

BUSINESS ASSOCIATE AGREEMENT

The undersigned parties hereby agree, effective as of _____, to comply with all

(month year)

applicable confidentiality and security laws and requirements, including but not limited to the Health Insurance Portability and Accountability Act ("HIPAA") and its regulations, as described below (the "Agreement").

I. Without limiting the foregoing, The McLean Hospital Corporation ("McLean") agrees to do the following with respect to individually identifiable health care information as defined in 45 CFR 160.103 and 45 CFR 164.501 ("Protected Health Information" or "PHI") that it receives from or creates, receives, maintains or transmits on behalf of _____ ("The Health Care Organization"):

- A. Use and disclose PHI that it receives from or creates, receives, maintains or transmits on behalf of The Health Care Organization only as required by law, for the purposes of providing services for The Health Care Organization using the BASIS[®] *plus* Performance Measurement System for quality measurement reporting and/or BASIS-24 WebScore for web-based scoring of individual BASIS-24 behavioral health assessments (the "BASIS Services"), to provide data aggregation services relating to The Health Care Organization's health care operations, and to report violations of law to appropriate federal and state authorities as provided in 45 CFR 164.502(j)(1). McLean may also use PHI for the proper management and administration of McLean and to carry out McLean's legal responsibilities, and may disclose PHI for such purposes if required by law or if McLean obtains reasonable assurances from person to whom PHI is disclosed that the PHI will remain confidential and used or further disclosed only as required by law or for the purpose for which the PHI was disclosed to the person and the person notifies McLean of any instances of which the person is aware in which the confidentiality of the PHI has been breached. Notwithstanding anything to the contrary in this paragraph A., McLean may, in its discretion, de-identify any PHI received from or created or received on behalf of The Health Care Organization in accordance with the de-identification standards set forth in the HIPAA privacy regulations, and any such de-identified data shall not be deemed PHI for the purposes of this Agreement;
- B. Use appropriate safeguards to prevent the unauthorized use or disclosure of PHI;
- C. Report to The Health Care Organization any use or disclosure of PHI that is not provided for herein of which McLean becomes aware;
- D. If authorized to use a subcontractor or agent to provide the BASIS Services, and such subcontractor or agent creates or has access to PHI, ensure that such subcontractor or agent contractually agrees with McLean to the same restrictions and conditions that apply to McLean with respect to such information;
- E. Provide access to and amend PHI in a "designated record set" (as defined in 45 CFR 164.501) to the extent required by the HIPAA privacy regulations, within twenty (20) days of a request by The Health Care Organization;
- F. Make its internal practices, books, and records relating to the use and disclosure of PHI received from or received or created on behalf of The Health Care Organization available to the Secretary of Health and Human Services upon request of The Health Care Organization, for purposes of the Secretary determining The Health Care Organization's compliance with HIPAA privacy regulations;
- G. Document disclosures of PHI and information related to such disclosures as would be required for The Health Care Organization to respond to an individual's request for an accounting of such disclosures in accordance with the privacy regulations, and provide such documentation to The Health Care Organization within thirty (30) days of a request by The Health Care Organization;
- H. Agree that if McLean breaches its privacy obligations, The Health Care Organization may terminate McLean's provision of BASIS Services unless such breach is cured within thirty (30) days of its occurrence or notice from The Health Care Organization, whichever is earlier;

- I. Agree that upon termination of McLean's provision of BASIS Services, McLean will return or destroy all PHI that is received from The Health Care Organization or created or received on behalf of The Health Care Organization and maintained by McLean in any form. McLean shall not retain any copies of such PHI. Notwithstanding the foregoing, to the extent McLean determines it is not feasible for McLean to return or destroy PHI, McLean's privacy obligations shall survive termination and such PHI shall be used or disclosed solely for such purpose(s) that prevented the return or destruction of the PHI.
- J. Agree to amend this Agreement if necessary to comply with privacy, security, or other applicable legal requirements.

II. The Health Care Organization agrees to give reasonable prior notice to McLean of any limitation(s) in The Health Care Organization's notice of privacy practices or other privacy policies to the extent such limitation(s) may affect McLean's use or disclosure of PHI. The Health Care Organization also agrees to notify McLean of any changes in, or revocation of, permission by individuals to use or disclose PHI, and of any restrictions to the use or disclosure of PHI agreed to by The Health Care Organization, to the extent that such changes, revocation, or restriction may affect McLean's use or disclosure of PHI. The Health Care Organization shall be responsible for obtaining any written or oral patient consents or authorizations required under applicable state or federal laws or regulations for the disclosure of PHI to McLean.

III. The parties agree that this Agreement will survive termination of McLean providing the BASIS Services to The Health Care Organization.

AGREED TO BY:

The McLean Hospital Corporation

The Health Care Organization: _____

Signature: _____

Signature: _____

Name (Print): _____

Name (Print): _____

Title: _____

Title: _____

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See website www.ebasis.org for complete application information.

Questions may be sent to basisadmin@mclean.harvard.edu or call 617-855-2424.

Mailing address: McLean Hospital

Attn: BASIS Plus

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