and a Security Official to oversee its privacy and security requirements herein.
- 14.3.8 **Data Security.** Contractor shall comply with, as applicable, data privacy and security requirements specified by HIPAA and the State Agreements, which may include, but is not limited to:
- 14.3.8.1 Workforce members, including employees, interns, volunteers, subcontractors, etc., with access to applicable County PHI/PI/PII shall:
- 14.3.8.1.1 Complete privacy and security training to include a signed certification within thirty (30) days of hire, and at least annually thereafter;
- 14.3.8.1.2 Sign a confidentiality statement, prior to access to such PHI/PI/PII; and
- 14.3.8.1.3 Wear an identification badge at facilities that contain such PHI/PI/PII
- 14.3.8.2 Facilities that contain applicable County PHI/PI/PII shall have security guards or a monitored alarm system, as required by State Agreements.
- 14.3.8.3 Computer warning banners for all systems containing applicable County PHI/PI/PII
- 14.3.8.4 Comprehensive, annual security risk assessments
- 14.3.8.5 Policies and internal controls to ensure secure transport and storage of County PHI/PI/PII in cars, airplanes, trains, and buses comply with State Agreements.
- 14.3.8.6 Sufficient administrative, physical, and technical controls in place to protect County PHI/PI/PII
- 14.3.9 **Termination.** Upon termination of the Agreement for any reason, Contractor shall return or destroy all County PHI/PII/PI, except County PHI/PII/PI necessary for Contractor to continue its proper management and administration or to carry out its legal responsibilities, as mutually agreed upon by the Parties. If the Parties mutually agree that return or destruction of County PHI/PII/PI is infeasible, Contractor shall extend the protections of this Article to such County PHI/PII/PI for so long as Contractor maintains such County PHI/PII/PI.