



QUALIFIED SERVICE ORGANIZATION/BUSINESS ASSOCIATE AGREEMENT (QSO/BA AGREEMENT)¹ **DRAFT Form D**

[Insert entity name] and the [insert program name] hereby enter into an agreement whereby the [insert entity name] agrees to provide:

(Nature of services to be provided to the program)

Furthermore, [insert entity name]:

1. acknowledges that in receiving, transmitting, transporting, storing, processing, or otherwise dealing with any information received from [insert program name] identifying or otherwise relating to the patients in the [insert program name] ('protected information'), it is fully bound by the provision of the federal regulations governing the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2; and the Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. Parts 142, 160, 162 and 164;
2. agrees to resist any efforts in judicial proceedings to obtain access to the protected information except as expressly provided for in the regulations governing the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2, as amended;
3. agrees that it will not use or disclose protected health information except as permitted or required by the Agreement or by law;
4. agrees that, when the [insert entity name] uses, discloses, or request protected health information it will limit the use, disclosure, or request to the minimum necessary;
5. agrees that if the [insert entity name] enters into a contract with any agent, including a subcontractor, the agent will agree to comply with 42 C.F.R. Part 2 and HIPAA, and, if the [insert entity name] learns of a pattern or practice by the agent that is a material breach of the contract with the [insert entity name], to take reasonable steps to cure the breach or terminate the contract, if feasible;

¹ This Form has been modified from a version published by the Legal Action Center, "QSO/BA Agreement.- Form 6"



6. agrees to comply with HIPAA's security provisions with regard to electronic protected health information, and to use appropriate safe guards (*can define with more specificity*) to prevent the unauthorized use or disclosure of the protected information;
7. agrees to report breaches of protected information to the [insert program name];
8. agrees to report to the [insert program name] any use or disclosure of the protected information not provided for in this Agreement of which it becomes aware (*insert negotiated time and manner terms*);
9. agrees to ensure that any agent, including a subcontractor, to whom the Center provides protected information received from the [insert program name], or creates or receives on behalf of the [insert program name], agrees to the same restrictions and conditions that apply through this Agreement to the [insert entity name] with respect to such information;
10. agrees to provide access to the protected information at the request of the [insert program name], or to an individual as directed by the [insert program name], in order to meet the requirements of 45 C.F.R. § 164.524 which provides patients with the right to access and copy their own protected information (*insert negotiated time and manner terms*);
11. agrees to make any amendments to the protected information as directed or agreed to by the [insert program name] pursuant to 45 C.F.R. § 164.524 (*insert negotiated time and manner terms*);
12. agrees to make available its internal practices, books, and records, including policies and procedures, relating to the use and disclosure or protected information received from the [insert program name], or created or received by the [insert entity name] on behalf of the [insert program name], to the [insert program name] or to the Secretary of the Department of Health and Human Services for purposes of the Secretary determining the [insert program name]'s compliance with HIPAA (*insert negotiated time and manner terms*);
13. agrees to document disclosures of protected information, and information related to such disclosures, as would be required for the [insert program name] to respond to a request by an individual for an accounting of disclosures in accordance with 45 C.F.R. § 164.528 (*insert negotiated time and manner terms*);



14. agrees to provide the [insert program name] or an individual in accordance with paragraph (9) of this agreement to permit the [insert program] to respond to a request by an individual for an accounting of disclosures in accordance with 45 C.F. R. 45 C.F.R. § 164.528 (insert negotiated time and manner terms).

Termination

1. The [insert program name] may terminate this agreement if it determines that the [insert entity name] has violated any material term.
2. Upon termination of this Agreement for any reason, the [insert entity name] shall return or destroy all protected information received from the [insert program name], or created or received by the [insert entity name] on behalf of the [insert program name]. This provision shall apply to protected information that is in the possession of subcontractors or agents of the [insert entity name]. The [insert entity name] shall retain no copies of the protect information.
3. In the event that the [insert entity name] determines that returning or destroying the protected information is infeasible, the [insert entity name] shall notify the [insert program name] of the conditions that make return or destruction infeasible (insert negotiated time and manner terms);
4. Upon notification that the return or destruction of the protected information is infeasible, the [insert entity name] shall extend the protections of this Agreement to such protected information and limit further uses and disclosures of the information to those purposes that make the return or destruction infeasible, as long as, the [insert entity name] maintains the information.

Executed this _____ day of _____, 20 _____

President
[Entity Name & Address]

Program Director
[Program Name & Address]