



This **Business Associate Agreement** ("BAA") is entered into by and between **CLARINDA REGIONAL HEALTH CENTER** ("Covered Entity") and **CLARINDA COMMUNITY SCHOOL DISTRICT** ("Business Associate") and applies to all services provided to or on behalf of the Covered Entity and relationships between Covered Entity and Business Associate.

- A. **HIPAA and HITECH:** In the event of a conflict or inconsistency between the terms of any other agreement between the parties and this language, this BAA language controls with respect to the subject matter herein. It is the intent of all parties to comply with HIPAA and HITECH and any other applicable law and the terms of this agreement will be construed in this way. This language is required by the Health Insurance Portability and Accountability Act of 1996, and the Health Information Technology for Economic and Clinical Health Act (found in Title XIII of the American Recovery and Reinvestment Act of 2009) ("HIPAA" and "HITECH"). The parties acknowledge and agree that, beginning with the effective dates under HIPAA and HITECH, Business Associate will comply with its obligations under this BAA and with all obligations of a business associate under HIPAA, HITECH, any other applicable law and any implementing regulations, as they exist at the time this BAA is executed and as they are amended from time to time, for so long as this BAA is in place. Certain obligations, such as those of data storage and security, survive the term of this agreement. (Collectively, HIPAA and HITECH are referred to herein as "HIPAA"). The terms used in this BAA have the same meaning as defined by HIPAA unless the context dictates otherwise.
- B. **HIPAA Applicability and Scope:** Business Associate and Subcontractors. For purposes of the obligations under this BAA, the term "Subcontractor" means, collectively, all of the Business Associate's subcontractors as well as each of their downstream entities. Business Associate and its Subcontractors are directly subject to and must independently comply with the Business Associate provisions of HIPAA/HITECH and any other applicable law or regulation irrespective of the provisions contained in this BAA.
- C. **Protected Health Information:** Any Protected Health Information ("PHI") as defined by HIPAA/HITECH that, on behalf of Covered Entity, was collected, created, received, maintained by or transmitted to or from Covered Entity is PHI. For purposes of these obligations PHI means all PHI in Business Associate's possession or under its control (e.g., employees, workforce members, subcontractors and their downstream entities, and Subcontractors) and all PHI collected, created, received, maintained or transmitted by Business Associate or its Subcontractors on or after the effective date of this HIPAA/HITECH language.
- D. **Confidential Information:** Confidential Information means and includes (a) any and all information related to patients, such information is also deemed protected health information; (b) any and all information about Covered Entity that is not known to the general public; (c) non-public information that belongs or relates to third parties to whom Covered Entity has an obligation of confidentiality, including software vendors; and (d) non-public information about Covered Entity's employees or business associates.
- E. **Employees, Subcontractors and Disciplinary Action**
 - 1. **Acts / Omissions:** Business Associate will be responsible for all actions and/or omissions by its employees and/or Subcontractor or Subcontractor's employees and is liable to third parties and Covered Entity for any violation of patients' privacy or security by any person granted access to or who receives data through Business Associate or its subcontractor's.

2. Employees: Business Associate agrees to instruct its employees regarding the confidentiality, privacy and security of PHI and all confidential information and the Business Associate's obligations under this BAA. Business Associate shall not disclose to its employees or permit them to access, view, obtain, copy, review or use any PHI that is not necessary to their services to Covered Entity. Business Associate agrees to maintain strict performance standards, including appropriate disciplinary actions, with respect to wrongful access to, copying, viewing, misuse or disclosure of PHI, or any other violation of HIPAA/HITECH or the terms of this agreement.
3. Workforce Members and Downstream Entities: Business Associate shall ensure its permitted workforce member(s) and Subcontractor(s) (if subcontractors are permitted) that collect, create, receive, maintain, or transmit PHI on behalf of the Covered Entity are advised in writing of Business Associate's obligations with respect to PHI and/or confidential information. Business Associate shall require that the permitted Subcontractor(s) agree in writing to the same permissible uses and disclosures of PHI or confidential information and to the same restrictions, conditions and obligations that apply to the Business Associate. Business Associate agrees to make a list of such Subcontractors available to Covered Entity upon request.
4. Administrative and Disciplinary Action: Business Associate will take appropriate administrative and disciplinary action with respect to its employee or Subcontractor if a privacy and/or security violation or breach of the obligation under this contract is reasonably determined to have occurred.

F. Permissible Uses of PHI.

1. Using and Disclosing PHI: Business Associate is a person or an organization, other than a member of a Covered Entity's workforce, that performs certain functions or activities on behalf of, or provides certain services to, a Covered Entity that involves the use or disclosure of PHI. The Business Associate may use or disclose PHI as permitted by this BAA or as required by law.

The Business Associate may only use or disclose PHI to the extent that the Covered Entity is permitted to use and disclose PHI and, only if the Covered Entity has delegated that use or disclosure to the Business Associate.

2. Business Associate's Internal Management Uses of PHI: Business Associate may use PHI for internal management and administration of Business Associate, but only in connection with the direct performance by Business Associate through its employees of services for Covered Entity pursuant to this BAA.
3. Minimum Necessary: Business Associate is permitted to access, use, request and/or store only the minimum necessary PHI to the extent required to perform its duties under this BAA or as otherwise required by law.
4. Handling PHI: Business Associate agrees to promptly return or destroy any PHI that is erroneously shared or delivered to Business Associate. If data is destroyed Business Associate will provide written documentation stating that destruction has occurred.
5. Data Aggregation: Business Associate is permitted to use PHI for data aggregation only for the health care operations of Covered Entity and only as set forth in a written contract between

Business Associate and Covered Entity or upon written request of Covered Entity. Data aggregation means combining Covered Entity's PHI with another unrelated covered entity's PHI for any purpose.

6. De-Identified – Business Associate Use for Own Purposes: Business Associate agrees not to sell (i.e., receive any direct or indirect remuneration) or use any PHI, de-identified PHI or data that identifies the Covered Entity for its own purposes or for the benefit of its other customers, without Covered Entity's prior written consent. Furthermore, in cases where the Business Associate requests consent to de-identify PHI, the Business Associate shall conform to all legal requirements and shall specify to the Covered Entity the manner in which the Business Associate will de-identify the information.
7. No Indirect Sale of PHI: Business Associate has not given Covered Entity a discount or reduction in pricing in exchange for purposes other than services to or on behalf of Covered Entity.

G. Safeguards, Reporting, and Mitigation

1. Safeguards: Business Associate agrees to implement reasonable administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of all PHI. Business Associate agrees to implement reasonable electronic security practices for Covered Entity PHI which is transmitted, stored, collected, created, received, maintained or used in electronic form. Business Associate also shall require its permitted Subcontractor(s) to agree in writing to implement reasonable administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of all Covered Entity's PHI. Business Associate agrees to activate encryption technology on portable and removable media and to permit PHI to be placed on such media only when there is no other alternative and the media has encryption technology activated.
2. Reporting of Actual or Suspected Violations: Business Associate will report, in writing, to the Covered Entity's Privacy Official and/or Security Official within five (5) business days of its discovery, any actual or suspected privacy incident, breach of security, intrusion or unauthorized use or disclosure of PHI or ePHI not permitted by this BAA, and will cooperate with Covered Entity in the investigation of these incidents.

In the event that Covered Entity determines there was a breach of PHI requiring notification to affected individuals, Covered Entity may elect for Business Associate to be responsible for the transmittal of such notification and associated costs, as further specified in Section P(1) of this Agreement. Any notification action taken by Business Associate shall occur solely at the request and direction of Covered Entity upon receipt and assessment of Business Associate's report. The Business Associate is responsible for all costs related to investigation, notification, and mitigation.

Upon request of the Covered Entity, Business Associate will report, in summary form, any unsuccessful security incident of which Business Associate becomes aware. If the definition of "Security Incident" in the HIPAA regulation is modified to remove the requirement for reporting "unsuccessful" security incidents, this paragraph shall no longer apply as of the effective date of such regulation modification.

3. Content – Reporting of Actual or Suspected Violations: The Business Associate's report to the Covered Entity shall include, at a minimum: (i) the identification of each Individual whose PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during

the suspected breach, (ii) the date of the suspected breach, if known, (iii) the scope of the suspected breach, and (iv) a description of the Business Associate's response to the suspected breach. Business Associate shall also provide Covered Entity with any other available information that Covered Entity is required to include in a notification to an individual, and Business Associate has an ongoing duty to supplement this report when additional information becomes known.

4. Mitigation: Business Associate agrees to cooperate and collaborate with the Covered Entity in mitigating any harmful effect that is known to Business Associate, including known to its employees/ Subcontractors, of a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA, including to the extent provided by the Indemnification provision of this Agreement, Section O.

H. Confidentiality and Pattern of Activity.

1. Confidentiality: All Covered Entity's Confidential Information is subject to the confidentiality, use and disclosure provisions of federal and state law. Business Associate agrees to maintain the confidentiality of, and to use or disclose, all Confidential Information solely in accordance with such laws.
2. Notice of Legal Contact: Business Associate shall promptly notify Covered Entity in writing of a disclosure request prior to disclosing Covered Entity PHI if such disclosure is required by law or court order, to the extent as permitted by law. Business Associates shall further accurately log such disclosures.
3. Pattern of Activity: If Business Associate becomes aware of a pattern of activity or practice by Covered Entity that constitutes a material breach or violation of the Covered Entity's obligations under this BAA, Business Associate will notify Covered Entity of the same.

I. Patient Rights With Respect To PHI: Upon request, the Business Associate shall make PHI in its possession or under its control available to the Covered Entity within five (5) business days of a Covered Entity's request.

1. Business Associate shall promptly notify the privacy officer of Covered Entity if a patient contacts Business Associate in connection with the patient's PHI.
2. Covered Entity shall be responsible for communicating with patients regarding their patient rights.
3. To the extent that the Covered Entity has any limitations and/or restrictions that affect the Business Associate's use or disclosure of PHI, the Covered Entity shall so notify the Business Associate of such limitations and/or restrictions, and Business Associate shall comply with the same, including, but not limited to, those limitations listed on the Covered Entity's Notice of Privacy Practices and/or restrictions agreed upon or required by HIPAA or other applicable law for a specific patient.
4. If the Business Associate is engaged to maintain PHI in a designated record set, then the Business Associate agrees to honor patient rights under HIPAA/HITECH.
5. Business Associate will make PHI available in electronic format upon request by Covered Entity. The type of format shall be agreed upon by the parties.

6. In the case of a direct request for an accounting from an individual to Business Associate related to treatment, payment or health care operations disclosures from electronic health records, Business Associate shall, in collaboration with the Covered Entity, provide such accounting to the individual in accordance with Section 13405(c) of HITECH. Business Associate shall document (log) such disclosures and provide Covered Entity notice of the disclosure prior to making any disclosure.
- J. Amendment: Upon enactment of any law, regulation, court decision or relevant government publication and/or interpretive policy affecting the use or disclosure of PHI, Covered Entity, by written notice to Business Associate, may amend this BAA in such manner as Covered Entity determines necessary to comply with same.
- K. Access for Audit: Business Associate shall make its internal practices, books and records relating to the use and disclosure of any PHI available to Covered Entity and to other authorized government investigators for purposes of determining Business Associate's and Covered Entity's compliance with HIPAA/HITECH or any other applicable law or regulation. Business Associate agrees that Covered Entity has the right to audit, investigate, monitor, access, review and report on Business Associate's use of any Covered Entity's PHI, with or without advance notice from Covered Entity.
- L. Assignment: Business Associate may not assign any rights, nor may it delegate its duties, under this BAA without the express written consent of Covered Entity.
- M. Laws: Business Associate will comply with all applicable federal and state security and privacy laws that are more protective of individual privacy and security than HIPAA/HITECH.
- N. Injunctive Relief: Business Associate acknowledges and stipulates that any unauthorized use or disclosure of PHI by Business Associate or any of its Subcontractors while performing services pursuant to this BAA may cause irreparable harm to Covered Entity for which Covered Entity will be entitled, if it so elects to seek injunctive or other equitable relief, without a showing of any specific damages, and without bond. Such injunctive relief is not exclusive and all other remedies in law or equity will apply.
- O. Indemnification: Business Associate shall indemnify, defend and hold harmless Covered Entity and its directors, officers, subcontractors, employees, affiliates, agents, and representatives from and against any and all liabilities, costs, claims, suits, actions, proceedings, demands, losses and liabilities of any kind or nature whatsoever (including court costs and reasonable attorneys' fees), expert witness fees, and costs of breach notification, investigation, credit protection, call center fees, litigation or dispute resolution, relating to or arising out of any breach or alleged breach of this Agreement by Business Associate.
- P. Term and Termination of Relationship.
1. Term: The Term of this Agreement shall be effective as of the date of signature, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, 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 Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
 2. Immediate Termination and Cure: Covered Entity may immediately terminate its relationship with Business Associate upon written notice to Business Associate if Covered Entity

determines that Business Associate has violated a material requirement of this agreement, including, but not limited to, HIPAA/HITECH. Covered Entity, at its option and within its sole discretion, has the right to take reasonable steps to cure the breach and/or may (a) allow Business Associate to take steps to cure the breach, and (b) in the event of such a cure, elect to keep the this BAA and relationship in full force and effect. All such costs relating to the cure of any breach are the responsibility of the Business Associate. Business Associate must provide written notice to the Covered Entity that the cure has been enacted.

3. PHI Obligations upon Termination or Expiration: Unless Business Associate is required by law to maintain PHI or confidential information, Business Associate shall return or destroy (and not retain any copies of) all PHI or confidential information in its possession or under its control within 30 days after the termination/expiration of this BAA. Business associate shall confirm in writing directed to Covered Entity all PHI destroyed. Business Associate shall seek and obtain written instructions from the Covered Entity regarding whether to return or destroy the PHI. If Business Associate is unable to return PHI and if requested to destroy the PHI and destruction is not feasible, then Business Associate shall notify Covered Entity of the reasons for being unable to return or destroy PHI in writing and must extend the protections of this BAA to the PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible. Business Associate shall not transfer possession, custody or control of Covered Entity's PHI or confidential information to any other person or entity without prior written approval of Covered Entity. If at any time Business Associate determines it is unable to protect the Covered Entity's PHI or confidential information in accordance with the terms of this BAA, Business Associate shall promptly notify the Covered Entity prior to destruction and shall destroy all Covered Entity PHI or confidential information and all copies thereof and promptly provide proof of such destruction to Covered Entity.
 4. Immediate Termination: Covered Entity may terminate this BAA effective immediately, if (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA/HITECH or other security or privacy laws or (ii) there is a finding or stipulation that Business Associate has violated any standard or requirement of HIPAA/HITECH or other security or privacy laws in any administrative or civil proceeding in which Business Associate is involved; (iii) if such termination is otherwise required by law such as Business Associate becoming a debarred provider or contractor.
 5. Termination of Other Agreements: If this BAA is terminated for any reason, Covered Entity may terminate any or all other agreements between the parties which involve the use or disclosure of PHI. This provision shall supersede any termination provision to the contrary which may be set forth in any other agreement.
- Q. Prohibition of Offshore Disclosure: Nothing in this BAA shall permit the Business Associate to access, store, share, maintain, transmit or use or disclose PHI in any form via any medium with any entity or person, including the Business Associate's employees and Subcontractors, beyond the boundaries and jurisdiction of the United States without express written authorization from Covered Entity.

COVERED ENTITY

Signature: _____

Name: Chuck Nordyke

Title: President/CEO

Date: _____

**Clarinda Regional Health Center
220 Essie Davison Drive
Clarinda, IA. 51632**

BUSINESS ASSOCIATE

Signature: _____

Name: Josh Wyman

Title: Board President

Date: _____

Clarinda Community School District
423 E. Nodaway Street
Clarinda, IA. 51632