

## **HIPAA COMPLIANCE POLICIES AND PROCEDURES FOR SELF-INSURED GROUP HEALTH PLANS**

Berlin CSD (“District”), as a sponsor of one or more self-insured group health plans (the “Plan” or “Plans”), is required under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) to implement policies and procedures relating to the privacy of individually identifiable health information of Plan enrollees.

This Policy applies to all District personnel (“workers”) who have access to Protected Health Information (“PHI”) in the course of their duties relating to the District’s self insured group health plans, including flexible spending plans for medical reimbursement, whether or not the worker is directly involved in administration of health plan benefits or services.

This Policy does not pertain to information that the District may receive, create, or transmit in relation to Workers’ Compensation, FMLA, fitness for duty, ADA, OSHA, employee drug screening, life insurance, or disability insurance.

### **Protected Health Information**

For purposes of this Policy, PHI is defined as individually identifiable health information, including demographic information, that is created, received, transmitted or maintained by the District in relation to a group health plan, regardless of form (oral, written, or electronic), if the information relates to:

- The past, present or future physical or mental health or condition of an individual;
- The provision of health care services to an individual; or
- The past, present, or future payment for the provision of health care to an individual.

PHI includes but is not limited to EOBs, treatment records, billing records, consultant reports, and laboratory or other diagnostic testing results.

### **Confidentiality of PHI**

Workers may not divulge copy, transfer, alter, or destroy any PHI, or remove any PHI from the premises, except as authorized by the District or by the individual who is the subject of the information. Workers must strictly comply with all applicable federal and state laws and regulations and all policies and procedures established by the District relating to the confidentiality and protection of PHI. A worker’s responsibility to safeguard the confidentiality of PHI continues after termination of his or her employment or other relationship with the District.

### Administrative Safeguards

The District implements appropriate administrative, technical, and physical safeguards to protect the privacy of PHI and to safeguard PHI from any uses and disclosures that would be in violation of HIPAA. The Notice(s) of Privacy Practices attached to this Policy reflect the District's policies and procedures in relation to use and disclosure of PHI.

Files containing PHI, on paper or in electronic media, must be maintained in a manner that guards against unauthorized access and disclosure. Workers must hold in strictest confidence any and all access codes, passwords, and other authorizations which enable access to computer systems in which PHI is maintained by the District.

### Minimum Necessary Disclosure

Workers may use PHI only as necessary to perform their duties in relation to the Plans, and for no other purpose whatsoever. When using, disclosing, or accessing PHI, workers may only use, disclose or access the minimum PHI necessary to perform their duties. When PHI must be shared with others, it must be shared in a manner consistent with the intended purpose, taking precautions to minimize the risk of disclosure beyond the minimum necessary for the intended recipient or purpose. All workers whose duties involve access to PHI are required to undergo training in safeguards concerning use and disclosure of PHI.

### Mitigation of Harmful Effects

In the event of disclosure of PHI in violation of HIPAA, the District has a duty to mitigate any known harmful effect of that violation, to the extent practicable. Any worker who becomes aware of an activity that may jeopardize the confidentiality of PHI should promptly report that activity to the District's Privacy Official.

### Individual Rights

Under HIPAA, an individual is entitled to certain rights concerning his or her protected health information. Those individual rights are described in an administered in accordance with the attached Notice(s) of Privacy Practices. The applicable Notice of Privacy Practices is distributed to named self insured Plan enrollees as of April 14, 2003, and thereafter to new enrollees upon initial enrollment. No less frequently than once every three years, enrollees then covered by the Plan will be informed that the Notice is available and how to obtain it.

### Non-Retaliation and Non-Waiver of Rights

The District will not discriminate against, intimidate, threaten, coerce, or take any other retaliatory action against any individual or workers for exercising the right to file a complaint with the District's Privacy Official, or with the United States Secretary of the Department of Health and Human Services, or for testifying, assisting or participating in an investigation, compliance review, proceeding, or hearing regarding an alleged violation under HIPAA. In addition, the District will not require an individual or a worker to waive his or her rights under HIPAA as a condition of the provision of treatment, payment, enrollment in a health plan, or eligibility for benefits.

### Administrative Sanctions

Any violation of this policy or violation of any applicable federal or state law relating to the protection of PHI may subject a worker to disciplinary action, in accordance with the applicable policies and procedures of the District.

### Complaint Process

The District has a complaint process by which individuals may make complaints concerning the policies and procedures of the Plan in relation to the confidentiality of PHI. Complaints regarding the inappropriate use or disclosure of PHI may be made in writing to the District Privacy Official. Complaints may also be made to the United States Secretary of the Department of Health and Human Services.

### Privacy Official

The Privacy Official can be contacted at the following office address:  
Berlin Central School District  
Route 22 Box 259  
Berlin, NY 12022

**This BUSINESS ASSOCIATE AGREEMENT** is made as of April 14, 2003, by and between **Berlin CSD (“CLIENT”)** and **ALBANY HEALTH ASSOCIATES (“AHA”)**.

#### **RECITALS**

- A. The purpose of this Business Associate Agreement is to comply with the business associate contracting requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and associated regulations, including 45 C.F.R. parts 132 and 160-164, as amended (the “Privacy Rule”).
- B. Client is a “Covered Entity” under the HIPAA Privacy Rule, with respect to certain self insured health plan(s) sponsored by Client. AHA performs certain services for or on behalf of Client (the “Services”) which involve the disclosure of Protected Health Information (“PHI”) to AHA. Disclosure of PHI by or on behalf of Client in relation to Services performed by AHA is thus subject to the Business Associate contracting requirement in the Privacy Rule relating to the use and disclosure of PHI.

#### **AGREEMENT**

- 1. Compliance and Construction
  - 1.1 Unless otherwise defined in this Business Associate Agreement, italicized terms shall have the definitions set forth in the Privacy Rule.
  - 1.2 AHA shall comply with all obligations imposed on Business Associates under the HIPAA Privacy Rule in relation to AHA’s use and disclosure of PHI received from or on behalf of Client.
  - 1.3 If any terms of this Business Associate Agreement conflict with or are inconsistent with the terms of any agreement between the Parties for the performance of the Services, the terms of this Business Associate Agreement shall prevail. Any ambiguity in this Business Associate Agreement shall be resolved in a manner consistent with compliance with the Privacy Rule.
- 2. Permitted Uses and Disclosures of PHI
  - 2.1 AHA shall use and/or disclose PHI only as permitted or required by this Business Associate Agreement or as otherwise *required by law*.
  - 2.2 AHA shall implement and maintain appropriate administrative and security safeguards to ensure that PHI is not used or disclosed by AHA in violation of this Business Associate Agreement.
  - 2.3 AHA shall request from Client no more than the *minimum necessary* PHI to perform the Services.
  - 2.4 AHA may disclose PHI to, and permit the use of PHI by, its employees, contractors, agents, or other representatives only to the extent reasonably

- necessary for the performance of the Services for or on behalf of Client, and in compliance with the Privacy Rule.
- 2.5 AHA shall not use or disclose PHI in a manner inconsistent with Client's obligations under HIPAA, or in a manner that would violate the HIPAA Privacy Rule if disclosed or used in such a manner by Client.
  - 2.6 Except as otherwise limited in this Business Associate Agreement, AHA may use and disclose Protected Health Information in fulfilling its responsibilities to the Client to the extent permitted by the Privacy Rule.
  - 2.7 Prior to disclosing any PHI to any subcontractor, agent, or other representative that is authorized to receive, use, or have access to PHI in relation to the Services, AHA shall require such recipient to agree, in writing, to adhere to the same restrictions and conditions on the use and disclosure of PHI that apply to AHA under this Business Associate Agreement.
3. Reporting and Mitigating Any Unauthorized Uses and Disclosures
    - 3.1 In the event that AHA acquires knowledge of any use or disclosure of PHI that violates this Business Associate Agreement, AHA shall report such violation in writing to Client as soon as practicable.
    - 3.2 AHA shall establish procedures for mitigating, to the greatest extent possible, any deleterious effects arising from any use or disclosure of PHI which is not authorized pursuant to this Business Associate Agreement.
4. Individual Rights
    - 4.1 AHA agrees to document disclosures of Protected Health Information to the extent required by the Privacy Rule, in a manner consistent with Client's obligation to provide an *individual* with an accounting of disclosures in accordance with 45 CFR §164.528.
    - 4.2 Within five days of receiving a written request from Client, AHA shall provide Client with documentation of disclosures to the extent reasonably necessary for Client to comply with the requirements of 45 CFR §164.528 regarding the right of an *individual* to an accounting of disclosures.
    - 4.3 To the extent required by the Privacy Rule, AHA shall allow access to PHI by Client or the *individual* to whom such PHI relates, to the extent that such PHI is maintained in a *designated record set*, at reasonable times and in a manner reasonably directed by Client, in order to meet the *individual* access requirements under CFR §164.524.
    - 4.4 To the extent required by the Privacy Rule, AHA shall make any amendments to PHI maintained in a *designated record set* that Client directs pursuant to the amendment requirements under 45 CFR §164.526.
    - 4.5 Client shall provide AHA with any changes in or revocation of permission by an *individual* to use or disclose PHI, if such changes affect AHA's permitted or required uses or disclosures.

4.6 Client shall notify AHA of any restrictions to the use or disclosure of Protected Health Information that Client has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions are pertinent to AHA.

5. Term and Termination

5.1 This Business Associate Agreement shall continue in effect while the Services are being performed, and shall remain in force thereafter with respect to those obligations which survive the termination of this Business Associate Agreement.

5.2 In the event that Client becomes aware of a material breach of AHA's obligations under this Business Associate Agreement, Client shall provide AHA with written notice of the existence of the breach and shall afford AHA thirty days (30) in which to cure. In the event that AHA fails to cure the material breach within such time period, Client may terminate this Business Associate Agreement upon written notice to AHA.

5.3 Upon termination of the Services, all PHI in the possession of AHA shall, to the extent feasible, be returned to Client or destroyed, and AHA shall retain no copies. If AHA determines that it is not feasible to return or destroy all PHI, AHA shall notify said Client in writing. In such event, AHA shall ensure that the protections of this Business Associate Agreement are extended to the PHI which has been retained, and shall further ensure that any further uses or disclosures of the PHI are limited to the purposes that make the return or destruction of the PHI infeasible.

6. General Provisions

6.1 This Business Associate Agreement may not be modified, nor shall any provision be waived or amended, except in a writing duly signed by both parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to enforcement of any right or remedy as to subsequent events.

6.2 Any notice required or permitted under this Business Associate Agreement shall be made by personal service, by commercial courier, or by certified mail with return receipt requested, and shall be deemed effective upon receipt. Notice shall be delivered to the following addresses, unless a party directs otherwise upon written notice to the other party:

AHA:  
Albany Health Associates  
8 Southwoods Boulevard  
Albany, NY 12211  
Attn: Privacy Official

Client:  
Berlin CSD  
Route 22 Box 259  
Berlin, NY 12022  
Attn: Privacy Official

- 6.3 To the extent required by the Privacy Rule, AHA shall make its internal practices, books, and records relating to the use and disclosure of PHI received from or on behalf of Client available to the Secretary of the United States Department of Health and Human Services, for purposes of determining Client's compliance with the Privacy Rule.
- 6.4 The Parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as necessary for the Client to comply with the requirements of the Privacy Rule.

**ALBANY HEALTH ASSOCIATES**

**CLIENT**

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By: Ronald Rich  
Title: President  
Date: April 14, 2003

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By:  
Title:  
Date: