



Lumpkin County, Georgia

Finance Department

Date: July 26, 2016

Agenda Item: Business Associate Agreement

Item Description: Approval of a Business Associate Agreement for the collection agency used by the County.

Facts & Historical Information:

This is a request to approve a Business Associate Agreement between the County and United Collection Firm, the collection agency used by the County to collect outstanding ambulance bills, giving them access to County data to further their collection efforts. This agreement was drafted by Lumpkin County's Attorney and was agreed to in form and signed by United Collection Firm of Georgia. United Collection Firm has previously agreed to follow HIPAA and has had a business relationship with the County for over 20 years. With changes in the healthcare industry related privacy and security concerns, it has become more difficult for UCF of GA to obtain information from hospitals even though they have agreed to the HIPAA requirements. This agreement will allow them access to County data since they work on our behalf to collect funds.

Potential Courses Of Action:

1. Approve the agreement as presented. This is the most favorable of the two options as it gives them access to data that they need to be able to process claims and collect on outstanding balances.
2. Opt to not approve the agreement. This is the least favorable of the options as it limits the ability of the collection agency to collect outstanding bills for the County.



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Budget Impact:

There is no negative impact to the operating budget for this agreement. If the firm is successful in collecting more based upon this agreement giving them access to the data, the County stands to gain financially.

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (the "Agreement") is made and entered into by and between the **Lumpkin County Board of Commissioners** (hereinafter called "Covered Entity"), with its principal place of business located at 99 Courthouse Hill, Ste H, Dahlonega, GA 30533, and **United Collection Firm of Georgia** (hereinafter called "Business Associate"), which maintains its principal place of business at 958 McEver Rd, Ste B6, Gainesville, GA 30504.

WHEREAS, Covered Entity is a provider of health and medical services and maintains certain confidential protected health information and records concerning its patients; and

WHEREAS, Business Associate is a debt collection agency; and

WHEREAS, Covered Entity and Business Associate have entered into an agreement in which Business Associate has agreed to provide services to collect unpaid medical bills for the Covered Entity; and

WHEREAS, Covered Entity and Business Associate have agreed to conduct all of their business in compliance with all applicable federal, state and local statutes, regulations, rules and policies, including but not limited to, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); and

WHEREAS, in the course of the performance of the agreement, Business Associate and its directors, officers, partners, employees, advisors and attorneys (the "Agents") will be provided with access to individually identifiable health information, including demographic information collected from patients and other individuals, created or received by Covered Entity which relates 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 provision of health care to an individual, which information identifies the individual or with respect to which there is a reasonable basis upon which to believe that the information can be used to identify the individual (the "Protected Health Information"); and

WHEREAS, it appears that the Business Associate is a Business Associate of the Covered Entity as that term is defined in the HIPAA regulations; and

WHEREAS, Covered Entity is willing to provide Business Associate and its Agents with access to the Protected Health Information such that the Business Associate can perform under the agreement, provided Business Associate executes this Agreement, as required by HIPAA regulations.

NOW, THEREFORE, in consideration for granting Business Associate access to the Protected Health Information and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Business Associate hereby agrees as follows:

1. Confidentiality. Business Associate and its Agents agree to keep the Protected Health Information strictly confidential and will use and/or disclose the Protected Health Information solely for the purpose of performing its obligations under the agreement. Business Associate will disclose the contents of the Protected Health Information to its Agents only as minimally necessary and only to the extent required for the Business Associate to accomplish the intended purpose set forth in the Agreement.

2. General Privacy Compliance. Business Associate shall maintain and safeguard the privacy, security, and confidentiality of all Protected Health Information transmitted or received from the Covered Entity in connection with the agreement, in accordance with the provisions of HIPAA, as amended, and in accordance with all applicable federal, state and local statutes, regulations and policies regarding the confidentiality of patient health information.

3. Privacy and Security Obligations. This agreement establishes permitted and required uses and disclosures of Protected Health Information by the Business Associate. As required by the HIPAA regulations, the Business Associate will:

a) Not use or further disclose Protected Health Information other than as permitted or required by this Agreement, or as required by law;

b) Use appropriate safeguards to prevent the use or disclosure of such Protected Health Information other than as provided for by this Agreement;

c) Report to Covered Entity any use or disclosure of such Protected Health Information not provided for by this agreement of which Business Associate becomes aware;

d) Ensure that any agents, including a subcontractor, to whom Business Associate provides Protected Health Information received from or created or received by the Business Associate on behalf of the Covered Entity agrees in writing to the same restrictions and conditions that apply to Business Associate with respect to such Protected Health Information;

e) Make available Protected Health Information for inspection and copying in accordance with Section 164.524 of the HIPAA regulations;

f) Make available Protected Health Information for amendment and incorporate any amendments to Protected Health Information in accordance with Section 164.526 of the HIPAA regulations;

g) Make available information required to provide an accounting of disclosures in accordance with Section 164.528 of the HIPAA regulations;

h) Make Business Associate's internal practices, books and records relating to the use and disclosure of Protected Health Information received from or created or received by the Business Associate on behalf of the Covered Entity available to the Secretary of Health and Human Services ("HHS") for purposes of determining the Covered Entity's compliance with HIPAA;

i) At termination of the agreement, if feasible, return or destroy all Protected Health Information received from or created or received by the Business Associate on behalf of the Covered Entity that the Business Associate still maintains in any form and retain no copies of such Protected Health Information or, if such return or destruction is not feasible, extend the protection of this Agreement to the Protected Health Information and limit further uses and disclosures to those purposes that make the return or destruction of the Protected Health Information infeasible, with the exception that Business Associate may maintain for record-keeping purposes all data in its medical billing software program for a period of seven (7) years after termination of this agreement; and

j) Incorporate any amendments or corrections to the Protected Health Information when notified pursuant to applicable law.

4. De-Identification. Notwithstanding anything herein to the contrary, Business Associate may store, analyze, access and use components of Protected Information that have been "de-identified" and that do not contain individually identifiable health information, provided that any such use is then consistent with applicable law.

5. Indemnification. Business Associate agrees to defend (at the option of Covered Entity), indemnify and hold harmless Covered Entity and its agents, officers and employees, against any and all claims, demands, causes of action, losses, damages, liabilities, judgments, costs and expenses (including reasonable attorneys' fees) asserted against or incurred by Covered Entity or its agents, officers or employees as a result of any violation of, or failure to comply with, the provisions of this Agreement by Business Associate and/or its agents, shareholders, employees, officers and/or directors.

6. Limitation of Liability. Business Associate acknowledges and understands that Covered Entity makes no representations or warranties, express or implied, regarding the content or completeness of the Protected Health Information provided pursuant to the terms of the agreement. Business Associate agrees to release Covered Entity, its agents, employees and officers from all claims, demands, causes of action, losses, damages, liabilities, costs or expenses (including reasonable attorneys' fees) asserted against or incurred by Business Associate by reason of the use or disclosure of the Protected Health Information pursuant to the terms of the agreement.

7. Breach of Agreement: Termination.

a) In the event that the Covered Entity becomes aware of a pattern or practice of the Business Associate that constitutes a material breach or violation of the Business Associate's obligations under this agreement, and breach is not cured within five (5) days after notice is provided to the Business Associate, this agreement may be terminated by the Covered Entity.

b) In the event of a default or breach by the Business Associate as set forth in Section 7(a) of this agreement, the Covered Entity shall have available to it any legal or equitable right or remedy to which Covered Entity is entitled, including but not limited to, injunctive relief.

Covered Entity shall not be deemed to have waived any of its rights or remedies on account of its failure or delay in exercising any such right or remedy in a particular instance.

8. Record Retention. Until the expiration of seven (7) years after the furnishing of the Business Associate's services contemplated by this Agreement and so long as required by law and not otherwise, Business Associate shall make available upon request to the HHS, the United States Comptroller General and their representatives, this Agreement and all other books, documents and records as are necessary to certify the nature and extent of the costs incurred by the Covered Entity in using Business Associate services under this Agreement.

9. This agreement shall not be assignable by either party without the other's prior written consent. Notwithstanding the foregoing, this agreement shall be binding upon and shall inure to the benefit of the parties, and any successor to the operations and business of the parties whether by operation of law or otherwise. All notices given pursuant to this Agreement shall be in writing and shall be delivered by hand or sent by registered or certified mail, return receipt requested, postage pre-paid, addressed to the party for whom it is intended at its address as first set forth above. Any address for the giving of notice may be changed by giving notice to that effect to the other party. Each such notice shall be deemed to have been given on the date of its receipt by the party for whom it was intended. This Agreement contains the entire understanding of the parties hereto with regard to the subject matter hereof. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia. Any action arising under this Agreement shall be venued in Lumpkin County, Georgia.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date indicated below.

Covered Entity:

Business Associate:

Lumpkin County Board of Commissioners

United Collection Firm of Georgia

By:

By:

Printed Name: _____

Printed Name: James Michael Morley

Title: _____

Title: CEO/President

Date: _____

Date: 7-14-16