

BUSINESS ASSOCIATE AGREEMENT

North Sound Mental Health Administration

and

LAKE WHATCOM

This Business Associate Agreement (“Agreement”) is entered into by and between North Sound Regional Support Network dba, North Sound Mental Health Administration (“NSMHA”) on behalf of itself, and its current and future subsidiaries and affiliates, and LAKE WHATCOM (“Business Associate”), including all current and future lines of business, affiliates, and subsidiaries. NSMHA and Business Associate may have entered into various arrangements, and may in the future enter into additional arrangements (collectively, the “Contracts”) pursuant to which Business Associate provides various items or services to NSMHA or for NSMHA’s clients. This Agreement modifies and supplements the terms and conditions of the Contracts, and the provisions set forth herein shall be deemed a part of the Contracts.

1. **Definitions.** The federal privacy regulations at 45 CFR parts 160 and 164 and the Health Insurance Portability and Accountability Act (42 USC Section 201, et seq.), shall be collectively referred to herein as “HIPAA”. All capitalized terms used in this Agreement have the meaning defined in HIPAA, unless otherwise defined herein.
2. **Purpose: Protected Health Information.** The purpose of this Agreement is to provide assurances regarding our respective responsibilities to maintain strict confidentiality under applicable federal and state laws and regulations relating to NSMHA’s patient medical information, financial information, and other patient identifiable health information to which Business Associate gains access pursuant to the Contracts (collectively “Protected Health Information”). For purposes of this Agreement, Protected Health Information shall be defined consistent with 45 CFR, Section 164.501. The provisions of this Agreement are specifically intended to meet the business associate contract requirements of the HIPAA privacy standards spelled out in 45 CFR, Section 164.504. Business Associate and NSMHA intend that their respective privacy and security policies, procedures and practices shall meet (or exceed to the extent provided herein) all applicable federal and state requirements pertaining to the privacy and confidentiality of Protected Health Information as soon as possible, but in no event later than the mandatory HIPAA compliance date.
3. **Confidentiality of Protected Health Information.** Business Associate shall comply with all applicable federal and state laws and regulations relating to maintaining and safeguarding the confidentiality of Protected Health Information. Business Associate shall assure that Business Associate’s employees, subcontractors and agents comply with such laws and regulations and the provisions of this Agreement. Neither Business Associate nor any of its employees, subcontractors or agents shall use or further disclose Protected Health Information in any manner that would violate the requirements of this Agreement or the HIPAA privacy regulations as set forth in 45 CFR, Sections 160 and 164. Business Associate may use and disclose Protected Health Information when necessary for Business Associate’s proper management and administration, or to carry out Business Associate’s specific legal responsibilities pursuant to the Contracts. Business Associate shall not request or disclose more information than the minimum amount necessary to allow Business Associate to perform its functions pursuant to the Contracts. Business Associate shall not use or further disclose Protected Health Information in any manner that would violate the HIPAA privacy standards as set forth in 45 CFR, Sections 160 and 164.
4. **Safeguards for Protected Health Information.** Business Associate shall use appropriate safeguards to prevent the use or disclosure of Protected Health Information other than expressly provided for in this Agreement. Business Associate shall assure that any agents or subcontractors to whom it provides any Protected Health Information under this Agreement shall agree to the same restrictions and conditions of Business Associate under this Agreement to assure that such agent or subcontractor complies in all respects with the provisions of this Agreement and the HIPAA privacy standards.

- 1 5. **Individual Access to Protected Health Information.** Business Associate agrees to provide individuals with
2 access to their PHI in a Designated Record Set as requested by NSMHA or as otherwise required to meet
3 requirements of HIPAA privacy standards including 45 CFR 164.524.
- 4 6. **Third Party Requests for Access to Protected Health Information.** Business Associate agrees to
5 promptly notify NSMHA of Business Associate's receipt of any request, subpoena, qualified protective order,
6 or other legal process to obtain PHI. The provisions of this section shall survive the termination of this
7 Agreement.
- 8 7. **Amendments to Protected Health Information.** Business Associate agrees to make amendment(s) to PHI
9 in a Designated Record Set as authorized by NSMHA in compliance with 45 CFR 164.526.
- 10 8. **Accounting for Disclosures of Protected Health Information.** Business Associate shall cooperate with
11 NSMHA by providing appropriate information to NSMHA to fulfill both parties' responsibilities under 45
12 CFR, Section 164.528. Business Associate agrees to provide an accounting of any disclosures of Protected
13 Health Information for up to the six-year period preceding the date of the request for an accounting. Such
14 information shall include:
15
- 16 • The date of the disclosure;
 - 17 • The name and address of the person or entity who received the Protected Health Information;
 - 18 • A brief description of the disclosed Protected Health Information; and
 - 19 • A brief statement of the purpose of the disclosure including an explanation of the basis for such
20 disclosure.
 - 21 • Such other information as may be required by applicable laws or regulations.

22 Business Associate must provide all such information to NSMHA on a timely basis not later than 7 calendar
23 days after NSMHA requests such information, unless otherwise specified by NHMSA. The provisions of this
24 section shall survive termination of this Agreement.
25
26

- 27 9. **Access to Business Associate's Books and Records.** Business Associate shall make available to the
28 Secretary of the Department of Health and Human Services its internal practices, books and records relating
29 to the use and disclosure of Protected Health Information received from, or created or received by, Business
30 Associate on behalf of NSMHA for the purpose of determining Business Associate's compliance with the
31 requirements of this Agreement and the HIPAA privacy standards. The provisions of this section shall
32 survive termination of this Agreement.
- 33 10. **Reporting and Auditing of Improper Use of Protected Health Information.** Business Associate shall
34 promptly report to NSMHA any use or disclosure of NSMHA client Protected Health Information that is
35 unauthorized or otherwise violates the terms of this Agreement.
- 36 11. **HIPAA Requirements.** Business Associate and NSMHA agree to work cooperatively to meet applicable
37 requirements of the HIPAA regulations.
- 38 12. **Termination of Applicable Contract.** NSMHA shall have the right to terminate any or all of the Contracts
39 if Business Associate has violated a material term of this Agreement. Upon any such termination, Business
40 Associate shall promptly return or destroy all Protected Health Information received from NSMHA in
41 connection with the terminated Contracts. If the return or destruction of Protected Health Information is not
42 feasible, Business Associate shall continue the protections required under this Agreement to the Protected
43 Health Information consistent with the requirements of this Agreement and the HIPAA privacy standards. In
44 the event that Business Associate ceases to do business or otherwise terminates its relationship with NSMHA,
45 Business Associate agrees to promptly return or destroy all Protected Health Information, received from
46 NSMHA, in a timely manner. Business Associate may not assign this Agreement, in whole or in part, without
47 NSMHA's prior consent. All terms and conditions of this Agreement will be binding upon and inure to the
48 benefit of and be enforced by the parties hereto and their respective successors and permitted assigns.
- 49 13. **Business Associate's Privacy and Security Policies and Practices.** Business Associate's privacy and
50 security policies and practices shall meet or exceed current standards set by applicable state and federal law for
51 the protection of Protected Health Information including, without limitation, user authentication, data
52 encryption, monitoring and recording of database access, internal privacy standards and a compliance plan
53 designed to provide assurances that the requirements of this Agreement are met. Business Associate shall:
54

- Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of NSMHA's electronic PHI;
- Ensure that Business Associate's agents and subcontractors to whom it provides PHI, implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of NSMHA's PHI;
- Report to NSMHA any security incident of which it becomes aware.

14. Miscellaneous

14.1 Indemnification. Business Associate hereby agrees to indemnify and hold NSMHA and its officers, directors, employees and agents harmless from and against any and all loss, liability, or damages, including reasonable attorneys' fees, arising out of or in any manner occasioned by a breach of any provision of this Agreement by Business Associate, or its employees or agents. The provisions of this section shall survive termination of this Agreement.

14.2 Insurance. Upon written request of NSMHA, Business Associate shall obtain and maintain, at its sole expense, during the term of this Agreement liability insurance on an occurrence basis with responsible insurance companies acceptable to NSMHA and covering claims based upon a violation of any of the HIPAA Privacy standards or any applicable state law or regulation concerning the privacy of patient information in amount specified by NSMHA in its request. NSMHA reserves the right to require that such insurance policy shall name NSMHA as an additional named insured and shall provide for 30 days prior written notice to NSMHA in the event of any decrease, cancellation, or non-renewal of such insurance. A copy of such policy or a certificate evidencing the policy shall be provided to NSMHA upon written request.

14.3 Independent Contractor. Under this Agreement, Business Associate shall at all times be acting and performing in the status of independent contractor to NSMHA. Business Associate shall not by virtue of this Agreement be deemed a partner or joint venture of NSMHA. No person employed by Business Associate will be an employee of NSMHA, and NSMHA shall have no liability for payment of any wages, payroll taxes, and other expenses of employment for any employee of Business Associate. Business Associate is constituted the agent of NSMHA only for the purpose of, and to the extent necessary to, carrying out its obligations under this Agreement.

a. **Notices.** Any notice, request, demand, report, approval, election, consent or other communication required or permitted under the terms of this Agreement (collectively, "Notice") shall be in writing and either delivered personally, by registered or certified mail, return receipt requested, postage prepaid, or by reputable overnight courier, addressed as follows:

North Sound Mental Health Administration
117 North 1st, Suite 8,
Mount Vernon, WA 98273
Attention: Executive Director
With a copy to: NSMHA, Privacy Officer

To Business Associate:

LAKE WHATCOM
609A North Shore Drive
Bellingham, WA 98226
Attention: Michael Watson, Clinical Director

14.4 Amendment. This Agreement may not be amended, modified or terminated orally, and no amendment, modification, termination or attempted waiver shall be valid unless in writing signed by both parties.

If the foregoing meets with your understanding and approval, please show your acceptance and agreement by signing and returning one copy of this Agreement to the undersigned, at which point this Agreement shall become effective as of the date indicated below. By signing below, the undersigned warrants that he/she is an authorized agent of Business Associate, and his/her signature is binding upon Business Associate.

1 **NORTH SOUND MENTAL HEALTH ADMINISTRATION**

2
3
4
5
6
7
8
9
10
11
12

Greg C. Long, Deputy Director

Date

ACCEPTED AND AGREED TO:

Gerric Dudley, Executive Director

Date