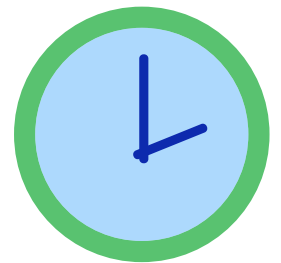




Business Associate Agreement





Business Associate Agreement

This Business Associate Agreement ("Agreement") supplements and is made part of the Terms and Conditions ("Agreement") by and between Celo, the Business Associate ("BA"), and Customer ("Customer") and is effective concurrently with the Agreement.

RECITALS

1. Customer wishes to disclose certain information to BA pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI") (defined below).
2. Customer and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.
3. As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require Customer to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Agreement.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

Definitions

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions:

(a) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Celo.

(b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103 and in reference to the party to this agreement, shall mean Customer.

(c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

(d) Celo. "Celo" means all companies in the Celo group of companies including Celo Limited, Celo Health Pty Ltd and Celo Health, Inc. The contact details for these companies is listed at bottom of this document. You can contact us at any of the locations listed in this document.



Obligations and Activities of Business Associate

BA agrees to:

- (a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
- (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;
- (c) Report to Customer any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
- (d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the BA agree to the same restrictions, conditions, and requirements that apply to the BA with respect to such information;
- (e) Make available protected health information in a designated record set to the Customer as necessary to satisfy Customer's obligations under 45 CFR 164.524;
- (f) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the Customer pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Customer's obligations under 45 CFR 164.526;
- (g) Maintain and make available the information required to provide an accounting of disclosures to Customer as necessary to satisfy Customer's obligations under 45 CFR 164.528;
- (h) To the extent the BA is to carry out one or more of Customer's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Customer in the performance of such obligation(s); and
- (i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

Permitted Uses and Disclosures by Business Associate

- (a) BA may only use or disclose protected health information as necessary to perform the services set forth in Agreement.
- (b) BA may use or disclose protected health information as required by law.
- (c) BA agrees to make uses and disclosures and requests for protected health information consistent with Customer's minimum necessary policies and procedures.
- (d) BA may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by the Customer.
- (e) BA may use protected health information for the proper management and administration of BA or to carry out the legal responsibilities of BA.
- (f) BA may disclose protected health information for the proper management and administration of BA or to carry out the legal responsibilities of BA, provided the disclosures are required by law, or BA obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential



and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies BA of any instances of which it is aware in which the confidentiality of the information has been breached.

(g) BA may provide data aggregation services relating to the health care operations of the Customer.

Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

(a) Customer shall notify BA of any limitation(s) in the notice of privacy practices of Customer under 45 CFR 164.520, to the extent that such limitation may affect BA's use or disclosure of protected health information, within ten (10) business days of the effective date of the notice of privacy practices.

(b) Customer shall notify BA of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect BA's use or disclosure of protected health information, within ten (10) business days of the change or revocation.

(c) Customer shall notify BA of any restriction on the use or disclosure of protected health information that Customer has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect BA's use or disclosure of protected health information, within ten (10) business days of the effective date of the restriction.

Permissible Requests by Covered Entity

Customer shall not request BA to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by the Customer.

Term and Termination

(a) Term. The Term of this Agreement shall begin on Effective Date, and shall terminate when all Protected Health Information provided by Customer to BA is destroyed or returned to Customer, or if it is infeasible to return or destroy all Protected Health Information, protections are extended to such information in accordance with the termination provisions in this section.

(b) Termination for Cause. BA authorizes termination of this Agreement by Customer, if Customer determines BA has violated a material term of the Agreement and BA has not cured the violation within 120 days of notification of the violation by the Customer.

(c) Obligations of Business Associate Upon Termination.

Upon termination of this Agreement for any reason, BA, with respect to protected health information received from Customer, or created, maintained, or received by BA on behalf of Customer, shall:

1. Retain only that protected health information which is necessary for BA to continue its proper management and administration or to carry out its legal responsibilities;
2. Destroy or return to Customer the remaining protected health information that the BA still maintains in any form, if feasible;
3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as BA retains the protected health information;
4. Not use or disclose the protected health information retained by BA other than for the purposes for which such protected health information was retained and subject to the same conditions set out at paragraphs



(e) and (f) above under “Permitted Uses and Disclosures By Business Associate” which applied prior to termination; and

5. Destroy or return to Customer the protected health information retained by BA, if feasible, when it is no longer needed by BA for its proper management and administration or to carry out its legal responsibilities.

(d) Survival. The obligations of BA under this Section shall survive the termination of this Agreement.

Miscellaneous

(a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

(b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

(c) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

(d) Notices. Any notices to be given hereunder to a BA shall be made via Mail or express courier to such CE's address given below, and/or (other than for the delivery of fees) via email or facsimile to the contacts listed below.

If to Business Associate, to:

Celo United States of America

Celo Health, Inc.
2815 Elliott Ave Suite 100
Seattle
WA 98121
United States
Attention: Privacy Officer
dpo@celohealth.com

Celo Headquarters

Celo Limited
Level 1, 63 Ponsonby Road
Auckland, 1011
New Zealand
Attention: Privacy Officer
dpo@celohealth.com

