

STATE OF SOUTH DAKOTA
NEXUS SD ASSOCIATE AGREEMENT
BETWEEN

Please insert entire address in this field

South Dakota Department of Health
Division of Family and Community Health
Office of Disease Prevention and Health Promotion
600 East Capitol Avenue
Pierre, SD 57501-2536
(605) 773-3361

Referred to as “Partner”

Referred to as “State”

Partner is a Nexus SD Associate of the Department of Health (DOH) pursuant to requirements of the Health Insurance Portability and Accountability Act, 45 CFR Parts 160 and 164 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act §§ 13400-13424, 42 U.S.C. §§ 17921-17954 (2009). DOH’s Administrative Policies and Procedures Statement GA-13, as modified from time to time during the term of this agreement, is incorporated by reference and made a part of this agreement as if fully set forth herein.

Privacy and Security Requirements

1. As a Nexus SD Associate, agrees:

- a. to be subject to and follow all HIPAA provisions found in 45 CFR 160 and 45 CFR 164, including any potential penalties and/or other consequences relating to a failure to comply with such requirements.
- b. to use or disclose any Protected Health Information (PHI) solely:
 - i. to meet its obligations in this and any other agreements with DOH;
 - ii. as required by applicable law, rule, or regulation; and
 - iii. as permitted by HIPAA, and any amendments to HIPAA, and subject to limits set forth in 45 CFR § 164.514 (e) (2) (limited data sets) and 45 CFR § 164.502(b) (minimum necessary disclosure requirements).
- c. to return or destroy all PHI received from, created, or received on behalf of DOH, at termination of this agreement, or upon request of the DOH, whichever occurs first, or, if such return or destruction is not feasible, to extend the protections of this agreement to the information and limit further uses and disclosures of such PHI;
- d. to notify DOH of any discovery or a breach of unsecured PHI as defined in the HITECH Act or accompanying regulations pursuant to the terms of 45 CFR § 164.410 and cooperate in DOH’s breach analysis procedures, if requested. A breach shall be treated as discovered by consultant as of the first day on which such breach is known, or, by

exercising reasonable diligence, would have been known, and requires notification to DOH within twenty (20) calendar days of discovery of the breach. If the breach involves less than 500 persons, the notification to the State may be provided within 30 calendar days of discovery. Such notification will contain the elements required in 45 CFR § 164.410; and

- e. to comply with all requirements pursuant to the HITECH Act and its implementing regulations, and all additional applicable requirements of the Privacy Rule, including those contained in 45 CFR §§ 164.502(e) and 164.504(e)(1)(ii). Nexus SD Associate will not directly or indirectly receive remuneration in exchange for any PHI, subject to the exceptions contained in the HITECH Act and without a valid authorization from the applicable individual. Nexus SD Associate will not engage in any communication which might be deemed to be “marketing” under the HITECH Act and will comply with all applicable security requirements in 45 CFR §§ 164.308, 164.310, 164.312, and 164.316.
2. Notwithstanding the prohibitions set forth in this agreement, Nexus SD Associate may use and disclose PHI if necessary for its proper management and administration or to carry out its legal responsibilities, provided the following requirements are met:
- a. the disclosure is required by law; or
 - b. reasonable assurances are obtained from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed. Such person shall notify the Nexus SD Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

3. Availability of PHI

Partner further agrees:

- a. to comply with any request for restrictions on certain disclosures of PHI pursuant to 45 CFR § 164.522, as agreed by DOH and with notice to the Nexus SD Associate;
- b. to make PHI available for purposes of accounting of disclosures, as required by 45 CFR § 164.528 and Section 13405(c)(3) of the HITECH Act; and
- c. to cooperate in providing any accounting required on a timely basis.

The parties signify their agreement by signing below.

| | | | |
|---|---------------|----------------------------|---------------|
| _____ Beth Dokken, Director Division of Family and Community Health Department of Health | _____ Date | _____ Partner Signature | _____ Date |
|---|---------------|----------------------------|---------------|

Print or Type Partner Name

| | | |
|---|---------------|------------------------|
| _____ Darcy McGuigan, Director Division of Finance and Operations Department of Health | _____ Date | _____ Partner Email |
|---|---------------|------------------------|

State Contact Person: Rachel Sehr Phone: (605) 367-5356

Partner Contact Person: Phone: