

STATE OF OKLAHOMA
MULTI-AGENCY DATA SHARING AGREEMENT

NOW, on the date last listed below, the Oklahoma Department of Human Services, (“DHS”), the Oklahoma Department of Mental Health and Substance Abuse Services (“ODMHSAS”), the Oklahoma Department of Corrections (“DOC”), the Oklahoma Office of Juvenile Affairs (“OJA”), the Oklahoma Health Care Authority (“OHCA”), the Oklahoma Commission on Children and Youth (“OCCY”), the Oklahoma State Department of Health (“OSDH”), the Oklahoma Department of Rehabilitation Services (“DRS”), and the Oklahoma State Department of Education (“OSDE”), all governmental agencies charged with regulation of applicable state and federal programs, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged, enter into a mutual data sharing agreement which in further consideration that sharing patient/client/member/student identifying information might sometimes assist one or more of the parties achieve its goals. This Agreement shall also serve as an agreement for the exchange of audit and evaluation data pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191) and 42 C.F.R. Par 2, through the provisions creating compliance with those laws as more particularly stated below. DHS, ODMHSAS, DOC, OHCA, DRS, OCCY, OSDH, OJA, and OSDE may be referred to collectively herein as “the Parties.”

WHEREAS, each of the Parties hereto provides services to person who meet its eligibility criteria; and,

WHEREAS, some persons receive or have received services from more than one of the Parties hereto; and,

WHEREAS, each Parties hereto desires to learn of other services being offered or provided to its clients in order to regulate government programs so as to avoid duplication of and maximize clients’ benefits from receiving the Parties’ services; and,

WHEREAS, the Parties believe that learning the nature and tenure of services provided to their clients will assist the parties in such regulatory goals as (but not limited to) intervening earlier in the lives of their clients to minimize the need for services; and,

WHEREAS, each of the parties has the legal basis to enter into this agreement under Oklahoma law as set forth below:

DHS: Article XXV, Oklahoma Constitution, Section 6; and,
10A O.S. Section 1-6-103 C.6.a. and b.

ODMHSAS 43A O.S. Sections 2-224 and 2-202A6;

DOC: 57 O.S. Sections 602 and 549;

OJA: 10A O.S. Section 2-7-202.D.8;

OHCA: 63 O.S. Section 5006;

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OCCY: 10 O.S. Section 601.4;
OSDH: 63 O.S. Section 1-106 (B)(12);
DRS: 74 O.S. Section 166.1;
OSDE: 70 O.S. Section 3-168; and
Overall: 74 O.S. Section 581

WHEREAS, some projects of the parties (or one or more of them) may require the sharing of protected health information as defined in HIPAA and patient records as used in 42 C.F. R Part 2 or protected student education records as defined by the Federal Educational Rights and Privacy Act, (20 U.S.C. § 1232g; 34 C.F.R. Part 99) (“FERPA”) and the Oklahoma Student Data Accessibility, Transparency, and Accountability Act of 2013, (70 O.S. § 3-168) to achieve regulatory goals and public benefits.

NOW, THEREFORE, the parties hereto agree as follows:

I. OBJECTIVE:

To allow for protected health information and student education information and proprietary confidential data to be transmitted from the Parties or one or more of them to one or more of the other parties solely by authorized personnel or other persons as authorized by Oklahoma or federal law or regulation and solely for the regulatory and public purposes noted above.

II. DEFINITIONS:

“Database” means that information system of each of the Parties hereto that maintains, stores and allows viewing relevant data in a format that is easy to read and interpret and necessary for each of the Parties to effectively administer their programs.

“Data” as used in this agreement means identifying information about persons, including children and youth, who are clients, members and/or patients of one or more of the Parties or confidential student information maintained by one of the Parties.

“Disclosing Agency” means the Party hereto disclosing otherwise confidential data to other parties hereto, also referred to herein as “Data Provider” or “Giving Party.”

“Receiving Agency” means the Party hereto receiving confidential data from other parties hereto.

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“Protected Health Information” has the same definition as the term used in HIPAA.
“Personally Identifiable information” has the same definition as the term used in FERPA.

III. PURPOSE AND SCOPE:

a. Purpose

The purpose of this Agreement is to allow the option of each of the Parties to share data in its database(s) for Agency projects to regulate and improve the administration of programs serving persons, including children and youth, by facilitating the sharing of data about those being served by the Parties. The purpose of this agreement is to establish the protocol for the uses of the data and database(s) consistent with the Parties’ desire to comply in all respects with applicable federal and Oklahoma law.

b. Scope

This Agreement establishes the Parties’ responsibilities related to the exchange of data between the Parties and all access to, use and/or re-disclosure of the data by the Parties. This agreement applies only to the Parties’ exchange of specific data to the other Parties to the minimum extent necessary to accomplish the Purposes as set forth above. The specific data elements exchanged by the Parties are limited by the documented scope of work for each project. The Party on whose computerized system the data resides owns and controls the Party’s data and shall have sole discretion at all times to determine which data may be shared and with which Parties, or to cease sharing data. Each Party shall be the sole determiner of the rights of access to specific data elements by another Party, and shall make those determinations base in part on applicable confidentiality laws and requirements as set forth in Appendix A, attached hereto and incorporated herein by reference. However, any Party may deny access to any or all data elements without explanation to the requesting Party.

c. Controlling Regulations and Laws

Each Party hereto understands that provision of access to and use of data pursuant to this agreement is subject to the laws and regulations of the United States and the State of Oklahoma, particularly with regard to disclosure and re-disclosure of protected health information and patient records as defined in HIPAA and 42 C.F.R. Part 2. and in regards to protected student education records as defined in FERPA and 20 U.S.C. § 1232g; 34 C.F.R. Part 99, and the Oklahoma Student Data Accessibility, Transparency, and Accountability Act of 2013, 70 O.S. § 3-168. To that end, each Party understands and agrees its participation in this agreement requires it to adopt and practice all policies and procedures of the

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Disclosing Agency, and all applicable State and Federal laws and regulations when dealing with data disclosed to that Party under this agreement. The Parties further agree that the list of confidentiality laws and regulations set forth in Appendix A is not exhaustive and that each Party must notify the others of any laws or regulations which pertain to the subject matter of this agreement or when additions, deletions or modifications are made to those laws and regulations. The interpretation of such laws and regulations shall be the sole privilege of the Disclosing Party.

HIPAA/ 42 C.F.R. Part 2 Compliance

1. It is the intention of the Parties to provide in this agreement the necessary provisions for compliance with HIPAA, Health Information Technology for Economic and Clinical Health Act (HITECH), 42 C.F.R. Part 2, and applicable state laws in cases where protected health information may be exchanged. The Parties believe that this exchange is covered by 45 C.F.R. 164.501, .506(a) and 512(d), and by 42 C.F.R. 2.53(c) and (d), which allow data exchange between government agencies for regulatory purposes.
2. Therefore, the Parties have not characterized this Agreement as a Qualified Service Organization/Business Associate Agreement (QSOA/BAA) as defined by HIPAA, 43A O.S. § 1-109 and HITECH.
3. However, it is the intent of the Parties to provide all protections specified by HIPAA, 42 CFR, 43A O.S. § 1-109 and HITECH, and therefore they have included all necessary provisions of a QSOA/BAA in this Agreement, and will treat the Agreement as such if HHS should find that the regulatory exception is not applicable.
4. Appendix C, attached hereto and incorporated herein by reference, contains the required language to assure compliance with HIPAA, 42 CFR, 43A O.S. § 1-109 and HITECH. In recognition that much of the data shared under this Agreement will not constitute protected information under these laws, these provisions are separated for clarity and convenience into Appendix C. Nonetheless, the Parties, by signing this Agreement, are fully and completely ratifying those provisions in Appendix C in regard to any and all information sent or received by that Party which is protected health information.

FERPA/20 U.S.C § 1232g; 34 CFR Part 99

1. It is the intention of the Parties to provide in this agreement the necessary provisions for compliance with Family Educational Rights and Privacy Act, (20 U.S.C § 1232g; 34 CFR Part 99) (“FERPA”) and the Oklahoma Student

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Data Accessibility, Transparency, and Accountability Act of 2013, (70 O.S. § 3-168), where personally identifiable student education data is exchanged.

2. In order for the parties to provide services to Oklahoma students under this agreement, it is necessary for OSDE to share student data containing confidential personally identifiable information (“PII”) from education records maintained by OSDE with the Parties.
3. The exact data points and purpose for which the data will be used shall be detailed in a separate agreement with each participating Party.

d. No Rights Created

This agreement does not and shall not be construed to create any rights, substantive or procedural, enforceable at law or in equity by any person or Party in any matter, civil or criminal or to attempt modification of any law or regulation.

e. Liability

Each party hereto is responsible for its own acts or omissions under this agreement and all Parties are responsible for compliance with laws and regulations in the provision of its own data to the other Parties and in the use of data received from the other Parties.

The Parties retain all defenses, including immunities, available under applicable federal or Oklahoma laws. No Party hereto agrees to insure, defend or indemnify any other Party.

In the case of a HIPPA data breach, if the data recipient fails to remedy any breach or violates any provision of this Agreement and applicable Schedule to the satisfaction of the data provider and if termination of the Agreement and/or applicable Schedule is not feasible, staff shall report the recipient’s breach or violation to the data provider’s HIPPA Privacy Officer and as appropriate to the US Health and Human Services Office for Civil Rights, and the recipient agrees that he or she shall not have or make any claims against the data provider with respect to such report(s).

In the case FERPA data breach, recipient shall immediately notify the OSDE if there is any unauthorized access or breach to the data provided by the OSDE and take reasonable steps to mitigate any breach and provide OSDE with their corrective procedures to ensure that further breaches do not occur. OSDE will not release any additional confidential personally identifiable information from education records maintained by OSDE to recipient until corrective procedures have been implemented to ensure further breaches do not occur.

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OSDE will immediately terminate this agreement and shall not renew this agreement for an intentional breach of any of the terms and conditions of the data security and confidentiality provisions set forth herein.

No Party to this agreement certifies the accuracy of the data provided to the Parties, and no Party shall be obligated in any way to change its data collection and processing for the benefit of any other Party.

Each Party disclosing, using or re-disclosing data pursuant to this agreement is responsible for complying with the applicable Oklahoma and Federal confidentiality requirements regarding that Party's activity.

IV. RESPONSIBILITIES

- a. Each Party is responsible for the maintenance of its own data system(s), and has no duty to maintain compatibility with the systems of other Parties.
- b. Each Party will determine which of its staff will have access to the disclosed or shared data, and will train its own staff as necessary in the applicable confidentiality laws and regulations.
- c. Consistent with the confidentiality requirements set forth in Appendix A, each Party whose data is accessible on the database has sole authority to determine what data are available to each of the other Parties hereto.
- d. The Parties shall keep current on changes to applicable laws and regulations, shall update their Agency's confidentiality requirements as necessary according to their interpretation of same and their own practices, and, upon service to all Parties of this agreement, the updated requirements will be applicable prospectively ten (10) days after such services unless or until the Parties agree otherwise, but in all cases State or Federal requirements shall apply upon the deadline set for said requirements by law or regulation.
- e. Each Party shall be responsible for training its own staff regarding use of the data available, including data available by direct access to another Party's database(s).
- f. In consideration for the release of said data, the Parties agree to the following terms and limitations on the use of the data:
 - 1. Information shall only be used for the purposes specified by each participating Party with regard to its data, as set forth in Section V and any further requirements that each Party may hereafter develop.

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2. Upon notice, the Parties may immediately suspend furnishing the data described in this agreement whenever a determination has been made that any terms of this agreement or related rule, procedure or policy are violated or reasonably appear to have been violated.

- g. In the event of a breach or default of any of the provisions, obligations or duties set forth in the Agreement, the Parties may exercise any administrative, contractual, equitable or legal remedies available to them without limitation subject to state and federal law. The waiver of any occurrence of breach or default is not a waiver of such subsequent occurrences and the Parties retain the right to exercise all remedies mentioned herein. A Party's use of one remedy instead of another shall not be deemed an election of remedies.

V. CONFIDENTIALITY AND INFORMATION SECURITY

- a. Each Party recognizes that the other Parties have and will have agency and client information that are confidential and need to be protected from improper disclosure. Parties agree that any employees or agents of the Parties will not at any time or in any manner, either directly or indirectly, use any information for their own benefit or divulge, disclose, or communicate in any manner any information to any third party without prior written consent of the Disclosing Parties. Parties will protect the information shared under this agreement and treat it as strictly confidential. This includes, but is not limited to, total compliance with the Privacy Act of 1974 (Public Law 93-579), (5 U.S.C. 552a).

- b. Per state law, Parties will perform an annual audit of information security risk assessment of their own data systems. Parties shall use either the standard security risk assessment created by the Office of Management and Enterprise Services or a third-party risk assessment meeting the ISO/IEC 27002 standards and using the National Institute of Standards and Technology Special Publication 800-30 (NIST SP800-30) process and approved by the Office of Management and Enterprise Services.

- c. Parties will disclose any breach of the security of the system related to this agreement pursuant to 74 O.S. § 3113.1 immediately following discovery or notification of the breach in the security of the data to any person unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay to the point of contact for each Party whose data is part of the breach. The affected Party must deliver a final report of the breach post-mortem, citing the reason, sources, affected records, and mitigation plans or actions within 10 business days of breach discovery.

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- d. Each Party will use appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the data it creates, receives, maintains, or transmits.
- e. Depending on the information systems accessed or types of data provided, Parties may be subject to user background checks and may be required to complete certain request forms prior to be granted access.
- f. When information is transferred electronically through means such as the Internet, information will be encrypted and transmissions will be consistent with the rules and standards promulgated by Federal statutory requirements regarding the electronic transmission of identifiable information.

VI. PROJECT PROCEDURES:

The Parties will use Schedules (see example Schedule A) properly identified either numerically, alphabetically or alpha-numerically setting forth the terms agreed to between the parties to document all specific data exchange projects between individual Parties.

For modifications to the original Schedule, the Parties shall initiate and obtain an approved amended Schedule executed by all original signees or designees on the initial Schedule, when substantive or operational changes are made to the original Schedule. An example of a substantive change is a request for identifiers when previous identifiers were not requested. When operational modifications are indicated, an amended Schedule signed by the original agency contacts is required. An example of operational modifications is changing a range variable from twenty-four months to thirty-six months.

VII. POINTS OF CONTACT:

Points of contact for each of the Parties hereto are set forth in Appendix B, and shall be kept current by each Party. Parties shall provide contact persons for policy and procedural questions as well as parties for consultation regarding technical issues in transferring, using or duplicating shared data.

VIII. EFFECTIVE DATE, DURATION, MODIFICATION AND TERMINATION:

Inasmuch as this agreement is effective upon its execution by the last participant(s) herein and is not fiscal in nature, the Parties agree that it may continue until modified or terminated by one or all of the parties. This agreement may be modified at any time by written consent of all Parties and may be terminated by any Party hereto upon thirty (30) day written notice by the terminating Party to the remaining Parties. Additionally, the terminating Party and the remaining Parties agree to meet if at all possible for the purpose of the renegotiation or modification of the agreement in lieu

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of termination if the reason for termination can be avoided by said modification. Any terminating Party hereto shall either destroy or return any and all data shared by other Parties as required by applicable law or regulation or according to the instructions of the Disclosing Party or Parties, and will provide evidence of destruction at the discretion of the Disclosing Party or Parties. The other Parties shall destroy or return any and all data given to them by the terminating Party as required by applicable law or according to the instructions of the terminating Party, and will provide evidence of destruction at the discretion of the terminating Party.

IX. ADMINISTRATION

- a. By signing this Agreement on behalf of their respective Agencies, the signers represent that they have the necessary authority under law to bind the Agency for which he/she signs.
- b. This Agreement is not a substitute for any statutory, regulatory or policy obligation a Party may have. Any such obligations a Party may have are still binding on that Party.
- c. All executed Schedules shall be incorporated by reference into this Agreement and made a part thereof.

X. SPECIAL TERMS AND CONDITIONS:

- a. This Agreement will be reviewed at least once annually by representatives chosen by each of the Parties and may be amended, revised or modified by mutual written consent of all parties as set forth herein.
- b. The terms and conditions of this Agreement, with Appendices or other attachments, constitute the full and complete agreement between the Parties. No other verbal or written agreement, by any individual, shall vary or alter any provision of this Agreement in any way unless all Parties consent to vary or alter the provision in writing.

XI. RATIFICATION:

Each of the undersigned persons represents and warrants that he/she is expressly and duly authorized to execute this Agreement and to legally bind each Party as set forth in this Agreement.

Version History		
Version No	Date	Reason
1.0	08-16-2016	Signed Agreement
2.0	TBD	Signed Agreement – Revised to include OSDE

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SIGNATORY AUTHORITY

Approved and Authorized on behalf of Each Participating Agency

OKLAHOMA STATE DEPARTMENT OF HEALTH:

By: *Terry Cline*
Title: *Commissioner OSDH*
Date: *6-7-2017*

OKLAHOMA DEPARTMENT OF HUMAN SERVICES:

By: *Ed Lake*
Title: *DIRECTOR*
Date: *4-3-17*

OKLAHOMA DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES:

By: *Terry*
Title: *Commissioner*
Date: *6-5-17*

OKLAHOMA DEPARTMENT OF CORRECTIONS:

By: *Tommy O'Dough*
Title: *DIRECTOR*
Date: *3.22.17*

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OKLAHOMA OFFICE OF JUVENILE AFFAIRS:

By: [Signature]
Title: Exec Director
Date: 20 March 17

OKLAHOMA HEALTH CARE AUTHORITY:

By: [Signature]
Title: CEO
Date: 03.19.17

OKLAHOMA COMMISSION ON CHILDREN AND YOUTH:

By: [Signature]
Title: Exec Director
Date: 3-15-17

DEPARTMENT OF REHABILITATION SERVICES:

By: [Signature]
Title: Noel Tyler
Date: 3-16-17

OKLAHOMA STATE DEPARTMENT OF EDUCATION:

By: [Signature]
Title: State Superintendent of Public Instruction
Date: March 10, 2017

DONE on the date last signed above.

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APPENDIX A: Applicable Confidentiality Laws and Regulations by Party

Department of Human Services:

10A O.S. Section 1-4-204
10A O.S. Section 1-4-401
10A O.S. Section 1-4-503
10A O.S. Sections 1-6-101 -- 1-6-107
10A O.S. Section 2-7-308
10A O.S. Section 1-9-112
10 O.S. Sections 620.1 – 620.6
10 O.S. Sections 630.1, 630.2

Department of Mental Health and Substance Abuse Services:

43A O.S. Section 1-109
43A O.S. Sections 2-6-106, 2-108, 2-109

Department of Corrections:

Office of Juvenile Affairs:

10A O.S. Sections 2-6-101 – 2-6-110
10A O.S. Section 2-7-308
10A O.S. Section 2-7-902 – 2-7-905

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Oklahoma Health Care Authority:

63 O.S. §5018

42 C.F.R. §1396 a(7)

42 C.F.R. §§431.300-431.307

Department of Rehabilitation Services:

34 C.F.R. Section 361.38

O.A.C. 612:10-1-5

Oklahoma State Department of Health:

63 O.S. Section 1-106 (B)(1)

63 O.S. Section 1-120

63 O.S. Section 1-229.5

63 O.S. Section 1-323

63 O.S. Section 1-502.2

63 O.S. Section 1-525

63 O.S. Section 1-532

63 O.S. Section 1-550.2

63 O.S. Section 1-551.1

63 O.S. Section 1-729.4

63 O.S. Section 1-738k

63 O.S. Section 1-738.3h

63 O.S. Section 1-738.16

63 O.S. Section 1-745.17

63 O.S. Section 1-545

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Federal Statutes and Regulations:

National Center on Birth Defects and Developmental Disabilities: 42 U.S.C. Section 247b-4(d)

Laboratory-Patient Confidentiality: 42 C.F.R. Section 493.1231

National Center on Birth Defects and Developmental Disabilities: 42 U.S.C. Section 247b-4(a)

National Program for Cancer Registries: 42 U.S.C. Section 280e

Federal Registry/Vol. 71, No. 187/September 27, 2006/Rules and Regulations WIC Confidentiality Provisions

Commission on Children and Youth:

Other Pertinent Statutes:

59 O.S. Section 1261.6 (Licensed social workers)

Federal Statutes and Regulations:

Health Insurance Portability and Accountability Act (HIPAA) 42 U.S.C. 201 et seq

Federal Drug and Alcohol Laws, 42 C.F.R. Part 2

Child Abuse Prevention, Treatment and Adoption Reform Act (CAPTA) 42 U.S.C. Sections 5101, et seq.

Social Security Act, Title IVE, 42 U.S.C. Sections 678 et seq.,

Oklahoma State Department of Education:

Student Data Accessibility, Transparency and Accountability, 70 O.S. § 3-168

Family Educational Rights and Privacy Act, 20 U.S.C. § 34 CFR Part 99

Confidentiality of Information, 20 U.S.C. § 300.571

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APPENDIX B: Points of Contact by Agency

DHS	
Name:	
Title:	
Phone:	
Email:	

ODMHSAS	
Name:	
Title:	
Phone:	
Email:	

DOC	
Name:	
Title:	
Phone:	
Email:	

OJA	
Name:	
Title:	
Phone:	
Email:	

OCCY	
Name:	
Title:	
Phone:	
Email:	

OHCA	
Name:	
Title:	
Phone:	
Email:	

OSDH	
Name:	
Title:	
Phone:	
Email:	

DRS	
Name:	
Title:	
Phone:	
Email:	

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APPENDIX C: PROVISIONS SPECIFIC TO HIPAA AND 42 C.F.R. PART 2

1.HIPPA-RELEVANT PROVISIONS:

Definitions

Catch-all definition:

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions:

(a) Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [Insert Name of Business Associate].

(b) Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean [Insert Name of Covered Entity].

(c) HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

Obligations and Activities of Business Associate

Business Associate agrees to:

(a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;

(b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;

(c) Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;

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(d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;

(e) Make available protected health information in a designated record set to the [Choose either “covered entity” or “individual or the individual’s designee”] as necessary to satisfy covered entity’s obligations under 45 CFR 164.524;

(f) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the covered entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity’s obligations under 45 CFR 164.526;

(g) Maintain and make available the information required to provide an accounting of disclosures to the [Choose either “covered entity” or “individual”] as necessary to satisfy covered entity’s obligations under 45 CFR 164.528;

(h) To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and

(i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

Permitted Uses and Disclosures by Business Associate

(a) Business associate may only use or disclose protected health information as necessary to perform the services set forth in Service Agreement.

(b) Business associate may use or disclose protected health information as required by law.

(c) Business associate agrees to make uses and disclosures and requests for protected health information consistent with covered entity’s minimum necessary policies and procedures.

(d) Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity.

Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

(a) [Optional] Covered entity shall notify business associate of any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect business associate’s use or disclosure of protected health information.

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2. 42 C.F.R. PART 2 RELATED PROVISIONS:

1. **Confidentiality of Information.** The parties' employees and agents shall have access to private data listed in Attachment "A" to the extent necessary to carry out the responsibilities, limited by the terms of this Agreement. The parties accept the responsibilities, for providing adequate supervision and training to their employees and agents to ensure compliance with relevant confidentiality, privacy laws, regulations and contractual provisions. No private or confidential data collected, maintained, or used shall be disseminated except as authorized by statute and by terms of this Agreement, whether during the period of the Agreement or thereafter. Furthermore, the parties:
 - a. Acknowledge that in receiving, transmitting, transporting, storing, processing, or otherwise dealing with any information received from the other party pursuant to this agreement that identifies or otherwise related to the individuals under the care of or in the custody of either of the parties (hereinafter "protected information"), it is fully bound by the provisions of the federal regulations governing the confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2 and the HIPAA, 45 C.F.R. 45 Parts 142, 160, and 164, Title 43 A § 1-109 of Oklahoma Statutes, and may not use or disclose the information except as permitted or required by this Agreement or by law;
 - b. Acknowledge that pursuant to 43A O.S. §1-109, all mental health and drug or alcohol treatment information and all communications between physician or psychotherapist and patient are both privileged and confidential and that such information is available only to person actively engaged in treatment of the client or consumer or in related administrative work. The parties agree that such protected information shall not be available or accessible to either party's staff in general and shall not be used for punishment or prosecution of an kind;
 - c. Agree to resist an 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;
 - d. Agree to use appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the other party and to use appropriate safeguards to prevent the unauthorized use or disclosure of the protected health information, and agree that protected information will not be placed in the CPS record of any individual involved with OKDHS.

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- e. Agree to report to the other party any use or disclosure or any security incident involving protected information not provided for by this Agreement. Such a report shall be made immediately when an employee becomes aware of such a disclosure, use, or security incident. The parties shall exchange telephone numbers and electronic mail addresses that should be used in the event of such a notification. Availability for notification should be twenty-four (24) hours a day, seven (7) days a week. These contact points should be available to staff who work with the information governed by this agreement.
 - f. Agree to provide access to the protected information at the request of the giving party, or to an authorized individual as directed by the giving party, in order to meet the requirement of 45 C.F.R. §164.524 which provides clients with the right to access and copy their own protected information;
 - g. Agree to make any amendments to the protected information as directed or agreed to by the giving party, pursuant to 45 C.F.R. §164.526;
 - h. Agree to make available its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of protected information received from the giving party or created or received by the contractor on behalf of the giving party, to the giving party and to the Secretary of the Department of Health and Human Services for purpose of the Secretary determining the giving party's compliance with HIPAA;
 - i. Agree to provide the giving party, or an authorized individual, information to permit the giving party to respond to a request by an individual for an accounting of disclosures in accordance with 45 C.F.R. §164.528.
2. **Data Security.** The Contractor agrees to maintain the data in a secure manner compatible with the content and use. The Contractor will control access to the data in compliance with the terms of this Agreement. Only the Contractor's personnel and those of the giving party, whose duties require the use of such information, will have regular access to the data. The Contractor's employees will be allowed access to the data only for the purpose set forth under the "Purpose of the Agreement" above. Each person with access to the data will submit a signed Acknowledgment of Requirements of this Agreement (see Attachment B) to the other party. Access to the shared data shall be limited to the authorized staff. All information pursuant to this Agreement shall be maintained in a location secure from access by unauthorized disclosure and access. Under

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no circumstances will protected health information be provided for any purpose not specified in this Agreement,

Each of the parties shall appoint individuals to act as the Agreement Administrators. Their responsibilities are to maintain an up-to-date project list (Attachment A), compile and maintain copies of all signed "Acknowledgment of Agreement" forms (Attachment B) and notify the other of any suspected or confirmed breach of data security.

3. **Data Destruction.** The Contractor agrees that when the intended use of the data has been completed, the Contractor shall return any mobile electronic media (e.g., compact disks or flash drives) containing the giving party's data set and dispose of any information stored electronically through the use of any or a combination of the following destruction methods: (a) remove (e.g., scrub) from the hard drive or any other storage media all electronic files that contain the giving party's information such that the resulting residue prevents any recovery of the data file content.

In the event that the Contractor determines that returning or destroying protected information is infeasible, Contractor shall notify the giving party of the conditions that make return or destruction infeasible. Upon notification that the return or destruction of the protected information is infeasible, Contractor shall extend the protections of this Agreement to such protected information and limit further disclosures of the information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains the information.

4. **Use of Information.** The parties agree that the information received through this Agreement shall not be used to the detriment of the individual not for any purpose other than those stated in this Agreement.
5. **Redisclosure of Data.** The Contractor agrees not to redisclose the information received by the giving party to a third party not covered by the Agreement unless written permission by giving party is received and redisclosure is permitted under applicable law.

The data recipient will not release or disclose information where the number of observations in any given cell of tabulated data is less than or equal to 5.

The data recipient will not release or disclose information where the total population in any given subgroup of tabulated data is less than 50.

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SCHEDULE A

Multi-Agency Data Sharing Agreement Form

**INCORPORATED INTO AND MADE A PART OF THE
MULTI-AGENCY DATA SHARING AGREEMENT**

**Please provide an electronic copy of any completed Schedule A Form to:
DISCUSS@Health.ok.gov**

Provide the following information pertinent to the intended data exchange. Pursuant to the terms of the Multi-agency Data Sharing Agreement entered into on _____, 20__, the following guidelines are established:

1. Purpose of data exchange (include federal and/or state law as applicable and program areas involved in data exchange):

2. Point of contact for each agency participating in this (please print):

Agency: _____
Name: _____
Title: _____
Email: _____

Agency: _____
Name: _____
Title: _____
Email: _____

Agency: _____
Name: _____
Title: _____
Email: _____

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Agency: _____

Name: _____

Title: _____

Email: _____

(Provide information for additional participating agencies or agency contacts as needed)

3. Information being requested:

4. Data variables:

5. Confidential/secured manner to transport data:

6. Manner of storing data:

7. Tracking of released data:

8. Termination of schedule and return of data if applicable:

9. Miscellaneous:

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This Schedule A agreement Form has been reviewed and approved by the following agency data service/program area, authorized representatives:

Agency: _____

Authorized Signature, Title Date

Agency: _____

Authorized Signature, Title Date

Agency: _____

Authorized Signature, Title Date

Agency: _____

Authorized Signature, Title Date

Agency: _____

Authorized Signature, Title Date

(Provide additional signatures as needed)

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Reviewed and approved by Privacy Officer and/or Office of General Counsel (optional per agency requirements):

Agency: _____

Signature, Title

Date

Agency: _____

Signature, Title

Date

Agency: _____

Signature, Title

Date

Agency: _____

Signature, Title

Date

Agency: _____

Signature, Title

Date

Agency: _____

Signature, Title

Date

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(Provide for additional signatures as needed)