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2 **7010 BUSINESS ASSOCIATE AGREEMENTS**

3  
4 EFFECTIVE DATE: xx/xx/2024

5  
6 REFERENCES: 45 C.F.R. § 160.103; 45 C.F.R. § 164.501; 45 C.F.R. §  
7  
8 164.504

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10 **PURPOSE**

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12 This policy applies to all Division of Developmental Disabilities (the Division)  
13 staff. The purpose of this policy is to outline the requirements of the  
14 Business Associate Agreement as required by the Health Information  
15 Portability and Accountability Act of 1996 (HIPAA).

16 **DEFINITIONS**

- 17  
18 1. "Business Associate" means the same as in 45 CFR § 160.103.  
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20 2. "Covered Entity" means:  
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22 a. A health plan.  
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24 b. A health care clearinghouse.  
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26 c. A health care provider who transmits any health  
27 information in electronic form in connection with a  
28 transaction covered under the Privacy Rule.

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30 3. "Disclosure" means the release, transfer, or provision of access  
31 to or divulgence in any other manner of PHI to parties outside  
32 the entity holding the information.
- 33 4. "Health Insurance Portability and Accountability Act (HIPAA)  
34 Privacy Rule" means the Federal Regulation that establishes  
35 national standards to protect individuals' medical records and  
36 other individual health information that applies to health plans,  
37 healthcare clearinghouses, and those health care providers that  
38 conduct certain health care transactions electronically. The Rule  
39 requires appropriate safeguards to protect the privacy of  
40 individual health information and sets limits and conditions on  
41 the uses and disclosures that may be made of such information  
42 without authorization from the Responsible Person. The Rule also  
43 gives Members rights over their health information, including  
44 rights to examine and obtain a copy of their health records, and  
45 to request corrections.
- 46 5. "Member" means the same as "client" as defined in A.R.S. §  
47 36-551.

- 48  
49           6.    "Protected Health Information" or "PHI" means individually  
50           identifiable health information about a Member that is  
51           transmitted or maintained in any medium where the information  
52           is:
- 53           a.    Created or received by a:
- 54                   i.    Health care provider,  
55                   ii.   Health plan,  
56                   iii.   Employer, or  
57                   iv.   Health care clearinghouse.
- 58  
59           b.    Relates to the:
- 60                   i.    Past, present, or future physical or mental health  
61                   condition of a Member;  
62                   ii.   Provision of health care to a Member; or  
63                   iii.   Payment for the provision of health care to a  
64                   Member.  
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- 67           c.    PHI excludes information in:
- 68                   i.    Education records covered by the Family Educational  
69                   Rights and Privacy Act as amended, 20 U.S.C.  
70                   1232g;  
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- ii. Records described at 20 USC 1232g(a)(4)(B)(IV);
  - iii. Employment records held by a Covered Entity in its role as an employer; or
  - iv. Regarding a person who has been deceased for more than 50 years.

82 7. "Use" means the sharing, employment, application, utilization,  
83 examination, or analysis of PHI within the entity that maintains  
84 such information.

85 **POLICY**

- 86  
87 **A.** The Division's contracted or out-of-network agreement Business  
88 Associates shall ensure appropriate safeguard of the Protected Health  
89 Information (PHI).
- 90 **B.** The Division shall enter into a Business Associate Agreement before  
91 PHI is used, created, or disclosed between the covered component and  
92 the entity or contractor.
- 93 **C.** The Division shall ensure the Business Associate Agreement contains:  
94 1. Description of the permitted and required uses of PHI by the  
95 Business Associate.

- 96  
97 2. Provision that the Business Associate does not use or further  
98 disclose the PHI other than as permitted or required by law.  
99 3. Requirement for the Business Associate to use safeguards  
100 necessary to prevent the use or disclosure of PHI other than as  
101 provided for by the contract.  
102 4. Requirement to report to the Division any use or disclosure not  
103 allowed by the contract or out-of-network agreement.  
104 5. Provision for the Business Associate to implement the same  
105 restrictions and conditions that apply in the Business Associate  
106 Agreement with the Division to any subcontractor.  
107 6. Provision to make PHI available to the individual in accordance  
108 with the Right to Access.  
109 7. Provision to make PHI available to the Member to amend and  
110 incorporate any agreed upon amendment in accordance with the  
111 Right to Request Amendments to PHI.  
112 8. Provision to produce an accounting of disclosures when it is  
113 requested by a Member.  
114 9. Provision to make Business Associate's internal practices, books,  
115 and records relating to the use and disclosure of PHI available to

116 the Division and Department of Health and Human Services –  
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118 Office of Civil Rights, upon request.

119 10. At the termination of the contract or out-of-network agreement,  
120 if feasible, require the Business Associate to return or destroy all  
121 Protected Health Information received from, or created or  
122 received by the Business Associate on behalf of, the covered  
123 entity.

Draft Policy for Public Comment