

CONE HEALTH HUB AGREEMENT FOR ACCESS TO PROTECTED HEALTH INFORMATION

THIS AGREEMENT FOR ACCESS TO PROTECTED HEALTH INFORMATION (“PHI”) (“Agreement”) is entered into between The Moses H. Cone Memorial Hospital Operating Corporation d/b/a Cone Health for itself and its affiliates (hereinafter “Cone Health”) and _____ for itself and its affiliates (hereinafter “Outside Entity”).

WHEREAS, Cone Health utilizes certain systems which allow users to remotely access patient electronic health records (the “System”) among the Cone Health facilities and other health care providers affiliated with Cone Health;

WHEREAS, the System will allow certain authorized parties to view and retrieve the electronic health records (“EHR”) of their patients and/or members, as applicable, for the purpose of treatment, payment, or certain health care operations to the extent permitted without authorization by applicable state law, 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 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, Cone Health believes that the proper use of the System by Outside Entity would substantially improve the quality of health care provided to patients and therefore desires to allow access to the System by Outside Entity, subject to the restrictions and other requirements set forth in this Agreement;

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 do hereby agree as follows:

1. System Access.

A. Subject to the terms and conditions of this Agreement, Cone Health hereby grants Outside Entity non-transferable and non-exclusive access to the System to permit the personnel defined and set forth in Exhibit A attached hereto (the “Site Administrators”) to define a set of Outside Entity’s staff including the Site Administrator (collectively “Authorized Users”), entitled to electronically access and use the System solely for reviewing, storing, processing and displaying medical records and other information, images and content related to the provision of healthcare to patients and/or members of the Outside Entity (the “System License”). Outside Entity shall notify Cone Health of any change to the Site Administrator prior to such change being made. Outside Entity understands and warrants that such access and use shall be limited to that achieved through unique access codes provided to each Authorized User granted access by Cone Health, and that each Authorized User shall be prohibited from using another Authorized User’s access code to access and/or use the System. Outside Entity further acknowledges and understands that Cone Health may terminate Outside Entity’s and/or individual Authorized Users’ access and/or this Agreement at any time for any reason without penalty, regardless of any effect such termination may have on Outside Entity’s operations.

B. Outside Entity acknowledges and agrees that any hardware, software, network access or other items (collectively, the “Components”) necessary for Outside Entity to access and use the System must be obtained separately by Outside Entity. Cone Health shall not be responsible for the procurement, installation, integration or maintenance of any Components, and Cone Health makes no representations or warranties regarding the Components whatsoever. Any fees associated with the Components shall be borne by Outside Entity and paid directly to the suppliers of the Components.

C. Outside Entity understands that Cone Health may send Authorized Users messages via the System. These messages may contain important information. It is the responsibility of each Authorized User to monitor these messages. Authorized Users will be required to enter valid and functional e-mail addresses to enable Cone Health to notify the Authorized Users of messages sent through the System, and Authorized Users will need to update their e-mail addresses on the System as needed. Authorized Users must use this System function appropriately and judiciously. Outside Entity agrees to not hold Cone Health liable for any loss, injury or claims of any kind whatsoever resulting from an Authorized Users failure to monitor or read messages sent via the System in a timely manner.

D. Outside Entity acknowledges that Cone Health does not guarantee constant or consistent availability of the System, and that the System may be periodically unavailable due to technical issues, security concerns, or hardware and software upgrades.

2. Use or Disclosure of PHI.

A. Outside Entity shall not use or disclose PHI received from Cone Health in any manner that would constitute a violation of federal or state law, including, but not limited to, HIPAA. Outside Entity shall ensure that only its Authorized Users use or disclose PHI received from, or created or received on behalf of, Cone Health only in accordance with the provisions of this Agreement and federal and state law. Outside Entity shall not disclose PHI in any manner other than as permitted by this Agreement. Outside Entity further agrees that all information accessed, viewed, or downloaded through the System will be maintained in the strictest confidence and, at a minimum, as required by state and federal law. In the event that the privacy and security standards employed by Outside Entity exceed state and federal requirements, Outside Entity shall protect such data in the same manner as Outside Entity safeguards the confidentiality of other patient care records. Outside Entity further agrees that it will implement all appropriate safeguards to prevent unauthorized use or disclosure of PHI or intrusion to Cone Health systems.

B. Outside Entity agrees to implement and utilize the System and shall provide Cone Health with access to a patient’s and/or member’s EHR located on any system implemented or utilized by Outside Entity that are created, maintained, transmitted, or received using the System when such patient and/or member is also a patient of Cone Health. Cone Health agrees that such EHR shall be used solely for the purposes of treatment, payment, or health care operations to the extent permitted without patient authorization by HIPAA. Such access to the EHR shall be granted by Outside Entity to Cone Health only to the extent that Cone Health needs access to the information contained in the EHR for treatment, payment, and certain healthcare operations purposes. Further, such access shall be subject to Cone Health's agreement to a separate data access agreement with terms that are similar to the ones contained in this Agreement. Outside

Entity shall use the System in accordance with any policies issued by Cone Health from time to time.

C. Cone Health and Outside Entity shall comply in all material respects with the standards for privacy of individually identifiable health information of the Administrative Simplification subtitle of HIPAA and state law, as applicable. If applicable, Outside Entity recognizes its status as a “covered entity” under HIPAA and agrees to carry out its responsibilities under this Agreement in accordance with such status.

3. Process for Requesting System Access.

A. In accordance with the terms of Exhibit A, Outside Entity shall provide Cone Health with the name and direct contact information for its Privacy Officer, and shall properly notify Cone Health prior to any change in such contact. In accordance with the terms of Exhibit A and Section 1 hereof, Outside Entity shall also designate a Site Administrator to coordinate user access (which person can also be the Privacy Officer). The Site Administrator is responsible for managing the modification and termination of accounts that the Outside Entity is provided. Before accessing the System, each Authorized User shall agree to and electronically sign the terms and conditions (the “Terms and Conditions”) in the form provided as Exhibit B, attached hereto and incorporated herein by reference, as that form may be amended from time to time by Cone Health. Outside 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. Each Authorized User shall also complete, in a form and in a manner to be determined by Cone Health, reasonable training regarding the user requirements of the System, such training to be coordinated through the Site Administrator. Cone Health shall provide System user access to Outside Entity's employees only when such System user access is requested through the Site Administrator.

B. For purposes of this Agreement, access to the System shall be permitted only for such employees of Outside Entity who have a reasonable need to access PHI of Cone Health patients and/or members of the Outside Entity for purposes of carrying out their duties to such patients and/or members. The Authorized Users of Outside Entity who shall have access to the System are compiled and maintained by the Site Administrator and provided by the Site Administrator to Cone Health. Outside Entity, through its Site Administrator, agrees to notify Cone Health as soon as possible and, in any event, within 24 hours when any Authorized User is separated from employment of Outside Entity for any reason, including but not limited to retirement, termination or voluntary separation. Outside Entity further agrees that, on each anniversary date of this Agreement, or more frequently as requested by Cone Health, it shall, through its Site Administrator, validate that each Authorized User continues to have a reasonable need for access to the System and continues to be an employee or agent of Outside Entity.

4. Data Ownership.

Outside Entity acknowledges and agrees that Cone Health owns all rights, interests and title in and to all data acquired, accessed, viewed, or downloaded through the System, and that such rights, interests and title shall remain vested in Cone Health at all times. Outside Entity shall not compile and/or distribute such data or any analyses to third parties utilizing any data received from, or created or received on behalf of Cone Health without express written permission from Cone Health. Notwithstanding, certain records available for Outside Entity's access through the System

may be copied and used by Outside Entity only to the extent permitted by applicable laws and regulations and such copies shall become the property of Outside Entity.

5. Reporting of Unauthorized Use or Disclosure of PHI.

A. Outside Entity shall, within forty-eight (48) hours of becoming aware of an unauthorized access, use or disclosure of PHI arising from use of the System by any third party or by Outside Entity, its Authorized Users, officers, directors, employees, contractors, agents or by a third party to which Outside Entity disclosed PHI from the System (a "Disclosure"), report any such

Disclosure to Cone Health. Such notice shall be made by telephone call by contacting the Health Compliance and Privacy HelpLine at 855-809-3042 and by letter sent via a nationally recognized overnight carrier to the following:

Cone Health
1200 N. Elm Street
Greensboro, NC 27401
ATTN: Privacy Office

B. In addition, Outside Entity shall take immediate action to identify and eliminate the cause of the Disclosure.

C. When Cone Health determines in its reasonable discretion that notice about a Disclosure is required by applicable regulations, Cone Health will provide notice or require Outside Entity to provide notice to individuals regarding the Disclosure.

D. Cone Health has the right at any time, to take reasonable steps to monitor, audit, and review activities and methods in implementing this Agreement in order to assure compliance therewith, within the limits of Outside Entity's technical capabilities.

6. Investigations/Sanctions.

Cone Health reserves the right to monitor, review and investigate reported and identified failures to comply with this Agreement and impose reasonable nonmonetary appropriate sanctions. Sanctions may include, but are not limited to, the termination of this Agreement or termination of individual Authorized User access. Cone Health reserves the right to report unprofessional conduct to appropriate licensing or other regulatory authorities. Outside Entity agrees to reasonably cooperate with Cone Health in order to adequately investigate complaints received involving the Outside Entity's employees or agents. Further, Outside Entity agrees to reasonably cooperate with Cone Health in the event of a regulatory agency investigation regarding Cone Health and Outside Entity's use of the System. Outside Entity agrees to have a sanctions policy, produce it upon request, and discipline their employees or agents for all breaches involving PHI in accordance with the HIPAA Privacy Rule.

7. Immediate Termination.

Outside Entity understands, acknowledges and agrees that Cone Health may terminate this Agreement immediately without liability at any time, and for any reason, within the sole discretion of Cone Health.

8. Indemnification.

Outside Entity agrees to indemnify and hold harmless Cone Health, its governing board, officers, employees and agents, from and against any and all claims, costs, losses, damages, penalties, liabilities, expenses, demands, and judgments, including litigation expenses and attorney's fees, which may solely arise from Outside Entity's breach and/or performance under this Agreement or negligent acts or omissions of its Authorized Users, subcontractors, agents, or employees, including, but not limited to, any penalties, 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 required notice to impacted individuals, including the reasonable costs to retain an outside consulting firm, vendor or outside attorneys to undertake the effort.

9. Insurance.

During the term of this Agreement, Outside Entity, at its sole cost and expense shall provide cyber liability insurance coverage in the minimum amount of \$1,000,000. If such insurance is on a "claims made" basis, and such coverage is later terminated or converted to "occurrence" coverage (or vice versa), the Outside Entity shall also acquire for itself and the Authorized Users "prior acts" or "tail" coverage (as applicable) in the above amount covering all periods during which this Agreement is or has been in force. The Outside Entity shall deliver a copy of the policy or policies, or at the election of Cone Health, a certificate or certificates, reflecting such coverage and shall instruct and obtain the consent of such insurer or insurers to provide prior written notice to Cone Health (equal to notice given to Outside Entity) of the non-renewal, cancellation, proposed cancellation or material change in such insurance for any cause. The Outside Entity shall provide Cone Health with notice of any breaches, claims, or events that could reasonably be anticipated to give rise to a claim under the Outside Entity's cyber liability insurance coverage. Each cyber liability insurance policy shall be issued by an insurance company which has an AM Best rating of no less than "A-" and which shall be licensed to conduct business in the State of North Carolina. Cone Health shall not be required to provide such insurance nor shall Cone Health be liable for the payment of any premiums on such insurance.

10. Entire Agreement.

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

11. Amendment.

This Agreement may be modified only by a subsequent written Agreement executed by the parties.

12. 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 State of North Carolina.

13. 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.

14. Term.

The term of this Agreement shall be one year, beginning on _____ and will continue thereafter from year to year unless terminated by either party.

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

The Moses H. Cone Memorial Hospital
Operating Corporation d/b/a Cone Health

Outside Entity

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit A

The Outside Entity shall check the box that is applicable to the Outside Entity:

Outside Entity as a Medical Provider

1. Medical/clinical personnel including, but not limited to MD, RN, LPN, NA, PA, CMA, NP, PA
2. Billing and coding related personnel including, but not limited to Coders, Medical Records Clerk, Billing Clerks

Outside Entity as a Third-Party Payor

Personnel of the Outside Entity engaged in care management, quality review and/or risk adjustment/auditing activities

Acknowledged by:

Signature of individual authorized to sign for Outside Entity

Name: _____

Title: _____

Date: _____

As referenced in the Site Agreement, Section 3, the Outside Entity shall provide Cone Health with contact information for a Site Administrator and Privacy Officer.

A Site Administrator should be physically located with the Outside Entity and have access to Human Resource information regarding new hires and terminations as well as knowledge of an employee’s role within the Outside Entity. A Site Administrator should feel comfortable with using medical systems to act as a super user responsible for assisting staff with use of Cone Health Hub.

Site Type – Please Check Appropriate Box

Nursing Home Clinic Service Agency Revenue/Denial Co Insurance Agency

Note: If Clinic, Exhibit C, must be completed to provide Cone Health with a list of midlevels and providers. **If Exhibit C is not completed, the request for access to Cone Health Hub will be delayed.**

Complete for Site Administrator

PRINT <u>First Name</u> as seen on Clinical or Driver’s License	MI	PRINT <u>Last Name</u> as seen on Clinical or Driver’s License

Site Address

Work Email Address

Work Phone Number	Work Fax Number
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Last 4 Digits of Social Security	Birthday - MM/DD/YR
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Complete if Site Administrator is Clinical

Credentials	NPI Number (if applicable)

Complete for Privacy Officer

PRINT <u>First Name</u>	PRINT <u>Last Name</u>

Work Phone Number: () -

Exhibit B

The protection of health and other confidential information is a right protected by law and enforced by fines, criminal penalties as well as employer policy.

Safeguarding confidential information is a fundamental obligation for all persons accessing confidential information.

**Your clicking on “I AGREE” or signature at the end of this statement will commit you to that obligation, and WILL be used as proof that you understand and agree to the stated basic duties and facts regarding privacy.
Read it carefully.**

What you agree to in signing this statement:

1. I agree to protect the privacy and security of all information and data viewed, accessed, or downloaded using the System, including but not limited to Protected Health Information (PHI), as defined by HIPAA.
2. I agree to a) access PHI to the minimum extent necessary for my assigned duties and b) disclose such information only to persons authorized to receive it for treatment, payment or health care operations. I will not attempt to access or use information about any patient whom I am not treating or any individual who is not a member of the Outside Entity, as applicable.
3. I agree not to access my own electronic PHI.
4. I agree that I understand the following:
 - a. Cone Health, for itself and its affiliates (hereinafter “Cone Health”) tracks all user IDs used to access electronic records. Those IDs enable discovery of inappropriate access to PHI.
 - b. I will immediately report to the Health Compliance and Privacy HelpLine at 855-809-3042 any incident in which unauthorized disclosure of or access to PHI or other confidential information may have occurred. Inappropriate access, failure to secure, and/or unauthorized release of PHI by me may result in a report to authorities charged with professional licensing, enforcement of privacy laws and prosecution of criminal acts. I further understand and agree that inappropriate access, failure to secure, and/or unauthorized release of PHI may result in temporary and/or permanent termination of my access to Cone Health’s electronic records.
 - c. That I will be assigned a unique User ID & a temporary password. I agree to immediately select and enter a new password known only to me. I understand I may change my password at any time, and will do so as necessary to comply with Cone Health established policies and/or when prompted. I understand that I am to be the only individual using and in possession of my confidential password, and I will not share or disclose passwords or other login credentials with any other individual. I am aware that the User ID and password are equivalent to my signature. Also, I am aware that I am responsible for any use of the

system utilizing my User ID and password. This includes data received, entered, viewed, printed or otherwise manipulated. If I have reason to believe that my User ID and password has been compromised I will immediately report this information to Cone Health and I will also immediately change my password. Inappropriate use of my User ID or password (whether by me or anyone else) is my responsibility and exposes me to severe consequences. I further agree that I shall not leave a computer or device through which I am logged into the System unattended and that, unless permitted by Cone Health, I shall not use any User ID and/or password storage program which would allow for automatic population of the User ID and/or password fields when logging to the System.

- d. I understand that Cone Health may send me messages via the System. These messages may contain important information. It is my responsibility to monitor these messages. I further understand that I must provide Cone Health a valid and functional e-mail address. By entering my valid and functional e-mail address, I have enabled Cone Health to notify me of messages sent via the System. I will update my e-mail address as needed. In addition, I understand that I must use this System function appropriately and judiciously. I further agree to not hold Cone Health liable for any loss, injury or claims of any kind whatsoever resulting from my failure to monitor or read messages sent via the System in a timely manner.
- e. I acknowledge that Cone Health may terminate my access to Cone Health systems and facilities at any time, and without cause or notice.

Exhibit C – APP’s (Midlevels) and Physicians

Only list APP’s (Midlevels) and Physicians below. This list is to identify Authorizing Providers that can bill for services. Complete all fields. Please PRINT.

DO NOT list Residents, Medical Students, or Clinic Staff

Last Name (as seen on license)	First Name (as seen on license)	Middle Initial	Work Address	Work Phone	Work Fax	NPI #
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