

WellSpan Care Link Agreement

This WellSpan Care Link Agreement (“**Agreement**”) is entered into between WellSpan Health (“**WSH**”) and _____ (“**Entity**”).

Name of Entity

WHEREAS, WSH utilizes certain systems which allow users to remotely access patient electronic health records through WSH Care Link among WSH facilities, other health care providers affiliated with WSH, physicians and physician practices with medical staff privileges at WSH hospitals or another health care provider affiliated with WSH and other providers of health care items and services in and around the Central Pennsylvania area;

WHEREAS, WSH Care Link has the capacity to allow these parties to view electronic health records (“**EHR**”) of their patients/members for the purpose of treatment and certain health care operations to the extent permitted without authorization by the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996, and the rules and regulations promulgated thereunder, as may be amended from time to time (collectively, “**HIPAA**”), and further subject to the American Recovery and Reinvestment Act of 2009 (“**ARRA**”), including its provisions commonly known as the HITECH Act, and rules and regulations promulgated thereunder, as may be amended from time to time;

WHEREAS, WSH believes that the use of WSH Care Link by Entity will substantially improve the quality of health care provided in and around the Central Pennsylvania area, and therefore wishes to allow access to WSH Care Link by Entity, subject to the restrictions and other requirements set forth in this Agreement;

WHEREAS, Entity provides medical services to WSH patients but does not have a contract with WSH for access to EHR; and

WHEREAS, Entity wishes to use the WSH Care Link to improve the quality and efficiency of the medical services Entity provides to WSH patients subject to the terms herein.

NOW, THEREFORE, in consideration of the promises, the mutual agreements and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. WSH Care Link Access.

A. Subject to the terms and conditions of this Agreement, WSH hereby grants Entity non-transferable and non-exclusive access to WSH Care Link to permit Entity workforce (as defined by HIPAA and collectively known as “**Authorized Users**”), to electronically access and use WSH Care Link solely for viewing and displaying medical records and other information, images and content related to the provision of healthcare services/items to patients/members of Entity (the “**System License**”). Entity understands and warrants that such access and use shall be limited to that achieved through unique access codes provided to each individual Authorized User, and that each Authorized User shall be prohibited from using another Authorized User’s access code to access and/or use WSH Care Link.

B. Entity agrees to implement and utilize WSH Care Link. Entity acknowledges and agrees that any hardware, software, network access or other components necessary for Entity to access and use WSH Care Link must be obtained separately by Entity. WSH shall not be responsible for the procurement, installation or maintenance of any necessary components, and WSH makes no representations or warranties regarding the components whatsoever. Any fees for the components shall be borne by Entity and paid directly to the suppliers of the components.

2. Use or Disclosure of Protected Health Information (“PHI”).

A. Entity shall comply in all material respects with the standards for privacy of individually identifiable health information of the Administrative Simplification subtitle of HIPAA. Entity shall not use or disclose PHI received from WSH in any manner that would constitute a violation of federal or state law, including, but not limited to, HIPAA. Entity shall ensure that its directors, officers, and employees, only access or use PHI received from WSH only in accordance with the provisions of this Agreement and federal and state law. Entity shall not disclose PHI in any manner other than as permitted by this Agreement. Entity further agrees that all information accessed through WSH Care Link will be maintained in the strictest confidence and as required by state and federal law. Entity may include electronic or paper copies of medical records and other information, images and content obtained from WSH using the System License in Entity’s medical records for its patients. Any subsequent disclosure of such information by Entity shall be from Entity’s medical record.

B. Entity shall use WSH Care Link in accordance with any network security policies issued by WSH from time to time, including without limitation necessary training and certifications required by WSH from time to time.

3. Process for Requesting Access to WSH Link.

A. Entity shall provide WSH with the name and direct contact information for its Privacy Officer and shall notify WSH of any change in such contact.

B. Entity shall designate a liaison (“**Site Administrator**”) to coordinate user access (which person can also be the Privacy Officer). The Site Administrator is responsible for managing the establishment, modification and termination of Entity user accounts, as well as the additional duties set forth on Exhibit A attached hereto and incorporated herein by reference. The Entity may request the designation of more than one Site Administrator. Such request shall be subject to approval by WSH.

C. Before access to WSH Care Link is granted, each Authorized User shall be informed of the basic terms of this Agreement and read and agree to, by selecting “Accept”, the online terms of use (the “**Terms and Conditions of Use**”) set forth on Exhibit B. Entity agrees to ensure that each Authorized User approved for access under this Agreement adheres to the requirements of this Agreement and the Terms and Conditions of Use. Each Authorized User shall also complete, in a form and in a manner to be determined by WSH, training regarding the requirements of HIPAA as they pertain to WSH Care Link access. Site Administrator shall ascertain and validate in writing said training upon request by WSH.

D. For purposes of this Agreement, access to WSH Care Link shall be permitted only for such categories of employees of the Entity who have a reasonable need to access PHI of WSH patients for purposes of carrying out their treatment duties or other related health care services to such patients/members. Entity agrees to as soon as possible, but no more than within twenty-four (24) hours, deactivate WSH Care Link access, for any Authorized User who is separated from employment with Entity for any reason, including but not limited to termination or voluntary separation.

4. Safeguards Against Unauthorized Use or Disclosure of Information.

Entity agrees that it will implement all appropriate safeguards to prevent unauthorized access, use or disclosure of PHI from the WSH Care Link portal. Entity agrees to comply with all federal and state laws and regulations regarding privacy, security, and electronic exchange of health information, as currently enacted or amended in the future and take appropriate discipline and corrective action in response to violations by members of Entity's workforce as required by HIPAA. ENTITY IS REMINDED THAT CERTAIN INFORMATION, INCLUDING ALCOHOL AND DRUG ABUSE, MENTAL HEALTH, HIV/AIDS, OTHER SEXUALLY TRANSMITTED DISEASES, AND GENETIC INFORMATION, IS HIGHLY SENSITIVE AND MAY REQUIRE THE LEGAL CONSENT OF THE ADOLESCENT PATIENT PRIOR TO DISCLOSURE TO THE PATIENT'S PARENT OR LEGAL GUARDIAN.

5. System/Workstation Security

A. The Entity shall observe and abide by the terms of this Agreement specific to computer workstation use, device and media controls, and access, as noted in Exhibit C, or otherwise as promulgated by WSH from time to time.

B. Accounts found to be inactive for a period of three (3) months or longer will be deactivated.

6. Data Ownership.

Entity acknowledges and agrees that WSH owns all rights, interests and title in and to WSH's data and that such rights, interests and title shall remain vested in WSH at all times. Entity shall not compile and/or distribute analyses to third parties utilizing any data, including de-identified data, received from, or created or received on behalf of WSH without express written permission from WSH

7. Reporting of Unauthorized Use or Disclosure of PHI.

A. Entity shall report to WSH any unauthorized access, use, or disclosure of PHI by Entity, its physicians, employees, or any third party within twenty-four (24) hours of becoming aware of such action. Such notice shall be made to the WSH Health Information Protection Office ("HIP") office.

B. If at any time Entity has reason to believe that PHI accessed, disclosed, or transmitted pursuant to this Agreement may have been accessed or disclosed without proper authorization and contrary to the terms of this Agreement, Entity will immediately take actions to eliminate the cause of the breach. To the extent WSH deems warranted, in its sole discretion, WSH will provide notice or require Entity to provide notice to individuals whose PHI may have been improperly accessed or disclosed.

8. Third Party Access.

Entity shall obtain the written approval of WSH prior to allowing any agent or subcontractor access to PHI through WSH Care Link. In the event that WSH consents to such third-party access on a case-by-case basis, Entity shall ensure that the agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to Entity through this Agreement. Entity shall require that any agent or subcontractor notify Entity of any instances in which PHI is used or disclosed in an unauthorized manner. Entity shall take steps to cure the breach of confidentiality and end the violation or shall terminate the agency agreement or subcontract. Entity shall be required to comply with Section 6 of this Agreement in the event of any breach by a third party.

9. Availability of Books and Records.

Entity agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from WSH, or created or received on behalf of WSH, available to WSH and to the Secretary of the U.S. Department of Health and Human Services for purposes of determining WSH's and Entity's compliance with HIPAA standards. Entity promptly shall provide to WSH a copy of any documentation that Entity provides to the Secretary.

10. Investigations/Sanctions.

WSH reserves the right to monitor, review and investigate suspected, reported or identified failures to comply with this Agreement and impose nonmonetary appropriate sanctions. Sanctions may include, but are not limited to, the termination of this Agreement, suspension of Entity's access, or termination/suspension of individual user access. WSH reserves the right to report unprofessional conduct to appropriate licensing or other regulatory authorities. Entity agrees to cooperate, and cause its Privacy Officer to cooperate, with WSH in order to adequately investigate complaints received involving Entity's employees or agents. Entity agrees to have a sanctions policy, produce it upon request, and discipline their employees or agents for all breaches involving WSH PHI in accordance with the HIPAA Privacy Rule.

11. Immediate Termination.

WSH may terminate its participation in this Agreement immediately without liability for such termination, in the event WSH determines that Entity, or Entity's directors, officers, employees, contractors or agents have violated a material provision of this Agreement. Entity further acknowledges and understands that WSH may terminate individual Authorized Users' access and/or the entire System License at any time for any reason without penalty, regardless of any effect such termination may have on Entity's operations.

12. Indemnification.

Entity agrees to indemnify, defend and hold harmless WSH, its trustees, officers, employees, medical and research staffs and agents, from and against any and all claims, costs, losses, damages, liabilities, expenses, demands, and judgments, including litigation expenses and attorney's fees, which may arise from Entity's performance under this Agreement or any negligent or wrongful acts or omissions of Entity, its subcontractors, agents, or employees, including, but not limited to, any penalties, fines, claims or damages arising from or pertaining to a breach of this Agreement, or the violation of any state or federal law applicable to the use, disclosure or protection of PHI subject to this Agreement. Such indemnification shall include but shall not be limited to the full cost of any notice to

impacted individuals, including the costs to retain an outside consulting firm, vendor or outside attorneys to undertake the effort, and the cost of any services provided to those whose PHI may have been disclosed.

13. Insurance

Entity will maintain insurance policies sufficient to protect against all applicable risks and shall provide evidence of insurance at the request of WSH.

14. Entire Agreement.

This Agreement constitutes the entire agreement between the parties regarding access to WHS Care Link, and supersedes all prior oral or written agreements, commitments, or understandings concerning the matters provided for herein.

15. Governing Law.

The parties' rights or obligations under this Agreement will be construed in accordance with, and any claim or dispute relating thereto will be governed by, the laws of the Commonwealth of Pennsylvania.

16. Waiver.

Neither the waiver by any of the parties hereto of a breach of, or a default under any of the provisions of this Agreement, nor the failure of either of the parties, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder, will thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder.

17. Use of Name or Logo.

Except in communications internal to the using party which are appropriately undertaken by such party in connection with the subject matter of this Agreement, neither party shall make use of the name, nickname, trademark, logo, service mark, trade dress or other name, term, mark or symbol identifying or associated with the other party without the prior written consent of the other party to the specific use in question.

18. Notices.

All notices which may be or are required to be given pursuant to this Agreement shall be in writing and shall be personally delivered, mailed by first-class, or certified mail, postage prepaid, and addressed, if to WSH:

Health Information Management
Privacy Officer
WellSpan Health
229 S. Fourth Street
Lebanon, PA 17042

With a copy to:

The Office of General Counsel
WellSpan Health
Bruce M. Bartels Management and Governance Center
45 Monument Road, Suite 200
York, PA 17403

If to Entity, at the address of Entity reflected in WSH's records.

19. Disclaimer.

WSH AND ITS AFFILIATES, SUPPLIERS, AND OTHER THIRD PARTIES MENTIONED OR LINKED TO THE WSH CARE LINK PRODUCT ARE NEITHER RESPONSIBLE NOR LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER DAMAGES (INCLUDING, WITHOUT LIMITATION TO, THOSE RESULTING FROM LOST PROFITS, LOST DATA, TECHNICAL PROBLEMS OR BUSINESS INTERRUPTION) ARISING OUT OF OR RELATING IN ANY WAY TO WSH CARE LINK CONTENT OR INFORMATION CONTAINED WITHIN WSH CARE LINK, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR ANY OTHER LEGAL THEORY AND WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. USER'S SOLE REMEDY FOR DISSATISFACTION WITH WSH CARE LINK IS TO STOP USING THE WEBSITE.

20. Term.

This Agreement is effective on the date executed on behalf of WSH, as indicated below and shall continue in effect until terminated, as set forth in this Agreement.

IN WITNESS WHEREOF, WSH and Entity have caused this Agreement to be duly executed on the day and year first above written.

WellSpan Health

Entity: _____

By: _____

By: _____

Name: R. Hal Baker, MD

Name: _____

Title: Senior Vice President and Chief Digital Information Officer

Title: _____

Date: _____

Date: _____

Exhibit A

Site Administrator/Privacy Officer Duties

- Assist WSH in confirming that a treatment or other provision of healthcare services relationship exists between entity and patient for records viewed via First Access.
- Report known or suspected confidentiality and/or security violations related to the access, use or disclosure of PHI obtained from the WSH Care Link portal as soon as possible, but no later than 24 hours after becoming aware. Contact Health Information Protection office by calling the HIPAA Hotline (1-800-320-6023 or 717-812-2064) or email (hmail@wellspan.org).
- Assist WSH in investigating any potential unauthorized access or disclosure of PHI obtained from WSH Care Link portal by entity staff.
- Ensure the entity takes appropriate sanction and corrective action as required by HIPAA if staff at entity access or disclose information obtained from WSH Care Link for a purpose unrelated to the patient's treatment and/or healthcare services provided by the entity.
- Where appropriate, coordinate with WSH in providing written notification to patients in the event of a data breach involving WSH Care Link portal data and entity staff.
- Ensure that WellSpan Care Link access is given only to Entity individuals whose responsibilities entail a business need to access, use or disclose PHI and whose access is commensurate with their level of responsibility.
- Deactivate an individual Authorized User as soon as possible, but no more than 24 hours after individual's separation of employment from Entity. Involuntary separations of employment should be cause for immediate deactivation of access to WellSpan Care Link.
- Notify WSH Service Desk when an existing provider leaves or when a new provider joins the medical practice (if applicable).
- Perform periodic validity assessments of Entity staff access to WSH Care Link for continued appropriateness and necessity.
- Ensure all staff given access to WSH Care Link have received HIPAA privacy and security training from the Entity regarding their responsibilities and the practices policies and any training required by WSH.
- Complete required Site Administrator training as required by WSH, both initially and from time to time as required.
- Assures that all prerequisite WSH Care Link forms are completed as required by WSH.

Exhibit B

WellSpan Care Link Terms & Conditions of Use

WellSpan Health has a legal and ethical responsibility to safeguard the privacy of all WellSpan Health patients/members and to protect the confidentiality of protected health information.

WellSpan Health permits individuals involved in treatment, payment, and/or healthcare operations to use WellSpan Care Link, the access portal to WellSpan Health's electronic health record (EHR), as long as such individuals comply with all applicable legal and ethical requirements.

By clicking "**ACCEPT**" at the end of this statement, you will commit to these obligations, and your acceptance will be used as proof that you understand and agree to the stated basic duties and facts regarding privacy.

Any individual who uses WellSpan Care Link ("User") agrees to, and is bound by, the following *Terms and Conditions for Use*:

1. All data viewed, printed or entered into WellSpan Care Link is protected health information. A User and the User's employer are legally responsible for the access and use of patient data obtained via WellSpan Care Link
2. I understand that I may only access, use and disclose protected health information through WellSpan Care Link on a "need-to-know" basis to perform my job responsibilities or clinical functions.
3. I will not seek information that is not required to perform my responsibilities or clinical functions.
4. If I am requested or required to disclose WellSpan Health protected health information (whether by subpoena, interrogatory, request for information or documents, civil investigative demand, or similar process), I agree to promptly notify WellSpan Health, so that WellSpan Health may, in its discretion, seek an appropriate protective order.
5. I agree to protect the privacy and security of confidential information I access through WellSpan Care Link. I will use this access only in accordance with the Health Insurance Portability and Accountability Act of 1996 and the HITECH Act of 2009, and their related regulations (collectively "HIPAA"). I represent that I have had appropriate education on HIPAA compliance.
6. I understand the following:
 - a. I will be assigned a User ID and one time password. I agree immediately to select and enter a new password known only to me. I understand I may change my password at any time, and will do so when prompted.
 - b. I understand that I am to be the only individual using and in possession of my confidential password.
 - c. I am aware that the User ID and password are equivalent to my signature.
 - d. I am also aware that I am responsible for any use of WellSpan Care Link utilizing my User ID and password. Inappropriate use of my User ID and password (whether by me or anyone else) is my responsibility and may expose me to severe consequences.
 - e. User access monitoring will be conducted by the WellSpan's Health Information Protection Office, in keeping with WellSpan's proactive approach and commitment to ensuring patient privacy, as well as compliance with all regulatory agencies.
7. Any misuse of confidential data obtained from WellSpan Care Link is violation of the Terms and Conditions for Use and will result in the termination of the User's access to the system. All violations must be reported the WellSpan Health's HIPAA Hotline at (717) 812-2064 or 1(800)320-6023 or by e-mail at hmail@wellspring.org.

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Exhibit C

System/Workstation Security

1. Workstations and communication devices of all types should be located and operated in a secure manner e.g., located in a physically secure area.
2. Site Administrators are responsible to ensure workstations and printers are positioned or located out of public view to protect the sensitivity and privacy of any business being conducted with the asset, e.g., positioned or shielded to prevent unauthorized access or casual viewing.
3. Each workstation, if applicable, will be programmed to generate a screen saver or timeout when the computer receives no input for a specified period.
4. When accessing the WellSpan Health network, users must secure their workstation before leaving the workstation unattended for any period of time. At a minimum, screensavers with a password should be enabled (if available) and logging out of critical applications, so not to compromise PHI.
5. Users logging onto the system will ensure that no one observes the entry of their password.
6. Users may not download confidential data from WHS information systems onto removable media, i.e., USB flash drive or CD.