



ST. JOSEPH HEALTH SYSTEM

DIVISION:
LAST DATE REVISED:
LAST DATE REVIEWED:
ORIGINAL DATE ADOPTED:
PAGE NUMBER:
POLICY / PROCEDURE #:
APPROVED BY:

Compliance
02/09/2012
02/09/2012
09/04//2002
1 of 15
HI 050
SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

1.0 DEFINITIONS

Term	Definition
Business Associate	<p>A person or entity that is not a member of the SJHS workforce and either (1) performs on behalf of SJHS, or assists SJHS with, a function or activity involving the use or disclosure of individually-identifiable health information, or (2) receives protected health information from SJHS in the course of providing legal, actuarial, accounting, consulting, data aggregation management, administrative, accreditation or financial services to SJHS.</p> <p>Any entity that provides data transmission of protected health information to SJHS, and requires access on a regular basis to such Protected Health Information to include health information exchange organizations, regional health information organizations, e-prescribing gateways, and personal health record vendors that provide a personal health record (PHR) to patients as part of SJHS's electronic health record, shall be treated as a business associate as set forth in the HITECH Act.</p> <p>Business associate relationships do not apply to disclosures by SJHS to a health care provider for the purpose of treatment of a patient or disclosures allowed under HIPAA as part of an organized health care arrangement.</p>
Workforce	Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for SJHS, is under the direct control of such entity, whether or not they are paid by the covered entity.
Protected Health Information	Individually identifiable information related to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provisions of health care to an individual.
HITECH Compliance Date	February 17, 2010, unless a separate effective date is specified by law for a particular requirement, in which case such effective date shall apply for that requirement.
Additional Definitions	Refer to the HIPAA Privacy Rule, 45 CFR Parts 160.101 and 164.501

2.0 PURPOSE

To describe the process to be undertaken by SJHS prior to disclosing any Protected Health Information to a Business Associate. The Privacy Rule, the Security Rule, and the Health Information Technology for Economic and Clinical Health (HITECH) Act require SJHS to execute agreements with vendors identified as business associates that



ST. JOSEPH HEALTH SYSTEM

DIVISION:
LAST DATE REVISED:
LAST DATE REVIEWED:
ORIGINAL DATE ADOPTED:
PAGE NUMBER:
POLICY / PROCEDURE #:
APPROVED BY:

Compliance
02/09/2012
02/09/2012
09/04//2002
2 of 15
HI 050
SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

include specific provisions, and require SJHS to take action when it becomes aware of a business associate's material breach of the business associate provisions.

3.0 SCOPE

All SJHS ministries including, but not limited to, hospitals, ambulatory surgery centers, home health agencies, physician practices, service centers, all Corporate Departments.

4.0 POLICY

4.1 Business Associate Provisions. Prior to disclosing any Protected Health Information to a Business Associate, SJHS will obtain satisfactory assurances from a Business Associate that it will appropriately safeguard the Protected Health Information it receives or creates on behalf of SJHS, in the form of a written agreement that includes the following provisions that provide that the Business Associate will:

1. Not use or disclose PHI other than as permitted or required by the agreement with SJHS or as required by law;
2. Use appropriate safeguards to prevent use or disclosure of the PHI other than as provided by the agreement with SJHS and use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI; and no later than the HITECH Compliance Date, comply with each of the requirements of 45 C.F.R. Sections 164.308, 164.310, and 164.312 and the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316.
3. Report to SJHS any access, use or disclosure of the information not provided for by its contract and any security incident of which it becomes aware; and no later than the HITECH Compliance Date, following the discovery of any Breach of Unsecured PHI, notify SJHS in writing of such breach without unreasonable delay and in no case later than 60 calendar days after discovery (the SJHS form of business associate addendum provides for three business days).
4. Ensure that any agents and subcontractors to whom the business associate provides PHI agrees to the same restrictions and conditions that apply to the business associate with respect to such information and implement reasonable and appropriate safeguards to protect the PHI;



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	3 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

5. Make available to SJHS the information necessary for SJHS to comply with an individual's right to access to PHI in accordance with 45 CFR Section 164.524; and no later than the HITECH Compliance Date, if BA maintains an electronic health record, provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act;
6. Make available PHI for amendment and amend the business associate's records as necessary in accordance with 45 CFR Section 164.526;
7. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR Section 164.528; and, no later than the HITECH Compliance Date, under the HITECH Act;
8. Make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of HHS for purposes of determining compliance with the Privacy Rule;
9. At termination of the contract, if feasible, return or destroy all PHI that the business associate still maintains in any form and retain no copies of such information, or, if such return or destruction is not feasible, extend the protections of the contract to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

As of the HITECH Compliance Date, the following provisions will also apply:

10. BA shall not use or disclose PHI for fundraising or marketing purposes, except as provided under the Contract and consistent with the requirements of 42 U.S.C. 17936; BA shall not disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates, 42 U.S.C. Section 17935(a); BA shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of SJHS and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by SJHS to BA for services provided pursuant to the Contract.
11. No later than the HITECH Compliance Date, BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	4 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

of PHI necessary to accomplish the purpose of the request, use or disclosure.

The SJHS Business Associate Agreement is attached as Exhibit A to this policy.

- 4.2 Other Uses and Disclosures. The agreement cannot authorize the Business Associate to use or further disclose PHI that is broader than SJHS could make internally, or for purposes for which SJHS could not use or disclose the information itself. If SJHS would need an individual's authorization to use an individual's information for its own purposes (i.e.; marketing products of third parties), then this same authorization would be required in order for SJHS to disclose the information to the business associate for the same purpose. The contract may permit the business associate to use and disclose PHI for the proper management and administration of the business associate and to provide data aggregation services relating to the health care operations of SJHS.
- 4.3 Minimum Necessary Requirement. The information disclosed to the business associate must be restricted to the minimum amount necessary to enable the business associate to perform the function with which it is assisting SJHS.
- 4.4 Non-Compliance with Business Associate Provisions. In the event that an employee or other person at SJHS becomes aware of a pattern of activity or practice of the business associate that constitutes a material breach or violation of the business associate's obligation under the agreement with SJHS, the person should notify the Privacy Officer. SJHS will take reasonable steps to cure the breach or end the violation, as applicable. If such steps are unsuccessful and the business associate cannot or will not remedy the practice or pattern, SJHS will terminate the contract, if feasible, or if termination is not feasible, contact the Privacy Officer, who will consult with the SJHS Legal Department regarding reporting the problem to the Secretary of HHS.

5.0 PROCEDURE

- A. All proposed arrangements with vendors must be evaluated by designated SJHS ministry staff responsible for procuring the services of vendors in order to determine whether a specific vendor is considered to be a Business Associate prior to disclosing Protected Health Information to the vendor. When questions arise, SJHS ministry staff should refer to the ministry Privacy Officer for guidance in making a determination.
- B. Once identified as a Business Associate, an authorized representative of the Business Associate and an authorized representative of the SJHS ministry will be required to sign a copy of the SJHS *Business Associate*



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	5 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

Agreement, attached as Addendum “A”. A single Business Associate Contract may cover several arrangements with the same Business Associate. The SJHS ministry must maintain a copy of the fully executed Business Associate Contract which should be renewed at the discretion of designated SJHS ministry staff, or as required pursuant to regulatory requirements.

- C. In the event that the Business Associate requests to modify the SJHS Business Associate Agreement or to use a non-SJHS form of agreement including a business associate agreement such as its own, designated SJHS ministry staff will be responsible for complying with the instructions referenced in and completing the *Request for Waiver of SJHS Standard HIPAA Compliance Provision Form*, attached as Addendum “B” prior to procuring the services of a vendor identified as a Business Associate.



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	6 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

ADDENDUM "A"

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Addendum ("Addendum") supplements and is made a part of the service contract(s) ("Contract") by and between _____ ("Covered Entity" or "CE") and _____ ("Business Associate" or "BA"). This Addendum is effective as of _____ (the "Addendum Effective Date").

- A. CE wishes to disclose certain information to BA pursuant to the terms of the Contract, some of which may constitute Protected Health Information ("PHI") (defined below).
- B. CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable state and federal laws and regulations.
- C. As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Addendum.

In consideration of the mutual promises below and the exchange of information pursuant to this Addendum, the parties agree as follows:

1. Definitions

- a. Breach shall have the meaning given to such term under HIPAA, the HIPAA Regulations and the HITECH Act, and as described in Cal. Civil Code Section 1798.82.



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	7 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

- b. Business Associate shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including 45 C.F.R. Section 160.103.
- c. Covered Entity shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- d. Data Aggregation shall have the meaning given to such term under the Privacy Rule, including but not limited to, 45 C.F.R. Section 164.501.
- e. Designated Record Set shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. Electronic Protected Health Information means Protected Health Information that is maintained in or transmitted by electronic media.
- g. Electronic Health Record shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. Health Care Operations shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- i. HITECH Compliance Date shall mean February 17, 2010, unless a separate effective date is specified by law for a particular requirement, in which case such effective date shall apply for that particular requirement.
- j. Privacy Rule shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- k. Protected Health Information or PHI means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information.



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	8 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

- l. Protected Information shall mean PHI provided by CE to BA or created or received by BA on CE's behalf.
 - m. Security Rule shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
 - n. Unsecured PHI shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).
2. Obligations of Business Associate
- a. **Permitted Uses.** BA shall not use Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Addendum. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information (i) for the proper management and administration of BA, (ii) to carry out the legal responsibilities of BA, or (iii) for Data Aggregation purposes for the Health Care Operations of CE.
 - b. **Permitted Disclosures.** BA shall not disclose Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Addendum. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Addendum and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify BA of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach.
 - c. **Prohibited Uses and Disclosures under HITECH.** Notwithstanding any other provision in this Addendum, no later than the HITECH Compliance Date, BA shall comply with the following requirements: (i) BA shall not use or disclose Protected



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	9 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

Information for fundraising or marketing purposes, except as provided under the Contract and consistent with the requirements of 42 U.S.C. 17936; (ii) BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates, 42 U.S.C. Section 17935(a); (iii) BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to the Contract.

- d. **Appropriate Safeguards.** BA shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by the Contract or Addendum. BA further agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic PHI. No later than the HITECH Compliance Date, BA shall comply with each of the requirements of 45 C.F.R. Sections 164.308, 164.310, and 164.312 and the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316. To the extent that BA creates, maintains, receives or transmits Electronic PHI on behalf of the CE, BA shall implement the safeguards required by paragraph 2.c above with respect to Electronic PHI.
- e. **Mitigation.** BA agrees to mitigate, to the extent practicable, any harmful effect that is known to BA of a use or disclosure of PHI in violation of this Addendum.
- f. **Reporting of Improper Access, Use or Disclosure.** BA shall, following the discovery of any Breach of Unsecured PHI, Security Incident, as defined in the Security Rule, and/or any actual or suspected access, use or disclosure of Protected Information not permitted by the Contract and Addendum or applicable law notify CE in writing of such breach or disclosure without unreasonable delay and in no case later than three business days after discovery. BA shall take prompt corrective action and any action required by applicable state or federal laws and regulations relating to such disclosure. BA agrees to pay the actual costs of CE to provide required notifications and any associated costs incurred by CE, such as credit monitoring for affected patients, and including any civil or criminal monetary penalties or fines levied by any federal or state authority having jurisdiction if CE reasonably determines that the nature of the breach warrants such measures.



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	10 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

- g. Business Associate's Subcontractors and Agents. BA shall ensure that any agents or subcontractors to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI.
- h. Access to Protected Information. To the extent BA maintains a Designated Record Set on behalf of the CE, BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within five (5) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524. No later than the Compliance Date, if BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
- i. Amendment of PHI. To the extent BA maintains a Designated Record Set on behalf of CE, within thirty (30) days of receipt of a request from the CE or an individual for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make any amendments that CE directs or agrees to in accordance with the Privacy Rule.
- j. Accounting Rights. Within thirty (30) days of notice by CE of a request for an accounting of disclosures of Protected Information, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and, no later than the HITECH Compliance Date, its obligations under the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by CE. The provisions of this subparagraph 2.j shall survive the termination of this Addendum.
- k. Governmental Access to Records. BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary"), or Secretary's designated representative, for purposes of determining BA's compliance with the Privacy Rule.
- l. Minimum Necessary. No later than the HITECH Compliance Date, BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request,



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	11 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

use or disclosure. BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."

- m. Compliance with Laws. BA shall comply with all applicable state and federal privacy and security laws, including but not limited to HIPAA, the HIPAA Regulations, HITECH, and Cal. Civil Code 1798.82, as they may be amended from time to time.

3. Termination

- a. Material Breach by BA. A breach by BA of any provision of this Addendum, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for termination of the Contract, any provision in the Contract to the contrary notwithstanding, with or without an opportunity to cure the breach. If termination of the Contract is not feasible, CE will report the problem to the Secretary of DHHS.
 - b. Material Breach by CE. As of the HITECH Compliance Date, pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under the Contract or Addendum or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS.
 - c. Effect of Termination. Upon termination of the Contract for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections of Section 2 of this Addendum to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed.
4. Indemnification; Limitation of Liability. To the extent permitted by law, BA shall indemnify, defend and hold harmless CE from any and all liability, claim, lawsuit, injury, loss, expense or damage resulting from or relating to the acts or omissions of BA in connection with the



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	12 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

representations, duties and obligations of BA under this Addendum. Any limitation of liability contained in the Contract shall not apply to the indemnification requirement of this provision. This provision shall survive the termination of the Addendum.

5. Assistance in Litigation. BA shall make itself and any subcontractors, employees or agents assisting BA in the performance of its obligations under the Contract or Addendum available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claim of violation of HIPAA, the HITECH Act, or other laws related to security and privacy.
6. Amendment to Comply with Law. The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract or Addendum may be required to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA Regulations, the HITECH Act, and other applicable state and federal laws and regulations relating to the security or confidentiality of PHI. Upon the compliance date of any such applicable laws and regulations, this Addendum shall automatically be amended such that this Addendum remains in compliance with such laws and regulations.
7. No Third-Party Beneficiaries. Nothing express or implied in the Contract or Addendum is intended to confer, nor shall anything herein confer upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever
8. Interpretation. The provisions of this Addendum shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. This Addendum and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the Contract shall remain in force and effect.
9. Regulatory References. A reference in this Addendum to a section of regulations means the section as in effect or as amended, and for which compliance is required.



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	13 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

10. Identity Theft Program Compliance. To the extent that CE is required to comply with the final rule entitled "Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transactions Act of 2003," as promulgated and enforced by the Federal Trade Commission (16 C.F.R. Part 681) (the "Red Flags Rule") and that BA is performing an activity in connection with one or more "covered accounts," as that term is defined in the Red Flags Rule, pursuant to the Contract, BA shall establish and comply with its own reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft, which shall be consistent with and no less stringent than those required under the Red Flags Rule or the policies and procedures of CE's Red Flags Program. BA shall provide its services pursuant to the Contract in accordance with such policies and procedures. BA shall report any detected "red flags," as that term is defined in the Red Flags Rule, to CE and shall, in cooperation with Hospital, take appropriate steps to prevent or mitigate identity theft.

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Addendum Effective Date.

COVERED ENTITY

BUSINESS ASSOCIATE

By: _____

By: _____

Name:

Name:

Title:

Title:

Date:

Date:



ST. JOSEPH HEALTH SYSTEM

DIVISION:	Compliance
LAST DATE REVISED:	02/09/2012
LAST DATE REVIEWED:	02/09/2012
ORIGINAL DATE ADOPTED:	09/04//2002
PAGE NUMBER:	14 of 15
POLICY / PROCEDURE #:	HI 050
APPROVED BY:	SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

**ADDENDUM "B"
REQUEST FOR WAIVER OF SJHS STANDARD HIPAA COMPLIANCE PROVISION
FORM**

PLEASE ENSURE THAT THIS FORM IS COMPLETED IN ITS ENTIRETY PRIOR TO SUBMITTING AND THAT A COPY OF THE PROPOSED CONTRACT IS ATTACHED.

Note: The waiver process/form is strictly for the waiver of the SJHS Standard HIPAA Compliance Provision and in no way should serve as a waiver for the complete elimination of other HIPAA compliance language within a contract. "Other HIPAA compliance language" may consist of, but is not limited to, the Business Associate's HIPAA compliance provision, or the SJHS Standard HIPAA Compliance Provision in a modified format.

REQUEST PROCESS

Date Submitted: _____ Name/Title of Submitter: _____

Phone number of Submitter: _____ Department: _____

Direct Supervisor: _____

Executive Sponsor: _____

Name of Business Associate (vendor): _____

Scope of services/products: _____

Explain how the business associate will have access to, and/or use protected health information in the provision of services/products to SJHS?

Dates/term of contract: _____

Describe other agreements that Submitter's Ministry and SJHS had/has with this Business Associate:

Has the Business Associate refused to sign the SJHS Standard HIPAA Compliance Provision?

Yes _____ (If no, do not turn in this form but rather use the SJHS Standard HIPAA Compliance Provision).

Describe in detail the circumstances for which a Waiver of the SJHS Standard HIPAA Compliance Provision is being requested (i.e. request by Business Associate for modification of the SJHS Standard HIPAA provision, request by Business Associate to use their HIPAA Compliance Provision, or other reason) and rationale for why a waiver should be considered.



ST. JOSEPH HEALTH SYSTEM

DIVISION:
LAST DATE REVISED:
LAST DATE REVIEWED:
ORIGINAL DATE ADOPTED:
PAGE NUMBER:
POLICY / PROCEDURE #:
APPROVED BY:

Compliance
02/09/2012
02/09/2012
09/04//2002
15 of 15
HI 050
SVP Ministry Integrity

BUSINESS ASSOCIATE POLICY

REVIEW PROCESS

By signing below, I represent that I have been informed of the risks associated with accepting a HIPAA compliance provision other than the SJHS Standard provision, including but not limited to the potential costs, fines, penalties and damages SJHS, rather than the vendor, might incur as a result of the diminished protection SJHS will receive in the event of the vendor's disclosure of Protected Health Information.

Executive Sponsor

Date Approved

Ministry Chief Executive Officer

Date Approved

By signing below, I represent that the Executive Sponsor and Ministry Chief Executive Officer has been informed of the risks associated with accepting a HIPAA compliance provision other than the SJHS Standard provision, including but not limited to the potential costs, fines, penalties and damages SJHS, rather than the vendor, might incur as a result of the diminished protection SJHS will receive in the event of the vendor's disclosure of Protected Health Information.

SJHS Chief Compliance Officer

Date

SJHS General Counsel

Date

Keep this signed waiver form on file with all other pertinent documentation related to the contract with Business Associate.