

Questions about or edits to this Agreement – Contact:
BMCHS_NetworkSupport@bmc.org

**This Agreement will be countersigned once received and a copy returned
to the contact.**

Health Information Data Access Agreement

This Health Information Data Access Agreement is entered into between Boston Medical Center Corporation ("BMC") and _____ ("Provider") as of _____ ("Effective Date"). This fully executed Agreement is a prerequisite for Provider to access BMC's electronic medical records.

WHEREAS, BMC provides certain health care services to patients of Provider;

WHEREAS, To facilitate the provision of health care services and the continuity of care to patients, Provider has requested remote, read-only access for certain of its medical providers to BMC's electronic medical records to obtain patient information for treatment purposes, including Protected Health Information ("PHI") as defined in the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder ("HIPAA");

WHEREAS, BMC desires to provide Provider such remote, read-only access to BMC's electronic medical records in an accurate, efficient and secure manner; and

WHEREAS BMC and Provider are committed to maintaining privacy and security as required by law (including but not limited to HIPAA, state law, and the federal regulations on Alcohol and Drug Abuse Patient Records at 42 C.F.R. Part 2), each Party's policies and procedures, professional ethics, and accreditation standards ("Legal Requirements").

Now, therefore, in consideration of the mutual promises and agreements below and in order to comply with all legal requirements, the parties agree as follows:

1. Term and Termination: This Agreement shall begin on the Effective Date and last for one year. The term will automatically renew for additional one-year terms unless terminated earlier. Provider may terminate this Agreement with thirty days' prior written notice. BMC may terminate this Agreement immediately either in its entirety or with respect to one or more authorized users with or without cause, including without limitation, breach of this Agreement, which shall include but not be limited to unauthorized or improper access to, or disclosure of, any of the PHI by Provider, its physicians, directors, officers, employees, contractors or other agents ("Provider Personnel").
2. User Access: Authorized users will be limited to physicians and employees or agents of Provider and who will be authorized by Provider to access the PHI only for the purposes set forth in this Agreement ("Authorized Users").

Provider will provide a list of Authorized Users to BMC **and will notify BMC immediately upon an Authorized User's termination or other long term or permanent departure from Provider.** Each Authorized User must read and sign a Confidentiality Agreement for Access to BMC ChartLink ("Confidentiality Agreement"), which is attached as Exhibit A and is incorporated by reference as part of this Agreement. BMC will provide Authorized Users who have signed a Confidentiality Agreement with an individual access code. Provider agrees that the access codes are the equivalent of a legal signature and that Provider will be responsible for all use of its Authorized Users' access codes. Provider and its Authorized Users will not disclose access codes to anyone or use an access code not assigned to them.

3. Patient Notification and Consent: Provider shall obtain permission to access PHI in the BMC electronic medical record using the form attached as Exhibit B ("Patient Notification and Consent"). Provider will not, and will ensure its Authorized Users will not, access a patient's PHI in BMC's electronic medical record prior to obtaining that patient's signed Patient Notification and Consent.
4. Permitted Purposes: Provider agrees not to use or disclose patients' PHI except as permitted or required by this Agreement or as required by law. Provider may access PHI only through its Authorized Users, after the Authorized User has signed a Confidentiality Agreement, and if legally necessary after the patient whose PHI is being accessed has signed a Patient Notification and Consent, on a need-to-know professional basis for treatment purposes, and only to the minimum necessary extent.
5. Point of Contact: Provider will designate an individual who will act as the main point of contact ("Point of Contact") at Provider for BMC during the term of this Agreement. The Point of Contact will be primarily responsible for:
 - a. authorizing individuals to be Authorized Users, pursuant to Section 2;
 - b. obtaining Confidentiality Agreements from Authorized Users; maintaining each signed Confidentiality Agreement; and providing copies of those Confidentiality Agreements to BMC in order to obtain access for Authorized Users;
 - c. providing sufficient education and training to Provider's Authorized Users regarding appropriate use of BMC's electronic medical record and compliance with Legal Requirements;
 - d. ensuring Authorized Users understand the requirement to obtain Patient Notification and Consent prior to accessing PHI, pursuant to Section 3; maintaining each Patient Notification and Consent; and

- providing copies of each Patient Notification and Consent to BMC;
- e. notifying BMC immediately if a patient chooses to opt out
 - f. notifying BMC within two business days if an Authorized User no longer needs such access, because their role within Provider has changed or been terminated.
 - g. notifying BMC immediately if an Authorized User is reasonably judged by Provider to be at high risk for inappropriately accessing, using, or disclosing information within BMC's electronic medical record.
6. Confidentiality and Disclosure of PHI: Provider warrants that the PHI accessed by its Authorized Users will be kept confidential and not be further disclosed to anyone other than the patient or his/her authorized representative, except as required by law. Provider agrees that if it has a legal obligation to disclose any of the PHI to a third party, it will notify BMC promptly, in advance of the proposed disclosure date, so that the rights of BMC and the individual to whom the PHI relates will not be prejudiced. If BMC or the individual objects to the release of such PHI, Provider agrees to provide reasonable assistance as BMC or the individual may request in connection therewith, including reasonable assistance with information necessary to prepare protective orders or other materials in connection with the objection. Disclosures not permitted by law are prohibited under this Agreement.
7. Security: Provider agrees to use appropriate and reasonable administrative, physical and technical safeguards to prevent unauthorized use or disclosure of the PHI. Provider agrees to take prompt action to correct any deficiencies and to mitigate, to the extent practicable, any harmful effect of an unauthorized access, use, disclosure, modification or destruction of the PHI by Provider or Provider Personnel. Provider represents that it has provided training on the Legal Requirements related to Privacy and Security to all applicable Provider Personnel. As a condition of this Agreement, neither Provider, nor any Provider Personnel, shall access BMC's electronic medical record from any unencrypted device, including without limitation, cell phone or tablet device.
8. Audits: BMC reserves the right to log, access, review, monitor and otherwise use information from its information systems in order to manage and enforce this Agreement. Provider hereby agrees to make its internal practices, books and records relating to the use and disclosure of PHI originating from or created by BMC available to the Secretary of HHS for purposes of determining BMC's and Provider's compliance with HIPAA.
9. Privacy/Security Incidents.
- a. Provider will report to BMC's Privacy Officer any known or suspected

access, use, disclosure, modification, or destruction of PHI in violation of this Agreement, including any attempted interference with BMC's information systems, ("Privacy/Security Incident"), as soon as possible but no later than two business days after becoming aware of such Privacy/Security Incident.

- b. Provider shall provide in such report the remedial or other actions undertaken to correct the Privacy/Security Incident. Provider will provide BMC with any available information that BMC would be required to include in a notification to a patient at the time of the report or promptly thereafter as information becomes available.
- c. Provider will assist BMC with the investigation of Privacy/Security Incidents.
- d. Provider will assist BMC to mitigate, to the extent practicable, harmful effects known by either Provider or BMC to have occurred as a result of a Privacy/Security Incident.
- e. If individual patient notification is required, BMC will be responsible for notifying affected individuals, unless otherwise agreed upon by Provider and BMC that Provider will notify the affected individuals. Provider is responsible for and agrees to reimburse BMC for any and all costs related to notification of individuals of a Privacy/Security Incident resulting from Provider's or Provider Personnel's negligence or breach of this Agreement.

10. BMC Property; No Guarantee. Provider acknowledges that the PHI and other information created, transmitted, stored or processed on information systems of, or that are maintained for, BMC, is the property of BMC. Provider shall be responsible to purchase any equipment necessary in connection with accessing BMC's information through the remote access provided under this agreement. It is the responsibility of Provider at its sole cost to ensure that Provider's information systems work properly with BMC's information systems to provide remote access. BMC does not guarantee access, which shall be subject to all applicable licenses. The access and data is provided on an "as is" basis and BMC is not responsible for any interruptions, errors or omissions in the data or information provided. Provider, for itself and its Provider Personnel, agrees to release and hold BMC and its affiliates harmless from and against any and all damages Provider may incur related to the inability to access, errors in, or omissions of the PHI. Provider understands and agrees that remote access to the BMC information systems is not a right held by Provider or Provider Personnel but a convenience being provided by BMC to facilitate the treatment and management of Provider's patients. Accordingly, BMC may terminate remote access rights at any time without liability on the part of BMC to Provider or Provider Personnel.

11. Indemnification. Provider shall be responsible for any negligence or breach of the terms of this Agreement by Provider or Provider Personnel, and agrees to indemnify, defend and hold harmless BMC and its parent

corporations, subsidiaries and related entities, their directors, officers, agents, servants, and employees from and against all claims, causes of action, liabilities, judgments, fines, assessments, penalties, damages, awards or other expenses of any kind or nature whatsoever, including, without limitation, attorney's fees, incurred by any of them and relating to or arising out of any negligence or breach of the terms of this Agreement by Provider or Provider Personnel.

12. Insurance. Provider agrees to maintain Network Security and Privacy coverage to provide coverage for losses related to or arising from theft or loss of data owned, held or provided by BMC, including but not limited to PHI and personal and financial information. Such coverage shall include network security liability coverage for the unauthorized access to, use of or tampering with computer systems, including but not limited to, hacker attacks and liability arising from the introduction of a computer virus or otherwise causing damage to BMC's or third person's computer system, network or similar computer related property. The minimum limits shall be \$3,000,000 per loss.
13. Miscellaneous Provisions. Any ambiguity in this Agreement shall be resolved to permit the parties to comply with Legal Requirements. The parties agree to take such action as is necessary to amend this Agreement to comply with changes in laws, regulations and government agency guidance. This Agreement shall inure to the benefit of, and be binding upon, the parties and their respective successors and assigns. Except as provided specifically herein, this Agreement may not be assigned, modified or amended except by an instrument in writing executed by both parties. This Agreement constitutes the entire agreement between the parties on this subject matter and supersedes all other proposals, understandings or agreements, whether written or oral, regarding the subject matter hereof. This Agreement shall be governed and construed by the laws of the Commonwealth of Massachusetts. The parties agree that the benefits to BMC and Provider under this Agreement do not require, are not payment for, and are not in any way contingent upon the admission, referral, or any other arrangement for the provision of any item or service offered by either party pursuant to the terms of this Agreement. In the event of a conflict between a provision of this Agreement and any other agreement between the parties, this Agreement shall control. The rights and obligations of each party that by their nature are intended to survive termination, shall survive termination of this Agreement.

Space Intentionally Left Blank Signature Page Follows

IN WITNESS WHEREOF, the Parties have caused this Health Information Data Access Agreement to be executed by their duly authorized representatives as of the date first written above.

BOSTON MEDICAL CENTER CORPORATION

By: _____
Name: Michael Casey
Title: Associate Director, Electronic Health Record

PROVIDER

By: _____
Name: _____
Title: _____

PROVIDER POINT OF CONTACT (See Section 5)

Name: _____
Title: _____

EXHIBIT A

Confidentiality Agreement for Provider Access to BMC Chartlink

Available at:

https://www.bmc.org/sites/default/files/For_Medical_Professionals/BMC_ChartLink/chartlink-confidentiality-agreement-2018.pdf

USE OF EXHIBIT B

Provider please be advised, if you are providing/performing any services for a BMC patient that are **not in furtherance** of a specific BMC referral (to treat or care) for the patient, then **you must obtain patient's consent** to share his/her/their electronic medical record via Exhibit B. This exhibit provides a patient with the option of sharing/not sharing his/her/their electronic medical record.

EXHIBIT B

Boston Medical Center – ChartLink

Patient Notification and Consent

Electronic Information Sharing Notification and Opt-Out Option

ChartLink is a web portal through which Boston Medical Center can provide read-only access to your entire Boston Medical Center electronic medical record to providers outside of Boston Medical Center. Boston Medical Center allows this access only by people who have a relationship with you for providing treatment – such as your _____ (“Provider”) physician.

You have the right to stop Boston Medical Center from sharing information with a Provider electronically at any time, provided the information has not already been disclosed. To do so, notify Boston Medical Center’s Privacy Officer at (617) 414-1800.

Sensitive Information Consent

Boston Medical Center requires your consent to share **sensitive information** that may be in your record – such as genetic testing, sexually transmitted diseases, behavioral health treatment, rape victim counseling, domestic violence victim counseling, **alcohol and drug abuse treatment** and **information about HIV testing or test results**.

CHOOSE ONLY ONE OPTION BELOW

☐ Check this box if you **DO** agree to allow Provider to view your Boston Medical Center ChartLink record. **Your record could contain sensitive information.**

☐ Check this box if you **DO NOT** agree to allow Provider to view your Boston Medical Center ChartLink record.

I have read and understand this document and my questions have been answered to my satisfaction.

Sign Name: _____ Print Name: _____ Date: _____

Sign Name: _____ Print Name: _____ Date: _____
Parent/Guardian/Surrogate (if applicable)