

Business Associate Letter of Agreement

RE: Confidentiality of Protected Health Information Agreement

Dear _____:

As you know, our organization has been contracting with you or your organization for the provision of _____ services. We hope to continue this business relationship with you or your organization; however, federal regulations that went into effect in April of 2003 require that we obtain from you an agreement that you or your organization will take certain steps to protect the confidentiality and privacy of our clients' health information, to be able to continue to use your services. The regulations that I am referring to are the *Standards for Privacy of Individually Identifiable Health Information*, 45 C.F.R. §160 *et seq.* and §164 *et seq.*

As you and your Organization's employees come into contact with confidential client health information, created, maintained and/or used by or on behalf of our organization in the course of providing services for us, I must ask that you or an authorized representative of you or your organization sign this letter of agreement on behalf of the Organization, agreeing to the following:

1. You or your organization will not divulge, disclose, or communicate in any manner any client's health information (including all forms of healthcare, treatment and/or billing information, and including even the identity of a client)("Protected Health Information") to any third party without the prior written consent of an authorized representative of our organization and, where required, the client. You or your organization will protect all such information and treat it as strictly confidential, abiding by the *Standards for Privacy of Individually Identifiable Health Information*, 45 C.F.R. §160 *et seq.* and §164 *et seq.* Any violation of this paragraph shall be considered a material breach of this agreement.

Use and Disclosure of Protected Health Information. You or your organization may only use and/or disclose Protected Health Information received, obtained, created and/or maintained in the course of this business relationship with CAFS as required by law, as permitted by the Regulations, or as follows:

- A. To provide contracted service to organization and/or client (list permitted uses and/or disclosures)
- B. To confer with/or seek the expert advise of a fellow practitioner on the best treatment/service

To confer with/or seek the expert advise of a fellow practitioner on the best treatment/service Contractor may be permitted by CAFS to use or disclose Protected Health Information for the proper management and administration of the Contractor's business, and/or to carry out the legal responsibilities of the Contractor (Contractor must inform CAFS and/or client where necessary of Contractor's intent to use the PHI in this manner). Proper management and administration of the Contractor's business does **not** include the use of Protected Health Information, or the identity of CAFS' clients, for solicitation, marketing, fundraising, or other non-necessary purposes.

- 2. You or your organization must maintain and use appropriate physical, technical, and administrative safeguards to prevent the use or disclosure of any Protected Health Information, including the identities of clients, other than as permitted by this Agreement. Such safeguards must be in place at all times for the protection of Protected Health Information that is maintained both in electronic and paper forms. You or your organization must also maintain and use appropriate safeguards to prevent the improper disclosure of such information by oral communications.
- 3. You or your organization must insure that any agent or subcontractor agree to the same restrictions and conditions under this Agreement that apply to you or your organization with respect to such Protected Health Information. You or your organization must immediately report in writing to our organization any use or disclosure of our Protected Health Information and/or the identity of our clients that you or your organization becomes aware of, which is not permitted pursuant to this Agreement or pursuant to the Regulations. You or your organization must also mitigate, to the extent practicable, any harmful effect known to you or your organization of a use or disclosure of Protected Health Information by you or your organization that is not permitted pursuant to this Agreement or pursuant to the Regulations.
- 4. You or your organization must make available any of our organization's Protected Health Information, immediately upon our request, for purposes of insuring the right of access of clients to their own health information.
- 5. You or your organization must make available to our organization, immediately upon request, any Protected Health Information where our organization has agreed with the client that we will make certain amendments to the information. In such

cases, you or your organization must incorporate all such amendments to the information that you are maintaining.

6. You or your organization must maintain appropriate records of all disclosures of Protected Health Information made to third parties in a sufficient form so as to allow for an accounting of disclosures to properly be generated, as required by the Regulations. Upon our organization's request, such records shall be made available for purposes of providing such an accounting of disclosures.
7. You or your organization must make all of its internal practices, books and records relating to the use and disclosure of the Protected Health Information received from our organization, or created or received by you or your organization on our behalf, available to the Secretary of the Department of Health & Human Services, or its agent, upon the request of either the Secretary of the Department of Health & Human Services or our organization, for purposes of determining whether our organization is complying with the above-referenced regulations.
8. ******Upon the termination of our agreement for services for any reason, you or your organization must return to our organization all Protected Health Information received from us, or created or received by you or your organization on our behalf, including Protected Health Information in the possession of your agents and subcontractors, retaining no copies of any such information. In the alternative, upon the termination of the Agreement, you or your organization may choose instead to destroy all Protected Health Information, retaining no copies of such information, so long as a Certificate of Destruction including the date of destruction, manner of destruction, and name, title and signature of your authorized agent completing the destruction is immediately provided to our organization. Such destruction must be performed in such a way that no readable or otherwise interpretable portion of the information continues to exist. If you or your organization believes that such a return or destruction is not feasible for any reason, you or your organization must contact our organization to discuss the reason that return or destruction is not feasible and the extension of the protection of this agreement to this information with the limitation of further usage and disclosures. You or your organization's rights and obligations under this section shall survive the termination of this Agreement.
9. By signing this letter of agreement, you or your organization authorizes termination of this Agreement by our organization, should we find that you or your organization has violated a material term of this Agreement.
10. The entire agreement for services between you or your organization and our organization consists of our original agreement for services, whether oral or written, and this letter of agreement. Unless inconsistent with the terms of this letter of agreement, all of the terms of our original agreement to purchase you or your

organization's services remain unchanged and effective. To the extent that there are inconsistencies between the terms of the original agreement for services and this letter of agreement with regard to the duties of maintaining confidentiality of Protected Health Information, the terms of this letter of agreement shall rule.

11. Any reference in this letter of agreement to a section of the *Standards for Privacy of Individually Identifiable Health Information* shall mean the section as in effect or as amended, and for which compliance is required.
12. You or your organization and our organization agree to take such action to amend this Agreement from time to time as is necessary for our organization to comply with the *Standards for Privacy of Individually Identifiable Health Information*, and related federal and state law.
13. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits our organization to comply with the *Standards for Privacy of Individually Identifiable Health Information*.

If you or your organization is in agreement with the terms set forth above, I would ask that an authorized representative of you or your organization sign and immediately return to me the original of this letter, keeping a copy for your records. Please contact me with any questions that you may have.

Very truly yours,

Agency Staff: _____ Title/Position: _____

Program/Dept: _____

With the intent to be legally bound, I, _____,
authorized representative of _____, acknowledge that I have read
the foregoing letter of agreement and agree on behalf of _____
to the terms set forth above.

Name or Organization

Authorized Representative

Date: _____

CC: Client Record
Consultant file (where applicable)

**** Exclusion to this requirement: medical records maintained by hospitals/medical centers/physicians that provide care to CAFS clients.**