

HIPAA Business Associate Agreement

This Business Associate Agreement (“BAA”) is entered into this _____
(Effective Date) by and between:

_____ with principal office at:

_____ (“PROVIDER”), and Talcomp Management Services, Inc.: with its principal office at 2323 South Voss Street, Suite 640, Houston, Texas 77057 (“TALCOMP”).

WHEREAS, PROVIDER is in the business of providing health care services;

WHEREAS, TALCOMP is in the business of providing practice management software and training and support services for said software.

WHEREAS, TALCOMP intends to provide software and services to PROVIDER pursuant to an Agreement Attached hereto (the “Agreement”);

WHEREAS, TALCOMP may, in the course of providing software and services under the Agreement, have certain Health Information (as defined herein) disclosed to it; and

WHEREAS, TALCOMP and PROVIDER are entering into this Agreement to set forth TALCOMP’s obligations with respect to its handling of the Health Information.

NOW THEREFORE, for mutual consideration the sufficiency of which is acknowledged by both parties, the parties agree as follows:

1. Definitions. For purposes of this Section, the following terms shall have the indicated meanings:

(a) Affiliated Entity. “Affiliated Entity” shall mean an entity under common control or common ownership with PROVIDER which has been designated as an Affiliated Entity pursuant to the HIPAA Regulations.

(b) Personal Health Information. “Health Information” or “PHI” shall mean any information that 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.

(c) HIPAA Regulations. “HIPAA Regulations” shall mean the regulations promulgated by the Secretary of Health and Human Services under the authority of Title II, Subtitle F of the Health Insurance Portability and Accountability Act (Public Law 104-191).

2. Health Information. TALCOMP represents and warrants that to the extent that TALCOMP is provided with any Health Information, TALCOMP will:

(a) not use or further disclose the information other than as specifically set forth in this BAA;

(b) not use or further disclose the Health Information in a manner that would violate the requirements of any state or federal law including the provisions of the HIPAA Regulations;

(c) use appropriate safeguards to prevent use or disclosure of the Health Information other than as provided for in this BAA;

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(d) report to PROVIDER any use or disclosure of the Health Information not provided for by this Agreement of which TALCOMP may become aware;

(e) ensure that any agents, including subcontractors, to whom TALCOMP provides Health Information received from PROVIDER or Affiliated Entities agrees to the same restrictions and conditions that apply to TALCOMP with respect to such Health Information;

(f) make the Health Information available in accordance with the HIPAA Regulations;

(g) make available Health Information for amendment and incorporate any amendments to Health Information in accordance with the HIPAA Regulations;

(h) make its internal practices, books and records relating to the use and disclosure of Health Information received from the PROVIDER available to the Secretary of Health and Human

Services for purposes of determining the PROVIDER's compliance with the HIPAA Regulations; (i) return or destroy all Health Information received from the PROVIDER which TALCOMP maintains in any form at the termination of this Agreement; and (j) incorporate any amendments or corrections to the Health Information which may be requested pursuant to the HIPAA Regulations.

3. Audit Rights. In order to allow PROVIDER to certify its compliance with the HIPAA Regulations, TALCOMP shall permit the Secretary of Health and Human Services, at PROVIDER's expense and on five (5) days prior notice, to audit TALCOMP's systems and services, with specific emphasis on TALCOMP's compliance with the provisions of this Section. Such audit, which may be conducted by PROVIDER's personnel under obligations of confidentiality or by an independent auditing firm, will not interfere unreasonably with TALCOMP's business activities, and will be conducted no more than once per calendar year, unless PROVIDER has received a request from the Secretary of Health Human Services, or unless a previous audit has disclosed a material issue indicating non-conformance to the provisions of this BAA. PROVIDER will use information received during an audit solely for the purposes of the Agreement and will otherwise maintain the confidentiality of such information.

4. Breach. In addition to any other rights PROVIDER may have in this BAA, the Agreement or by operation of law, if PROVIDER makes the determination that TALCOMP has breached a material term of this BAA, PROVIDER may provide TALCOMP with 60 days written notice of the existence of an alleged material breach and afford TALCOMP an opportunity to cure said alleged material breach upon mutually agreeable terms.

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5. Sanctions. PROVIDER and TALCOMP agree that use and disclosure of personal health information beyond the scope of the services provided for in this Agreement will be considered breach of this Agreement and PROVIDER will have the right to impose any sanctions it receives upon TALCOMP should such sanctions be imposed due to the improper use or disclosure of PHI by TALCOMP.

6. Third Party Rights. The terms of this BAA are not intended, nor should they be construed to grant any rights to parties other than TALCOMP and PROVIDER.

7. Applicable Law and Forum. This BAA shall be interpreted and construed in accordance with the laws of the State of Texas. Any action arising under or relating to this BAA shall be brought in the federal or state courts located in Houston, Texas. Each party hereto consents to the jurisdiction of the foregoing courts.

8. Waiver. No delay or omission on the part of either party in exercising any right hereunder shall operate as a waiver of such right or of any other right under this BAA. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any further occasion. The election of either party of a particular remedy on default will not be exclusive of any other remedy, and all rights and remedies of the parties hereto will be cumulative.

9. Amendments. Any amendment to this BAA shall not be binding on either of the parties to this BAA unless such amendment is in writing and executed by the party against whom enforcement is sought.

10. Notices. Any notices required or permitted under this BAA shall be in writing and delivered in person or sent by registered or certified mail, return receipt requested, proper postage prepaid, properly addressed to the address of the addressee set forth above or to such other more recent address of the addressee of which the sending party has received written notice.

11. Severability. Should any provision set forth herein conflict with any provision of the underlying Agreement with regard to patient health information and the parties responsibilities for maintaining confidentiality and security, then the provision of this addendum will prevail.

12. Authority. Each party has full power and authority to enter into and perform this BAA, and

the person signing this BAA on behalf of each party has been properly authorized and empowered to enter into this BAA.

IN WITNESS WHEREOF, the parties hereto have signed this BAA.

Talcomp Management Services, Inc.

By: _____ Date: _____

Martin J. Taylor, President

Provider

By: _____ Date: _____