

TACHC



The Heartbeat of Texas Community Health Centers

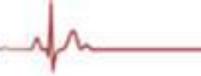
Weekly Wrap-up - March 14, 2013

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Upcoming Events



[TACHC Webcast: Affordable Care Act 101](#)

March 25th from 10:30am-12:00pm (Central Time)

TACHC is hosting a free webcast training on the Affordable Care Act. Cheasty Anderson with the Center for Public Policy Priorities will provide an overview of the healthcare provisions of the new law, and the provisions of the ACA that will impact Texas including information on the state's option to expand Medicaid coverage and the availability of covered preventive care services. Finally, a brief discussion will follow regarding the impact of the ACA to health centers and what these improvements will mean for our patients. Health center staff who work directly with patients as well as any center staff interested in learning more about the new law are encouraged to register by clicking [HERE](#). For more information, please contact RexAnn Shotwell at rshotwell@tachc.org

[TACHC Webcast: Outreach Strategies for Elderly Populations](#)

March 27th from 10:00-11:30 a.m. (Central Time)

The webcast will provide an overview of the chronic disease self-management model and helpful resources, as well as discuss best practices for reaching the elderly in your communities and resources to address common challenges such as transportation, lack of specialty services, home health care and support services. Finally, an update on care coordination under the TACHC ACOs (Accountable Care Organizations) will be provided in addition to information on how interested health centers can join the ACO next year. Contact [Sonia Lara](#) at TACHC for more information. To register for this event, click [HERE](#).

Information regarding all upcoming events hosted by TACHC can be found [HERE](#).



*Patients and Staff at
Community Health Development, Inc.
Uvalde, TX*



TACHC Photography Project: In preparation for the TACHC 30th Anniversary this year, TACHC has hired photographers to travel to all member centers over the next few months to take photos of health center buildings, patients, staff, and clinicians. We want to document the progress that centers in the state have made over the several years and capture the impact health centers have in their communities. As the saying goes, “a picture tells a thousand words.”

TACHC plans to utilize these photos as part of our anniversary celebration at the TACHC 30th Annual Conference this coming October in Austin, as well as in TACHC health center marketing materials, the TACHC website, social media sites, and to support health center advocacy efforts. Each center will receive a disk with their catalogue of photographs for your own center use. The photographers will begin contacting you in the next several weeks to schedule an optimal time to come to your center. Due to limited resources, each center will need to select one of their sites to be photographed. Please email Natalie Jernigan at njernigan@tachc.org to **let us know which one of your sites you would like to have highlighted in the TACHC photography project – we have extended the deadline to Thursday March 28th** though some of you will be contacted before then to get site visits schedule. If you have any questions, please contact Jana Blasi at jblasi@tachc.org.



1. TACHC Patient Satisfaction Survey: TACHC, in partnership with Cultural Strategies, is currently conducting a survey on Patient Satisfaction. The tool being used is the same Consumer Assessment of Healthcare Providers & Systems (CAHPS-5) that helped centers in Colorado receive NCQA PCMH recognition, as it relates to Standard 6, Element B. If executed properly, the use of this tool potentially helps achieve Standard 6, Elements D and E as well **AND** helps to measure the overall functioning of medical home processes at your center. Cultural Strategies will be conducting the surveys by telephone and TACHC will require a business associate agreement (BAA) for the sharing of patient records from participating centers. If you are interested, please review the attached BAA which outlines the specific patient data elements required. **Participation is limited** to the first 60 health centers that return a completed and signed BAA to [Sonia Lara](#). The BAA must be completed by **no later than COB TODAY Friday, March 15th**. Telephone surveys should be completed by the end of March, at which time Cultural Strategies will summarize findings and subsequently provide an analysis via webcast. Please contact [Sonia Lara](#) at TACHC if you have any questions.

2. New TACHC OC3 Learning Year to Begin May 1st: Don't Delay – Space is filling up fast

Do you want your center to transform into a patient-centered medical home? Do you want to improve the health outcomes of your patients? Are you interested in increasing your staff and provider productivity? Do you want to improve patient and staff satisfaction at your center? If you answered “yes” to any of these questions, then TACHC has an exciting learning opportunity for you and your health center. This unique learning opportunity will help you and your staff to transform your center and improve your operational and clinical efficiencies. **The 2013 – 2014 OC³ Medical Home Transformation Learning Year will be starting May 1, 2013 and TACHC is now accepting applications from interested health centers. Please be aware that time and space is limited, so don't delay.** See the attached program synopsis for

further details. **If you are interested**, please send an email to [Verne LaGrega, Clinical Care Coordinator](#) and complete the attached OC3 Application by **April 1, 2013**.

3. HRSA Webcast: Using Clinical Decision Support in Safety Net Provider Settings: On Friday, March 22, 2:00 PM (ET) Health Resources and Services Administration (HRSA) will present this Health Information Technology and Quality Webinar which will explore how safety net providers can implement and use a clinical decision support (CDS) system, a system that helps to ensure that all patients in a practice receive appropriate and timely preventive services and the right test, the right medication, and the right treatment. Meaningful use requires that each clinician implement one CDS rule relevant to his/her specialty or clinical priority along with the capability to track compliance with the rule. Webinar presenters, representing health centers and rural providers, will share their experiences using CDS to enhance their quality of care within a safety net provider setting. Issues to be discussed include: how CDS can be integrated into the existing workflow, how to use CDS to ensure quality care across various health care providers and how to leverage internal or external data to track compliance. Presenters are: Clinical and Quality Leaders from the Community Health Center, Inc. Middletown, Connecticut and Lisa Gall, DNP, RN, CFNP, LHIT-HP, Health IT Consultant Stratis Health/REACH, Bloomington, Minnesota. For more information and to register here: "[CLICK HERE](#)"

Group Purchasing



The Office of Pharmacy Affairs (OPA) Has Revised Policy Release 2012-1 Titled “Clarification of HRSA Audits of 340B Covered Entities”: The release was revised to remove the OMB Circular A-133 (A-133) audit component from OPA’s oversight strategies due to a number of concerns that were raised regarding the ability to produce and resolve meaningful findings and recommendations given that the 340B program funding does not meet the criteria to be Federal expenditures. HRSA has decided to revise its approach to oversight to include not only the risk-based and target audits mentioned in the policy release but also recertification. Please see attached audit clarification document. **The 340B compliance requirements will not appear in the 2013 A-133 Compliance Supplement and grantees will not be penalized for OMB Circular A-133 audits in which the special tests for 340B were not performed for entities otherwise subject to A-133 audits for FY 2012.** For more information, please contact [Lynn Ford](#) at TACHC.

Information Technology



Centers for Medicare & Medicaid Services (CMS) EHR Incentive Program - Stage 2 Webinar: For Eligible Professionals (EPs) and Eligible Hospitals (EHs) who have met meaningful use for a 90 day period plus at least one, one-year period, Stage 2 requirements will be effective in 2014. CMS Regions VI, VII and VIII are pleased to announce a new EHR webinar focused on the EHR Incentive Payment Program – Stage 2. Click [HERE](#) to register for the webinar. You will receive an appointment for the webinar which will include information on how to connect to the webinar on March 20th.

- If possible, prior to March 20th, view the following presentations ([In-depth Overview of Stage 2 Clinical Quality Measures for the Medicare and Medicaid EHR Incentive Programs for Eligible Professionals](#); [Stage 2 Requirements for the Medicare and Medicaid EHR Incentive Programs](#)). The information provided in these previously recorded presentations will not be presented on the live

webinar.

Be sure to make a list of your questions to ask during the Q&A session of the live webinar. If you prefer, you may submit questions in advance to [Adra Mayberry](#). Please use “Mar 20 EHR Webinar” in the subject line of your email. Advance questions should be submitted to Adra no later than **COB Monday, March 18th**. The session will accommodate 300 webinar and teleconference participants on a first come, first served basis. If several people are calling from one location please use one line if possible. When calling in for the teleconference, please provide your name, your organization’s name, the state from which you are calling, and the number of people listening from your location. Presentation materials will be available for viewing upon your entrance into the webinar.

Other News

TACHC Member News: To learn what your fellow health centers are involved in or read news that may affect your health center, click [HERE](#) for news coverage. We also encourage you to post your news, questions and comments to each other on the TACHC members listserv (members@tachc.org), where only TACHC executives or their designees are recipients.



If you would like to be removed from this mailing, please send a message to ccarson@tachc.org, and we will remove your name from our list as soon as possible.

Date: February 8, 2013

340B DRUG PRICING PROGRAM NOTICE

Release No. 2012-1.1

(Replaces No. 2012-1 dated March 5, 2012)

CLARIFICATION OF HRSA AUDITS OF 340B COVERED ENTITIES

This policy release is being issued to restate HRSA's policy with regards to 340B audits of covered entities participating in the 340B Drug Pricing Program (340B Program).

Background

Section 602 of Public Law 102-585, the "Veterans Health Care Act of 1992," enacted section 340B of the Public Health Service Act (PHS Act), "Limitation on Prices of Drugs Purchased by Covered Entities." Per 42 USC 256b(a)(5)(C), the Secretary has the authority to audit covered entities for compliance with 340B Program requirements:

(C) AUDITING.—A covered entity shall permit the Secretary and the manufacturer of a covered outpatient drug that is subject to an agreement under this subsection with the entity (acting in accordance with procedures established by the Secretary relating to the number, duration, and scope of audits) to audit at the Secretary's or the manufacturer's expense the records of the entity that directly pertain to the entity's compliance with the requirements described in subparagraphs (A) or (B) with respect to drugs of the manufacturer.

Subparagraph (A) under 42 USC 256b(a)(5) prohibits requiring manufacturers to pay discounts or rebates under both the 340B Program and the Medicaid Drug Rebate Program (duplicate discounts). Subparagraph (B) of 42 USC 256b(a)(5) prohibits resale of 340B drugs to a person who is not a patient of the entity (diversion). To clarify the definition of patient in the 340B Program, HRSA issued guidelines concerning patient eligibility in the Federal Register at 61 FR 55156, published October 24, 1996.

HRSA and manufacturers have had the authority to audit covered entities regarding their compliance with diversion of drugs and duplicate discounts since the inception of the 340B Program. As stated in the Government Accountability Office (GAO) September 2011 Report (GAO-11-836), the GAO recommended HRSA conduct selective audits of 340B covered entities to provide additional program oversight, monitor for program violations and prevent diversion and duplicate discounts. HRSA has recently begun audits of 340B covered entities as part of its efforts toward strengthening program integrity and oversight. Please see Office of Pharmacy Affairs Policy Release No. 2011-3, [Clarification of Manufacturer Audits of 340B Covered Entities](#) for more detailed information on manufacturer audits.

HRSA Audit Strategy

HRSA plans to conduct risk-based and targeted audits of 340B covered entities.

Using an audit protocol specific to the 340B Program, the HRSA risk-based and targeted audits will involve an in-depth review and focused audit of covered entities' 340B Program operations and compliance. The risk-based audits will first include covered entities randomly chosen from program types determined to be at higher program risk due to volume of purchases, increased complexity of program administration, and use of contract pharmacies. Later risk-based audits will include entities chosen from program types determined to be at lesser risk. Targeted audits may be triggered by allegations of violations of 340B requirements, and are not limited to those made by whistleblowers, manufacturers, or self reporting by covered entities. Targeted audits will include a more thorough investigation of policies and procedures, review of auditable records, and system compliance to prevent diversion and duplicate discounts. The findings from these audits may be used to refer matters to the Office of Inspector General (OIG) or Department of Justice (DOJ).

The audit findings will assist HRSA and all 340B stakeholders to provide additional insights into the status of 340B operations and to assess overall compliance with the 340B Program. These audits will help HRSA and participating covered entities identify and mitigate program risk as well as identify best practices regarding 340B Program compliance.

New OC3 Learning Year to Begin May 1st:

Do you want your center to transform into a patient-centered medical home? Do you want to improve the health outcomes of your patients? Are you interested in increasing your staff and provider productivity? Do you want to improve patient and staff satisfaction at your center? If you answered “yes” to any of these questions, then TACHC has an exciting learning opportunity for you and your health center. This unique learning opportunity will help you and your staff to transform your center and improve your operational and clinical efficiencies. **The 2013 – 2014 OC³ Medical Home Transformation Learning Year will be starting May 1, 2013 and TACHC is now accepting applications from interested health centers. Please be aware that time and space is limited, so don't delay.** See the attached program synopsis for further details. If you are interested, please send an email to [Verne LaGrega, Clinical Care Coordinator](#) and complete the attached OC3 Application **by April 1, 2013.**

What OC³ Can Do For You

The OC³ program teaches health centers how to redesign their clinical office practices to significantly improve performance in order to meet today's urgent need for more accessible, higher-value health care especially for the most vulnerable populations. By increasing capacity to meet the demand for services, health centers will also see improved financial performance and optimal clinical care for patients. Together, the aims of the OC³ program facilitate the changes necessary to true medical home transformation.

Participating teams will work together for the duration of the learning year to design, test, and deploy changes in clinic practice and practice management that are designed to fundamentally improve performance levels including: improved access; improved office flow and efficiency; increased patient, provider, and staff satisfaction; improved patient outcomes; and lower costs. Teams will also receive group and individualized technical assistance and training necessary to achieve PCMH recognition. Partial reimbursement of learning year expenses may be available.

The 2013 – 2014 OC³ Medical Home Transformation Learning Year will be starting May 1, 2013 and TACHC is now accepting applications from interested health centers. Please be aware that time and space is limited, so don't delay.

If you are interested, please send an email to [Verne LaGrega, Clinical Care Coordinator](#) and submit the attached OC³ Application **by April 1, 2013.**

For the first time, TACHC is providing a 3-Tier option for the OC3 Learning Year in order that you can customize your individual centers learning needs.

Tier 1: Full OC3 Learning Year

Required:

1. Complete an application
2. Complete a participation agreement that outlines the OC3 Audit Program
3. Agree to pay a \$1,500 participation fee.
4. Submit a roster of team members for the listserv
5. Attend all pre-work and semi-monthly calls
6. Complete PCMH-Self Assessment Beginning, Middle & End of year
7. Complete PCMH-A at the end of year
8. Access OC3 Listserv to respond to and post questions to the community
9. Submission of monthly reports
10. Attend all learning sessions

Tier 2: Centers that choose to audit,

Required:

1. Complete an application
2. Complete a participation agreement that outlines the OC3 Audit Program
3. Agree to pay a \$750 participation fee
4. Submit a roster of team members for the listserv
5. Attend pre-work and semi-monthly calls pertinent to your ongoing work at your center
6. Complete panel spreadsheet & attend panel calls
7. Quarterly calls with the OC3 Faculty
8. Complete PCMH-A at beginning and end of year
9. Complete PCMH-Self Assessment Beginning, Middle & End of year
10. Access OC3 Listserv to respond to and post questions to the community

Not Required:

1. Monthly reports
2. Attendance at learning sessions

Tier 3: Centers that are not tier 1 or 2

1. May choose to register for all of the semi-monthly webcasts for a total fee of \$500.00. Group purchase must be made before the first webcast or register for individual webcasts for a fee of \$50.00 per webcast.

Texas Association of Community Health Centers
Optimized Comprehensive Clinical Care (OC³)
2013-2014 Learning Year
Application for Participation

Please answer each question as thoroughly as possible. For questions about the application, please contact Verne LaGrega or Davelyn Eaves Hood, MD, MBA at TACHC at 512.329.5959.

1. Health Center Information

Health Center Name:

Name of Contact Person:

Contact Phone Number:

- 2. Interest** - Please explain why your health center is interested in participating in the 2013-2014 OC³ Learning Year: (PCMH technical assistance, desire to begin medical home transformation, want to improve access at our center, need help with improving operational efficiencies, etc.)

- 3. Experience** – Please describe your organization’s experience with past change/transformation efforts?

- 4. Barriers** – Does your center have any concerns or noted barriers to achieving change?

5. Previous Learning Activity (Collaborative) Participation

Has your health center participated in any previous learning activities or Collaboratives (e.g. Health Disparities Collaborative, Access Redesign Mini Collaborative, OC³)? If yes, please list and briefly describe the experience.

6. Time Commitments

Does your health center plan to participate in any other learning activities in the upcoming year or do you have any major system or practice changes planned (e.g. EHR implementation, facility move/remodel)? If yes, please list, describe and outline the time commitments of each.

7. NCQA or TJC Recognition/Certification

Has your center decided to seek NCQA Recognition for being a Patient-Centered Medical Home or the Joint Commission Primary Care Medical Home Certification?

If yes, please describe your timeline and planning process thus far.

Have you received the HRSA Patient Centered Medical Home Supplemental Funding or the CMS Advanced Primary Care Demonstration Project?

If yes, please describe your progress thus far.

8. If we have any questions regarding this application, please identify a preferred time when we can call you to talk to you.

9. Information Systems and Technology Capacity

Does your health center have an Electronic Health Record? Yes No

If yes, please specify: _____

If no, what is your timeline? _____

Can your system produce customized reports? Yes No

If your center has an EHR, are you willing to join TACHC's Health Center Controlled Network (HCCN) in order to participate in the Centralized Data Repository (CDR) and Health Information Exchange (HIE)? Yes No N/A

Does your health center report to a registry? Yes No

What practice management software does your health center use?

Is there a computer available for daily team use in the clinical area? Yes No

Are the computers for daily team use connected to a network? Yes No

Do team members have access to the internet and individual email? Yes No

Is there a computer dedicated to data collection and reporting? Yes No

Is there a person/position dedicated to data collection and reporting? Yes No

- 10. Data Collection** – NCQA and TJC recognition/certification requires monitoring and reporting on a number of different clinical and process indicators. Therefore, data reporting is not an optional part of the OC³ Learning Year. Measures will be negotiated with each center depending on individual circumstances, but there will be a minimum set of requirements.

Please describe the process for data collection and reporting at your center and explain how the required measures will be incorporated into the center's existing Performance Improvement Plan.

11. Commitment and Signatures

This application and our health center's potential participation in the 2013 - 2014 OC³ Learning Year have been discussed, reviewed, and approved by:

Executive Director (Print Name) _____ (Signature) _____

Medical Director (Print Name) _____ (Signature) _____

OC3 Team Leader (Print Name) _____ (Signature) _____

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) is entered into effective as of the ___ day of _____, 20__ (“Effective Date”), by and between **Insert Name of Center**, a Texas non-profit corporation (“Covered Entity”), and the Texas Association of Community Health Centers (“Business Associate”) (collectively, “Parties”).

RECITALS

WHEREAS, Business Associate will utilize seven questions to survey 500 randomly selected parents or guardians of pediatric patients and 500 randomly selected adult patients at each of at least 60 health centers, on a first-come-first-served basis to obtain 100 responses from patients who have received care in the last quarter or 6 months if the health center has not had that many patients in the last quarter;

WHEREAS, each participating health center will provide Business Associate at least 1,000 patient records in Excel data file format, including patient’s name, address, phone number, email (if applicable), payor source, date patient first served at health center, and the physician who last served the patient for Business Associate contractor, Cultural Strategies, to survey via telephone;

WHEREAS, a good and reasonable effort should be made to ensure that the percentage of each of the vulnerable population(s) served by the health center, such as the uninsured, disabled, frail elderly, or special populations such as migrant seasonal farmworkers and veterans, etc. is equally represented in the randomly selected patient records;

WHEREAS, the Business Associate therefore receives, has access to, or creates Protected Health Information (“PHI”) in order to provide those Services;

WHEREAS, Covered Entity is subject to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and regulations promulgated there under, as they may be amended from time to time;

WHEREAS, HIPAA requires Covered Entity to enter into a written contract with Business Associate to protect the privacy and security of PHI, and HIPAA prohibits the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place; and

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

- 1. Definitions.** Capitalized terms shall have the meaning given in this BAA. Capitalized terms used but not defined herein shall have the meaning given under HIPAA.
- 2. Use and Disclosure of Protected Health Information.** Business Associate agrees that it will receive, access, protect, store, use, disclose, maintain, transmit, and return or destroy health information that is protected by and otherwise subject to HIPAA

(“**Protected Health Information**” or “**PHI**”) in accordance with the terms and conditions of this BAA.

Business Associate must have policies and procedures in place designed to detect, prevent and mitigate improper disclosures of PHI, including through identity theft.

3. **Restrictions on Uses and Disclosures by Business Associate.** Business Associate will use and disclose PHI only as permitted or required by the terms of this BAA, only to the extent required to fulfill Business Associate’s obligations, or as Required by Law (as such term is defined by HIPAA). Business Associate will not use or disclose PHI except as described herein without the prior written consent of the Covered Entity. Except as provided herein, Business Associate shall not use or disclose PHI in any manner that would constitute a violation of HIPAA if done by any Covered Entity. Notwithstanding anything to the contrary, Business Associate is not permitted to de-identify or otherwise redact PHI and use or disclose such de-identified or redacted information for the benefit of any individual or entity other than the Covered Entity.
4. **Minimum Necessary Use and Disclosure.** To the extent that Business Associate is permitted by this BAA to use, disclose, or request PHI, Business Associate will make all reasonable efforts to use, disclose, and request only the minimum amount of information necessary to perform or fulfill a specific function required or permitted under this BAA.
5. **Management and Legal Responsibilities.** Business Associate may use PHI to carry out its legal responsibilities and as needed for the proper management and administration of Business Associate’s business. Business Associate may disclose PHI to carry out its legal responsibilities and as needed for the proper management and administration of Business Associate’s business, provided that such disclosure is either (i) Required by Law, or (ii) Business Associate obtains reasonable written assurances from the person to whom the information is disclosed that it 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 person, and the person to whom Business Associate makes the disclosure notifies Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached.
6. **Data Aggregation.** Upon the Covered Entity’s prior written request, Business Associate may use and disclose PHI to conduct data aggregation services, as such services are defined by the HIPAA Regulations, that relate to health care operations of the Covered Entity.
7. **Access to and Amendment of PHI.** Consistent with HIPAA, Business Associate shall provide such reasonable assistance as the Covered Entity may request from time to time to comply with obligations relating to affording Individuals access to their PHI and allowing Individuals to amend their PHI. Unless the parties agree otherwise in writing, Business Associate shall not interact directly with patients or other such Individuals.

8. **Accounting of Disclosures.** Within ten (10) business days of receipt of a written request from the Covered Entity, Business Associate will provide the Covered Entity with an accounting of disclosures of PHI by Business Associate that is sufficient to satisfy the standards set forth in HIPAA concerning providing Individuals accountings of disclosures of their PHI. Business Associate shall retain all records and information as necessary to generate such an accounting of disclosures by Business Associate.
9. **Response to Direct Patient Requests for Access, Amendment, or Accounting.** In the event an Individual contacts Business Associate directly seeking to exercise his or her rights of access, amendment, or accounting under HIPAA or other applicable law, Business Associate will notify the Covered Entity of such request within five (5) days of receipt and the parties will proceed as set forth in *Sections 7* and *8* of this BAA.
10. **Government Access.** Business Associate will make its internal practices, policies, books, contracts, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate or any agent or subcontractor of Business Associate on behalf of, the Covered Entity, available to the Secretary of the United States Department of Health and Human Services (“**Secretary**”), in a time and manner designated by the Secretary, for purposes of determining the Covered Entity’s compliance with HIPAA. Upon receipt of a request for such access from the Secretary, Business Associate shall immediately notify the affected Covered Entity of the nature and scope of the request. Upon the request of the affected Covered Entity, Business Associate shall provide such Covered Entity (at such Covered Entity’s cost) with a copy of all materials produced to the Secretary by Business Associate pursuant to such a request.
11. **Establishment of Safeguards by Business Associate.** Business Associate will establish, implement, and enforce appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this BAA. Without limiting the generality of the foregoing, Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the privacy, confidentiality, integrity, and availability of the Electronic PHI that it creates, receives, maintains, or transmits under this BAA and in connection with the Services Agreement. Upon the request of the Covered Entity, Business Associate will review with the Covered Entity the safeguards established hereunder.
12. **Business Associate’s Obligations Related to Disclosures to Agents and Contractors.** Business Associate will ensure that any Business Associate agents or subcontractors that will have access to or the ability to use or disclose PHI shall agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such information. Business Associate shall further ensure that any such agents or subcontractors to whom Business Associate provides Electronic PHI agree to implement reasonable and appropriate safeguards to protect it.
13. **Privacy Violations and Security Incidents.** Within twenty-four (24) hours of discovering an unauthorized or illegal use or disclosure of PHI, or any Security Incident (as such term is defined in 45 C.F.R. § 164.304) involving Electronic PHI,

(collectively, “**Known Misuses**”), Business Associate shall notify the Covered Entity of the Known Misuse. Business Associate will fully cooperate with the Covered Entity to cure any Known Misuse (to the extent such violations are able to be cured). Business Associate will take, or, in the event that the acts or omissions of an agent or subcontractor of Business Associate gave rise to the Known Misuse, will require its agent or subcontractor to take, commercially reasonable actions to mitigate any negative impact of any Known Misuse and to improve safeguards to prevent recurrence. Notwithstanding anything in this Agreement or in the Services Agreement to the contrary, Business Associate shall indemnify and hold harmless the Covered Entity from and against any and all reasonable costs (including without limitation attorneys fees), claims, and damages (including without limitation civil monetary penalties) incurred by the Covered Entity arising from or relating to Known Misuses by Business Associate (including its agents, contractors, employees, and other workforce members) and such other privacy and security violations that result from the intentional or negligent acts and omissions of Business Associate (including its agents, contractors, employees, and other workforce members).

14. **Breach Notification.** In the event that Business Associate discovers that an incident has occurred that could reasonably be expected to constitute a Breach of Unsecured PHI, Business Associate shall, within twenty-four (24) hours of such discovery, notify the Covered Entity. Such notice shall be in writing and shall include the following information: a brief description of what happened, including, if known, the date of the breach and the date of the discovery of the breach by Business Associate (including its agents, contractors, employees, and other workforce members); a description of the types of Unsecured PHI that were involved in the breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved); any steps individuals should take to protect themselves from potential harm resulting from the breach; a description of what the Business Associate is doing to investigate the breach, to mitigate harm to individuals, and to protect against further breaches; an estimate of the number of Individuals affected by the breach; a brief statement as to why Business Associate believes this activity was unauthorized; a description of the unauthorized individual(s) and/or entity(ies) to whom the information was disclosed or who otherwise obtained access to it; a statement as to whether the PHI was returned prior to access or use by the unauthorized individual or entity; and any other information that the Covered Entity may be required to include in notices to the affected Individuals under applicable state and federal law. Notwithstanding anything in this Agreement or in the Services Agreement to the contrary, Business Associate shall indemnify and hold harmless the Covered Entity from and against any and all reasonable costs (including without limitation attorneys fees) incurred by the Covered Entity in fulfilling its obligations under state or federal breach notification laws, to the extent that the breach resulted from an intentional or negligent act or omission of Business Associate (including Business Associate’s agents, contractors, employees, and other workforce members).
15. **Transactions.** As required by 45 C.F.R. § 162.923(c), to the extent that Business Associate will perform all or part of a Transaction on behalf of a Covered Entity, Business Associate shall (i) comply with all applicable requirements set forth in 45

C.F.R. part 162, and (ii) require any agent or subcontractor to comply with all applicable requirements set forth in 45 C.F.R. part 162. As required by 45 C.F.R. § 162.915, to the extent that Business Associate will serve as a Business Associate of a Covered Entity, Business Associate agrees not to do any of the following, unless the parties mutually agree otherwise: (i) change the definition, Data Condition, or use of a Data Element or Segment in a Standard; (ii) add any Data Elements or Segments to the Maximum Defined Data Set; (iii) use any code or Data Elements that are either marked “not used” in the Standard’s Implementation Specification or are not in the Standard’s Implementation Specification(s); or (iv) change the meaning or intent of the Standard’s Implementation Specification(s). Business Associate will coordinate with the Covered Entity a mutually acceptable testing schedule for any applicable Transactions. Any capitalized term used in this **Section 16** not otherwise defined herein shall have the meaning given to such term in the HIPAA Regulations.

16. **Legal Obligations to Disclose PHI.** Should Business Associate believe that it has a legal obligation to disclose any PHI, including but not limited to a legal obligation pursuant to a subpoena, court order, or governmental request, it will notify the Covered Entity as soon as reasonably practical after it learns of such obligation, and in any event at least seven (7) calendar days prior to the proposed release, as to the nature and scope of the proposed release and the legal requirement pursuant to which it believes such release must occur. If the Covered Entity objects to the release of such PHI, such Covered Entity may exercise any legal rights or remedies it might have to object to the release of the PHI, and, if applicable, Business Associate agrees to provide reasonable assistance to such Covered Entity in connection therewith.
17. **Termination for Material Breach of this BAA.** Notwithstanding anything to the contrary in the Services Agreement, Covered Entity may terminate the Services Agreement for cause in the event that Business Associate breaches a material term of this BAA. In any event, the Covered Entity reserves the right to report the breach to the Secretary.
18. **Effect of Termination or Expiration.** Promptly upon termination or expiration of the Services Agreement for any reason, Business Associate shall return to the Covered Entity (or, if so instructed by the Covered Entity, destroy) any PHI related to the Services Agreement which is in Business Associate’s possession or control (including but not limited to PHI in the possession of an agent or subcontractor of Business Associate), including any copies thereof, whether in written form, electronic form, or otherwise. Any right or license Business Associate may have to use the PHI at that time will terminate immediately upon the expiration or termination of the Services Agreement.
19. **Right, Title, and Interest in and to PHI.** As between the Covered Entity and Business Associate, the Covered Entity holds all right, title, and interest in and to the PHI, and Business Associate does not hold, and will not acquire by virtue of this BAA or by virtue of providing any services or goods to the Covered Entity, any right, title, or interest in or to the PHI or any portion thereof.

20. **Individuals Not Third Party Beneficiaries.** Individuals are not third party beneficiaries of this BAA.
21. **Privilege.** Notwithstanding anything in this BAA or the Services Agreement to the contrary, no attorney-client privilege, attorney work product protection, accountant-client privilege, or other such legal privilege or protection shall be deemed waived by Business Associate or the Covered Entity by virtue of this BAA.
22. **Headings.** Headings used in this BAA are for convenience only, and are not intended to alter the meaning of the text of the provisions themselves.
23. **Notices.** Notices hereunder shall be provided to the parties as follows:
- Center:
- Business Associate:
24. **Interpretation.** Any ambiguity in this BAA shall be resolved to permit the Covered Entity to comply with HIPAA. This BAA shall be construed such that the Covered Entity for whom or on whose behalf Business Associate provides services pursuant to the Services Agreement that involve PHI shall be entitled to the benefit of all terms of this BAA.
25. **Amendment.** The parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for the Covered Entity to comply with the requirements of HIPAA.
26. **Survival.** The obligations hereunder which by their nature are intended to survive the termination of this BAA shall survive, including but not limited to the respective rights and obligations of the parties related to the effect of termination or expiration set forth in *Section 19* and the terms concerning breach notification set forth in *Section 15*.
27. **Effect of Waiver.** No waiver of any provision herein shall constitute or be deemed to constitute a waiver of any other provision of this BAA, nor shall any waiver of any provision herein in a particular instance constitute or be deemed to constitute a waiver of such provision in any other or further instance.
28. **Rights and Remedies.** The Covered Entity shall have the right to enforce this BAA against Business Associate, and shall be afforded all rights and remedies available hereunder. Further, each right, power, and remedy of each party as provided for in this BAA or now or hereafter existing at law, in equity, by statute or otherwise, shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this BAA or in any other document now or hereafter existing at law, in equity, by statute or otherwise. The exercise or beginning of the exercise by any party of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise by any party of any or all such other rights, powers, or remedies.

29. **Full Force and Effect.** Notwithstanding anything to the contrary, this BAA shall remain in full force and effect for as long as long as Business Associate retains, maintains, has access to, uses, discloses, or stores PHI.
30. **Counterparts.** This BAA may be signed in counterparts, and by each party on a different counterpart, but all such counterparts together shall constitute but one and the same instrument and, presuming execution and delivery hereof by each party, each such counterpart signed and delivered by a party against whom enforcement is sought shall (whether or not such counterpart shall have been signed by the other parties) be deemed to be an original instrument.
31. **Supplemental Nature of This BAA.** The parties acknowledge that this BAA is intended to supplement any and all other confidentiality or patient privacy-related obligations existing under the Services Agreement, under any other agreement, or under or applicable law.

IN WITNESS WHEREOF, Covered Entity and Business Associate have caused this Agreement [or Addendum] to be executed as of the Effective Date.

“COVERED ENTITY”

[Insert Name of Center],
a Texas non-profit corporation

By: _____
[Insert Name of Chief Executive Officer]
Chief Executive Officer

“BUSINESS ASSOCIATE”
TACHC,
a Texas nonprofit corporation

By: _____
Name: José E. Camacho
Title: Executive Director