



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION FOR BEHAVIORAL HEALTH

Lori A. Weaver
Commissioner

Katja S. Fox
Director

129 PLEASANT STREET, CONCORD, NH 03301
603-271-9544 1-800-852-3345 Ext. 9544
Fax: 603-271-4332 TDD Access: 1-800-735-2964 www.dhhs.nh.gov

September 6, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division for Behavioral Health, to enter into a **Sole Source** cooperative project agreement with University of New Hampshire (VC#177867-B046), Durham, NH, in the amount of \$400,000 to provide Alternative Peer Groups services to enrolled college students who are in recovery, or are concerned about their substance use, with the option to renew for up to five (5) additional years, effective upon Governor and Council approval through June 30, 2024. 100% Other Funds (Governor Commission Funds).

Funds are available in the following account for State Fiscal Year 2024, with the authority to adjust budget line items within the price limitation through the Budget Office, if needed and justified.

05-95-92-920510-33820000 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION FOR BEHAVIORAL HEALTH, BUREAU OF DRUG AND ALCOHOL, GOVERNOR COMMISSION

| State Fiscal Year | Class / Account | Class Title | Job Number | Total Amount |
|-------------------|-----------------|------------------------|--------------|------------------|
| 2024 | 102-500731 | Contracts for Prog Svc | 92058501 | \$400,000 |
| | | | Total | \$400,000 |

EXPLANATION

This request is **Sole Source**, at the discretion of the Governor's Commission on Alcohol and other Drugs (Commission). On April 21, 2023, the Commission approved the Department's allocation of funding to the Contractor to provide Alternative Peer Groups to enrolled college students who are in recovery, or are concerned with their substance use. The Contractor is uniquely qualified to provide Alternative Peer Groups to college students who are in recovery, or are concerned with their substance use because they have a strong track record of providing successful programming as identified by the Department. In accordance with RSA 12-J, the Department carries out the administrative functions of the Commission.

The purpose of this request is for the Contractor to provide Alternative Peer Groups that address the emotional, psychological, spiritual, and social needs of college students, with the goal of supporting their recovery. Alternative Peer Groups are a family-centered recovery support

model that integrate a positive social environment and a pro-recovery peer group with professional counseling to support long-term recovery among adolescents. Research shows that high school students enrolled in Alternative Peer Groups experienced an 87% rate of staying sober as well as high rates of retention and graduation. It is anticipated that similar success will be realized for college students participating in Alternative Peer Groups.

Approximately 100 individuals will be served during State Fiscal Year 2024.

College students, who are in recovery or are concerned with their substance use, and their families will be served. The Contractor will develop and implement Alternative Peer Groups that encompass psychosocial education, sober social functions, community recovery support, counseling services and family support. The Contractor will also raise awareness about behavioral health resources such as 988, Doorways, and Rapid Response among others.

The Department will monitor services by reviewing quarterly reports submitted by the Contractor to ensure progress towards metrics including, but not limited to:

- Number, type and frequency of Alternative Peer Groups offered.
- Percentage of participating students reporting positive experience from attending an Alternative Peer Group.
- Aggregate number of participants.

As referenced in Exhibit A of the attached agreement, the parties have the option to extend the agreement for up five (5) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and Governor and Council approval.

Should the Governor and Council not authorize this request, college students, who are in recovery or are concerned about their substance use, will have limited to no access to peer led pro-recovery groups and supports; leaving them vulnerable to continued and/or increased substance use and the spiral of negative impacts that may result.

Area served: Statewide.

In the event that the Other Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,



Lori A. Weaver
Commissioner

COOPERATIVE PROJECT AGREEMENT

between the

STATE OF NEW HAMPSHIRE, Department of Health and Human Services

and the

University of New Hampshire of the UNIVERSITY SYSTEM OF NEW HAMPSHIRE

- A. This Cooperative Project Agreement (hereinafter "Project Agreement") is entered into by the State of New Hampshire, **Department of Health and Human Services**, (hereinafter "State"), and the University System of New Hampshire, acting through **University of New Hampshire**, (hereinafter "Campus"), for the purpose of undertaking a project of mutual interest. This Cooperative Project shall be carried out under the terms and conditions of the Master Agreement for Cooperative Projects between the State of New Hampshire and the University System of New Hampshire dated November 13, 2002, except as may be modified herein.
- B. This Project Agreement and all obligations of the parties hereunder shall become effective on the date the Governor and Executive Council of the State of New Hampshire approve this Project Agreement ("Effective date") and shall end on **6/30/24**. If the provision of services by Campus precedes the Effective date, all services performed by Campus shall be performed at the sole risk of Campus and in the event that this Project Agreement does not become effective, State shall be under no obligation to pay Campus for costs incurred or services performed; however, if this Project Agreement becomes effective, all costs incurred prior to the Effective date that would otherwise be allowable shall be paid under the terms of this Project Agreement.
- C. The work to be performed under the terms of this Project Agreement is described in the proposal identified below and attached to this document as Exhibit A, the content of which is incorporated herein as a part of this Project Agreement.

Project Title: Tertiary Prevention on College Campuses

- D. The Following Individuals are designated as Project Administrators. These Project Administrators shall be responsible for the business aspects of this Project Agreement and all invoices, payments, project amendments and related correspondence shall be directed to the individuals so designated.

State Project Administrator

Name: Jill Burke
 Address: DHHS/DBH
129 Pleasant Street
Concord, NH 03301

Phone: 603-271-6112

Campus Project Administrator

Name: Susan G. Sosa
 Address: University of New Hampshire
Sponsored Programs Administration
51 College Road, Rm 116
Durham, NH 03824

Phone: 603-397-9094

- E. The Following Individuals are designated as Project Directors. These Project Directors shall be responsible for the technical leadership and conduct of the project. All progress reports, completion reports and related correspondence shall be directed to the individuals so designated.

State Project Director

Name: Katja Fox
 Address: DHHS/DBH
129 Pleasant Street
Concord, NH 03301

Phone: 603-271-9406

Campus Project Director

Name: Heidi Cloutier
 Address: Institute on Disability
10 West Edge Drive
Durham, NH 03824

Phone: 603-228-2084

Campus Authorized Official

Date 9/6/2023

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F. Total State funds in the amount of \$400,000 have been allotted and are available for payment of allowable costs incurred under this Project Agreement. State will not reimburse Campus for costs exceeding the amount specified in this paragraph.

Check if applicable

Campus will cost-share _____ % of total costs during the term of this Project Agreement.

Federal funds paid to Campus under this Project Agreement are from Grant/Contract/Cooperative Agreement No. _____ from _____ under CFDA# _____. Federal regulations required to be passed through to Campus as part of this Project Agreement, and in accordance with the Master Agreement for Cooperative Projects between the State of New Hampshire and the University System of New Hampshire dated November 13, 2002, are attached to this document as Exhibit B, the content of which is incorporated herein as a part of this Project Agreement.

G. Check if applicable

Article(s) _____ of the Master Agreement for Cooperative Projects between the State of New Hampshire and the University System of New Hampshire dated November 13, 2002 is/are hereby amended to read:

H. State has chosen not to take possession of equipment purchased under this Project Agreement.
 State has chosen to take possession of equipment purchased under this Project Agreement and will issue instructions for the disposition of such equipment within 90 days of the Project Agreement's end-date. Any expenses incurred by Campus in carrying out State's requested disposition will be fully reimbursed by State.

This Project Agreement and the Master Agreement constitute the entire agreement between State and Campus regarding this Cooperative Project, and supersede and replace any previously existing arrangements, oral or written; all changes herein must be made by written amendment and executed for the parties by their authorized officials.

IN WITNESS WHEREOF, the University System of New Hampshire, acting through the University of New Hampshire and the State of New Hampshire, Department of Health and Human Services have executed this Project Agreement.

**By An Authorized Official of:
University of New Hampshire**

Name: Karen M. Jensen
Title: Manager, Sponsored Programs Administration
Signature and Date: Karen Jensen 9/6/2023
DocuSigned by: 000028EAF07D404...

**By An Authorized Official of:
Department of Health and Human
Services**

Name: Katja S. Fox
Title: Director
Signature and Date: Katja S. Fox 9/6/2023
DocuSigned by: ED9005504002442...

**By An Authorized Official of: the New
Hampshire Office of the Attorney General**

Name: Robyn Guarino
Title: Attorney
Signature and Date: Robyn Guarino 9/7/2023
DocuSigned by: 748724844941480

**By An Authorized Official of: the New
Hampshire Governor & Executive Council**

Name: _____
Title: _____
Signature and Date: _____

EXHIBIT A

- A. **Project Title:** Tertiary Prevention on College Campuses (SS-2024-DBH-20-TERTI-01)
- B. **Project Period:** Effective upon Governor and Executive Council approval through June, 30, 2024. The parties may extend the Agreement for up to five (5) additional years from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.
- C. **Objectives:** See Exhibit A-1, Scope of Services
- D. **Scope of Work:** See Exhibit A-1, Scope of Services and Exhibit A-2 Business Associate Agreement
- E. **Deliverables Schedule:** See Exhibit A-1 Scope of Services
- F. **Budget and Invoicing Instructions:** See Exhibit A, Item F-1 and Exhibit A, Item F-2.

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EXHIBIT B

This Project Agreement is funded under a Grant/Contract/Cooperative Agreement to State from the Federal sponsor specified in Project Agreement article F. All applicable requirements, regulations, provisions, terms and conditions of this Federal Grant/Contract/Cooperative Agreement are hereby adopted in full force and effect to the relationship between State and Campus, except that wherever such requirements, regulations, provisions and terms and conditions differ for INSTITUTIONS OF HIGHER EDUCATION, the appropriate requirements should be substituted (e.g., OMB Circulars A-21 and A-110, rather than OMB Circulars A-87 and A-102). References to Contractor or Recipient in the Federal language will be taken to mean Campus; references to the Government or Federal Awarding Agency will be taken to mean Government/Federal Awarding Agency or State or both, as appropriate.

Special Federal provisions are listed here: None or

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New Hampshire Department of Health and Human Services
Tertiary Prevention on College Campuses
EXHIBIT A-1



Scope of Services

1. Statement of Work

- 1.1. The Contractor must provide weekly Alternative Peer Group (APG) services, which are community-based, family-centered, positive peer support programs that offer prosocial substance-free activities, to enrolled students who are in recovery, or are concerned about their substance use.
- 1.2. The Contractor must develop and implement AGPs that integrate recovery support and pro-social activities into the following evidence-based practices, which include, but are not limited to:
 - 1.2.1. Psychosocial education.
 - 1.2.2. Sober social functions.
 - 1.2.3. Community recovery support.
 - 1.2.4. Counseling services.
 - 1.2.5. Family support.
- 1.3. The Contractor must ensure a minimum of two (2) types of APGs listed in Section 1.2 are offered on the college campus in the first six (6) months of the contract and one (1) additional type of APG must be implemented in the ninth (9th) month of the contract.
- 1.4. The Contractor must ensure psychosocial education covers, at a minimum, the Substance Abuse and Mental Health Services Administration Eight Dimensions of Wellness: social, environmental, physical, emotional, spiritual, occupational, intellectual, and financial.
- 1.5. The Contractor must develop a framework for substance-free social events that provide enrolled students with experiences including, but not limited to:
 - 1.5.1. Building new social networks.
 - 1.5.2. Practicing new social skills.
 - 1.5.3. Participating in substance-free activities that provide a sense of acceptance and belonging.
- 1.6. The Contractor must promote community recovery support by:
 - 1.6.1. Raising awareness of community recovery resources; and
 - 1.6.2. Promoting and increasing recruitment to APGs and other recovery supports on campus.
- 1.7. The Contractor must work with college campuses statewide to ensure no-cost counseling, provided by a Licensed Professional Counselor with experience in helping teens and young adults with substance use disorder issues, is available.

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**New Hampshire Department of Health and Human Services
Tertiary Prevention on College Campuses
EXHIBIT A-1**



- 1.8. The Contractor must facilitate family supports by raising awareness of behavioral health resources, including, but not limited to:
 - 1.8.1. 211.
 - 1.8.2. 988.
 - 1.8.3. Community Mental Health Centers.
 - 1.8.4. Doorways.
 - 1.8.5. Rapid Response.
- 1.9. The Contractor must administer questionnaires post APG to solicit student feedback.
- 1.10. Reporting
 - 1.10.1. The Contractor must submit quarterly reports to ensure progress towards metrics, and to describe any challenges in meeting benchmarks, including, but not limited to:
 - 1.10.1.1. Types and frequency of recruitment and promotion of APGs.
 - 1.10.1.2. Number and frequency of APGs offered
 - 1.10.1.3. Aggregate number of participants attending APGs.
 - 1.10.1.4. Demographic information, including, but not limited to:
 - 1.10.1.4.1.1. Average age.
 - 1.10.1.4.1.2. Gender.
 - 1.10.1.4.1.3. Race.
 - 1.10.1.4.1.4. Ethnicity.
 - 1.10.1.5. Challenges to meeting the scope of services.
 - 1.10.2. The Contractor must provide key data in a format and at a frequency specified by the Department for the following performance measures:
 - 1.10.2.1. A 10% increase in the number of participants attending APGs.
 - 1.10.2.2. Percentage of participating students reporting positive experience from attending APGs.
 - 1.10.3. The Contractor may be required to provide other key data and metrics to the Department in a format specified by the Department.

**University of New Hampshire
Tertiary Prevention on College Campuses
Exhibit A, Item F-1**

| Budget Items | SFY 2024 Budget | Total |
|-----------------------------|-------------------|----------------|
| 1. Salaries & Wages | \$ 144,564 | 144,564 |
| 2. Employee Fringe Benefits | \$ 40,631 | 40,631 |
| 3. Travel | \$ 5,000 | 5,000 |
| 4. Supplies and Services | \$ 101,776 | 101,776 |
| 5. Equipment | \$ - | - |
| 6. Facilities & Admin Costs | \$ 108,029 | 108,029 |
| Totals | \$ 400,000 | 400,000 |

SS-2024-DBH-20-TERTI-01
University of New Hampshire

Exhibit A, Item F-1
Page 1 of 1

Campus Authorized Official 
Date 9/6/2023

**New Hampshire Department of Health and Human Services
Tertiary Prevention on College Campuses
Exhibit A Item F-2**

Payment Terms

1. This Agreement is funded by:
 - 1.1. 100% Other funds (Governor's Commission on Alcohol and Other Drugs).
2. For the purposes of this Agreement the Department has identified:
 - 2.1. The Contractor as a Subrecipient, in accordance with 2 CFR 200.331.
3. Payment shall be on a cost reimbursement basis for actual expenditures incurred in the fulfillment of this Agreement, and shall be in accordance with the approved line item, as specified in Exhibit A, Item F-1.
4. The Contractor shall submit an invoice in a form satisfactory to the Department by the fifteenth (15th) working day of the following month, which identifies and requests reimbursement for authorized expenses incurred in the prior month. The Contractor shall ensure the invoice is completed, dated and returned to the Department in order to initiate payment.
 - 4.1. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to dhhs.bdsinvoices@dhhs.nh.gov or mailed to:

Financial Manager
Department of Health and Human Services
129 Pleasant Street
Concord, NH 03301
5. The Department shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available.
6. The final invoice shall be due to the Department no later than forty (40) days after the contract completion date.
7. The Contractor must provide the services in Exhibit A-1, Scope of Services, in compliance with funding requirements.
8. The Contractor agrees that funding under this Agreement may be withheld, in whole or in part in the event of non-compliance with the terms and conditions of Exhibit A-1, Scope of Services.
9. Notwithstanding anything to the contrary herein, the Contractor agrees that funding under this agreement may be withheld, in whole or in part, in the event of non-compliance with any Federal or State law, rule or regulation applicable to the services provided, or if the said services or products have not been satisfactorily completed in accordance with the terms and conditions of this agreement.
10. Changes limited to adjusting amounts within the price limitation and adjusting encumbrances between State Fiscal Years and budget class lines through the Budget Office may be made by written agreement of both parties, without

**New Hampshire Department of Health and Human Services
Tertiary Prevention on College Campuses
Exhibit A Item F-2**

obtaining approval of the Governor and Executive Council, if needed and justified.

11. Audits

11.1. The Contractor must email an annual audit to dhhs.act@dhhs.nh.gov if any of the following conditions exist:

11.1.1. Condition A - The Contractor expended \$750,000 or more in federal funds received as a subrecipient pursuant to 2 CFR Part 200, during the most recently completed fiscal year.

11.1.2. Condition B - The Contractor is subject to audit pursuant to the requirements of NH RSA 7:28, III-b, pertaining to charitable organizations receiving support of \$1,000,000 or more.

11.1.3. Condition C - The Contractor is a public company and required by Security and Exchange Commission (SEC) regulations to submit an annual financial audit.

11.2. If Condition A exists, the Contractor shall submit an annual single audit performed by an independent Certified Public Accountant (CPA) to the Department within 120 days after the close of the Contractor's fiscal year, conducted in accordance with the requirements of 2 CFR Part 200, Subpart F of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards.

11.3. If Condition B or Condition C exists, the Contractor shall submit an annual financial audit performed by an independent CPA within 120 days after the close of the Contractor's fiscal year.

11.4. Any Contractor that receives an amount equal to or greater than \$250,000 from the Department during a single fiscal year, regardless of the funding source, may be required, at a minimum, to submit annual financial audits performed by an independent CPA if the Department's risk assessment determination indicates the Contractor is high-risk.

11.5. In addition to, and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department all payments made under the Contract to which exception has been taken, or which have been disallowed because of such an exception.

12. Funding: Funding for this Agreement is based upon and subject to availability of the Grant Award to support this project. If the funding for this Agreement is not available at the proposed levels, the Agreement will be amended accordingly.

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New Hampshire Department of Health and Human Services
Exhibit A-2, Amendment #1



The Contractor identified as "University of New Hampshire" in Section A of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 and those parts of the HITECH Act applicable to business associates. As defined herein, "Business Associate" shall mean the Contractor and subcontractors and agents of the Contractor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the Department of Health and Human Services.

Project Title: Tertiary Prevention on College Campuses
Project Period: Governor and Executive Council approval -6/30/24

BUSINESS ASSOCIATE AGREEMENT

(1) Definitions.

- a. "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
- b. "Breach Notification Rule" shall mean the provisions of the Notification in the Case of Breach of Unsecured Protected Health Information at 45 CFR Part 164, Subpart D, and amendments thereto.
- c. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- d. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- e. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.
- f. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.
- g. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.
- h. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, Title XIII, Subtitle D, Part 1 & 2 of the American Recovery and Reinvestment Act of 2009.
- i. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162 and 164.
- j. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).

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New Hampshire Department of Health and Human Services
Exhibit A-2, Amendment #1



- k. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
- l. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- m. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.
- n. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- o. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.
- p. "Unsecured Protected Health Information" shall have the same meaning given such term in section 164.402 of Title 45, Code of Federal Regulations.
- q. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH Act.

(2) **Use and Disclosure of Protected Health Information.**

- a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, the Business Associate, and its directors, officers, employees and agents, shall not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
 - I. For the proper management and administration of the Business Associate;
 - II. As required by law, pursuant to the terms set forth in paragraph d. below; or
 - III. For data aggregation purposes for the health care operations of Covered Entity.
- c. To the extent Business Associate is permitted under the Agreement (including this Exhibit) to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with 45 CFR 164.410, of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies. If Covered Entity does not object to

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New Hampshire Department of Health and Human Services
Exhibit A-2, Amendment #1



such disclosure within five (5) business days of Business Associate's notification, then Business Associate may choose to disclose this information or object as Business Associate deems appropriate.

- e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional reasonable security safeguards.

(3) Obligations and Activities of Business Associate.

- a. The Business Associate shall notify the NH DHHS Information Security via the email address provided in Exhibit K- Information Security Requirements of this Contract, of any Incidents or Breaches immediately after the Business Associate has determined that the aforementioned has occurred and that Confidential Data may have been exposed or compromised.
- b. The Business Associate shall promptly perform a risk assessment when it becomes aware of any of the above situations. The risk assessment shall include, but not be limited to, the following information, to the extent it is known by the Business Associate:
 - The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
 - The unauthorized person who used the protected health information or to whom the disclosure was made;
 - Whether the protected health information was actually acquired or viewed
 - The extent to which the risk to the protected health information has been mitigated.

The Business Associate shall complete the risk assessment without unreasonable delay and in no case later than two (2) business days of discovery of the breach and after completion, immediately report the findings of the risk assessment in writing to the Covered Entity.

- c. The Business Associate shall comply with all applicable sections of the Privacy, Security, and Breach Notification Rule.
- d. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- e. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section 3(l) herein. The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by the Agreement for the purpose of use and disclosure of protected health information.

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New Hampshire Department of Health and Human Services
Exhibit A-2, Amendment #1



- f. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of this Exhibit.
- g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.
- h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.
- i. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
- j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.
- k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.
- l. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of this Exhibit, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) Obligations of Covered Entity

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New Hampshire Department of Health and Human Services
Exhibit A-2, Amendment #1



- a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.
- c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(5) **Termination for Cause**

In addition to Paragraph #14 of the Agreement, the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) **Miscellaneous**

- a. **Definitions and Regulatory References.** All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, and the HITECH Act, as codified at 45 CFR Parts 160 and 164 and as amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.
- b. **Amendment.** Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, including this Exhibit, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.
- c. **Data Ownership.** The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity under the Agreement.
- d. **Interpretation.** The parties agree that any ambiguity in the Agreement or this Exhibit shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule and the HITECH Act.
- e. **Segregation.** If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.
- f. **Survival.** Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of this Exhibit in section (3)(l), and the defense

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New Hampshire Department of Health and Human Services
Exhibit A-2, Amendment #1



and indemnification provisions of section (3) and Paragraph #14 of the Agreement shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

Department of Health and Human Services

The State
Authorized by:

Katja S. Fox

Signature of Authorized Representative

Katja S. Fox

Authorized Representative

Director

Title of Authorized Representative

9/6/2023

Date

University of New Hampshire

Karen Jensen

Signature of Authorized Representative

Karen Jensen

Authorized Representative

Director, Pre-Award

Title of Authorized Representative

9/6/2023

Date

DS
KJ