

**MENTAL HEALTH AND SUBSTANCE ABUSE  
QUALIFIED SERVICE ORGANIZATION DATA USE AGREEMENT FOR  
HEALTH PLAN OF SAN MATEO AND THE COUNTY OF SAN MATEO HEALTH SYSTEM/  
BEHAVIORAL HEALTH AND RECOVERY SERVICES**

This QUALIFIED SERVICE ORGANIZATION DATA USE AGREEMENT (hereinafter referred to as the "Agreement") is entered into between the San Mateo Health Commission (hereinafter referred to as "HPSM") and the County of San Mateo Health System Behavioral Health and Recovery Services (BHRS) (hereinafter referred to as "BHRS").

**RECITALS**

It is desired that HPSM and BHRS work in a collaborative manner as part of any integrated program.

It is desired that HPSM and BHRS share mental health and substance abuse data to enable HPSM to provide Qualified Service Organization Services to BHRS that include predictive modeling, data analysis for quality improvement purposes and program planning, program evaluation, financial analyses, rate development, and reports to support BHRS internal, external and governmental aggregate reporting allowable under 42 C.F.R. Section 2.12 ( c )(4) and 42 C.F.R. Section 2.11.

It is desired that data may be shared by different methods depending on the data type and the project impacted.

NOW THEREFORE, in consideration of the mutual promises and agreement herein contained, HPSM and BHRS hereby agree as follows:

**ARTICLE 1**

**Definitions**

- 1.1 BHRS Database. The term "BHRS Database" shall mean the data repository containing electronic health information of BHRS patients maintained by BHRS.
- 1.2 Data Tunnel. The term "Data Tunnel" shall mean the secure method by which data is available for viewing purposes between HPSM and BHRS by use of a site-to-site VPN (virtual private network).
- 1.3 Data Work Group. The term "Data Work Group" shall mean the team of HPSM, BHRS and other County Health System members that focus on data issues.
- 1.4 Integrated Programs. The term "Integrated Programs" shall mean any of the integrated programs which result from a joint effort between HPSM and BHRS, including but not limited to the Medi-Cal program, CareAdvantage, the Cal MediConnect Coordinated Care Initiative for dual Medi-Cal Medicare beneficiaries.

- 1.5 Qualified Service Organization Services. An entity ( HPSM) that (a) provides services to a program (BHRS) such as data processing, bill collecting, dosage preparation, laboratory analyses, or legal, medical, accounting, or other professional services, such as predictive modeling, data analysis for quality improvement purposes and program planning, program evaluation, financial analyses, rate development, and reports to support internal, external and governmental aggregate reporting allowable under 42 C.F.R. Section 2.12 ( c )(4) and 42 C.F.R. Section 2.11.; and that (b) has entered into a written agreement with a program that: (1) Acknowledges that in receiving, storing, processing or otherwise dealing with any patient records from the programs, it is fully bound by these regulations; and (2) If necessary, will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by these regulations.
- 1.6 Mental Health and Substance Abuse Data. Electronic health information of BHRS patients maintained in the BHRS Database including but not limited to patient identification information and service utilization. The exchange of Mental Health and Substance Abuse Data shall be permitted under the provisions of this Agreement.
- 1.7 Effective Date. The term “Effective Date” shall mean the date upon which this Agreement shall be effective. The Effective Date is July 1, 2014.
- 1.8 Annual Work Plan. The Assistant Director of BHRS and the Director of System Improvement for HPSM will establish and update an annual work plan that identifies the Qualified Service Organization projects. In the first year of this agreement, the Annual Work Plan will focus on identification and reporting back to BHRS the cohort of BHRS patients whose service utilization indicates a higher degree of care coordination may be beneficial to improving quality of care and patients’ health, mental health and substance use disorder outcomes.

## **ARTICLE 2**

### **DUTIES TO BE PERFORMED BY HPSM**

- 2.1 Qualified Service Organization Services. HPSM shall provide Qualified Service Organization Services to BHRS in conformance with 42 C.F.R. using data available in the BHRS Database and data available to HPSM for all its members. The Assistant Director of BHRS and the Director of System Improvement for HPSM will mutually agree what Qualified Service Organization projects will be carried out on a quarterly basis or more frequently, as needed as part of the Annual Work Plan. They may convene the Data Work Group to provide input and resolve questions related to these projects.
- 2.2 Data Matching. HPSM shall be responsible for developing an algorithm to ensure correct data/member matching when analyzing utilization of BHRS clients in other HPSM services.
- 2.3 Confidentiality. HPSM agrees to maintain the confidentiality of the information contained in the BHRS Database in accordance with the “Confidentiality of Medical Information Act”, Cal Civ. Code §56 et seq. with 42 CFR § 422.118 and HIPAA. HPSM agrees this includes but is not limited to:
- (a) using appropriate safeguards to prevent the unauthorized use or disclosure of the protected information;

- (b) reporting to BHRS any use or disclosure of the protected information not provided for by this Agreement of which it becomes aware;
- (c) ensuring that no patient identifying information will be disclosed to a contract agent of HPSM unless necessary to provide Qualified Service Organization Services, and as long as the agent only discloses the information back to HPSM or to BHRS;
- (d) ensuring that any agent, including a subcontractor, to whom HPSM provides the protected information in the BHRS Database, agrees to the same restrictions and conditions that apply through this Agreement with respect to such information; and
- (e) documenting and reporting to BHRS disclosures of protected information, and information related to such disclosures, as would be required for BHRS to respond to a request by an individual for an accounting of disclosures in accordance with 45 C.F.R. § 164.528.

2.4 Health Insurance Portability and Accountability Act (HIPAA). All services to be performed by HPSM pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), and the Business Associate requirements set forth in Attachment A.

2.5 Access to BHRS Database. HPSM shall limit access to the BHRS Database by identified staff of HPSM involved in providing Qualified Service Organization services and County. HPSM shall provide a list of these personnel to BHRS.

2.6 Training. HPSM will be responsible for the training of staff on the access and use of the BHRS Database in compliance with 42 C.F.R. HPSM will maintain a record of training provided to staff.

2.7 Auditing. HPSM shall be responsible for auditing access to the BHRS Database to ensure the appropriateness of staff access.

### **ARTICLE 3**

#### **DUTIES TO BE PERFORMED BY BHRS**

3.1 Maintenance of Data. BHRS shall maintain the BHRS Database and notify HPSM of changes that would impact its use.

3.2 Provision of Tunnel. BHRS shall provide tunnel access to identified HSPM staff for access to the BHRS Database deemed necessary for the provision of Qualified Service Organization services.

3.3 Training. BHRS shall provide initial training for the HPSM staff to be trained in the access, use and meaning of the BHRS Database and shall provide additional consultation as needed.

3.4 Auditing. BHRS periodically audit access to the BHRS Database by HPSM to ensure the appropriateness of staff access.

## ARTICLE 4

### DATA SHARING PROJECT COSTS

- 5.1 Cost of BHRS database. The costs of developing and maintaining the BHRS database shall be borne by BHRS.
- 5.2 Cost of Training. The costs of providing technical assistance to HPSM regarding the BHRS database shall be borne by BHRS. The costs of the development of the training program shall be borne by HPSM. Each organization is responsible for the costs of staff participation in the training program.
- 5.3 Cost of Tunnel. Each organization shall pay for its own costs related to the Tunnel.

## ARTICLE 5

### TERM AND TERMINATION

Term. The term of this Agreement shall commence on July 1, 2014, and shall terminate on July 31, 2015, and will automatically renew for successive twelve (12) month periods on the same terms and conditions (including subsequent amendments).

Termination Without Cause. BHRS or the HPSM may terminate this Agreement without cause upon providing the other party with sixty (60) days prior written notice.

Notwithstanding the other provisions of this paragraph, the HPSM may immediately suspend this Agreement pending completion of applicable termination procedures, if the HPSM makes a reasonable determination, supported by written findings, that the health and welfare of Members is jeopardized by continuation of the Agreement.

## ARTICLE 6

### GENERAL PROVISIONS

BHRS Indemnification. BHRS agrees to indemnify, defend and hold harmless the HPSM, its agents, officers and employees from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or property damage arising from or connected with the BHRS's operations or its services hereunder. This provision is not intended to nor shall it be construed to require the BHRS to indemnify the HPSM for any HPSM liability independent of that of BHRS, nor to cause BHRS to be subject to any liability to any third party (either directly, or as an indemnitor of the HPSM or its agents, officers, and employees) in any case where BHRS liability would not otherwise exist. Rather, the purpose of this provision is to assure that the HPSM and its agents, officers, and employees, will be provided with indemnification for and a defense to any vicarious or other indirect liability or claim against the HPSM or such agents, officers, or employees resulting from the actions or other omissions of BHRS in connection with BHRS operations or its services under this Agreement.

Governing Law. This Agreement shall for all purposes be deemed subject to the laws of the State of California, and in the event of a lawsuit concerning this Agreement shall be venued in the County of San Mateo.

**SIGNATURES**

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

**COUNTY OF SAN MATEO**


By: \_\_\_\_\_  
President, Board of Supervisors, San Mateo County

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Clerk of Said Board

**HEALTH PLAN OF SAN MATEO**

  
Contractor's Signature

Date: 5.19.14