



College of American Pathologists

COLLEGE OF AMERICAN PATHOLOGISTS

BUSINESS ASSOCIATE AGREEMENT WITH PROVIDERS OF PATIENT SPECIMENS FOR USE IN PROFICIENCY TESTING AND SIMILAR PROGRAMS

In order to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and implementing regulations, 45 C.F.R. Parts 160 and 164, the College of American Pathologists ("CAP") and _____ ("Provider") agree as follows:

1. **Compliance with Privacy Standards.** Provider may provide material to CAP for use in the CAP proficiency testing and similar programs, which material may contain "protected health information" ("PHI"), as defined in 45 C.F.R. § 164.501. CAP may not use or disclose PHI except as permitted or required by this Agreement or as required by law. In no case may CAP use or disclose PHI if the use or disclosure would be prohibited for Provider under HIPAA.
2. **Permitted Uses and Disclosures.** CAP may use or disclose PHI as follows:
 - a. **For Purposes of Creating De-Identified Information.** CAP may use PHI to create de-identified information by removing any elements from PHI that would be considered identifiers under 45 C.F.R. § 164.514(b)(2)(i).
 - b. **For Other Purposes.** CAP may use PHI only as necessary for the proper management and administration of CAP or to carry out CAP's legal responsibilities. CAP may disclose such information to third parties for these purposes only if (A) the disclosure is required by law; or (B) CAP obtains reasonable assurances from the recipient of the PHI that (1) the information will be held in confidence and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person; and (2) the recipient will notify CAP of any breach in the confidentiality of the information.
3. **Agreement Does Not Apply To De-Identified Information.** Once the information is de-identified, it is no longer considered to contain "PHI," and the requirements and obligations of this Agreement will no longer apply. CAP may use and disclose de-identified information freely and without restriction.
4. **Safeguards.** CAP shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement.
5. **Reporting.** CAP shall report to Provider any use or disclosure of PHI which is not provided for by this Agreement of which CAP becomes aware.

6. **Subcontractors.** CAP shall ensure that any agents, including any subcontractor, to whom it provides PHI shall agree to the same restrictions and conditions that apply to CAP with respect to the PHI.
7. **Access by Individuals.** CAP shall allow individuals who are the subjects of the PHI to inspect and copy their PHI when it is in the possession of CAP if Provider does not also maintain such information.
8. **Amendment of PHI.** CAP shall incorporate amendments or corrections to the PHI upon notification by Provider that such information requires amendment or correction.
9. **Accountings of Disclosures.** If CAP discloses PHI to any third party, CAP shall, upon request of Provider, make available to Provider the information that is necessary for the Provider to provide an accounting of disclosures to a requesting individual.
10. **Access by Department of Health and Human Services.** CAP shall make its internal practices, books, and records relating to the use and disclosure of the PHI available to the Secretary of the Department of Health and Human Services for purposes of determining the Provider's compliance with the HIPAA privacy regulations.
11. **Termination.** This Agreement shall cover any material that contains PHI that Provider provides to CAP for use in the CAP proficiency testing and similar programs. Provider may stop providing such material to CAP for these purposes if it determines that CAP has violated a material term of this Agreement. The rights and responsibilities of CAP under this Agreement shall survive termination.
12. **Return or Destruction of Information.** When CAP has completed its use of the PHI, CAP shall, if feasible, return or destroy all of the PHI that CAP still maintains in any form and shall retain no copies of such information (except de-identified copies). If such return or destruction is not feasible, CAP shall extend the protections of this Agreement to the PHI and shall limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
13. **Amendment.** The parties shall modify this Agreement to bring it into compliance with any changes in HIPAA or the HIPAA privacy regulations that are made after the date of execution of this Agreement.
14. **Interpretation.** Any ambiguity in this Agreement shall be resolved in a manner that brings the Agreement into compliance with the then most current version of HIPAA and the HIPAA privacy regulations.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the __ day of _____, 200_.

Provider

College of American Pathologists

By: _____
 Name: _____
 Title: _____

By: _____
 Name: _____
 Title: _____