

- i. Internal Practices: BA shall make its internal practices, books and records relating to the use and disclosure of CE's PHI available to CE and all appropriate federal agencies to determine CE's and BA's compliance with HIPAA, the HITECH Act and the Privacy and Security Rule.
 - j. To the extent BA is to carry out one or more of CE's obligations under Subpart E of 45 C.F.R. Part 164, BA must comply with the requirements of that Subpart that apply to CE in the performance of such obligations.
 - k. Restrictions and Confidential Communications: Within 10 business days of notice by CE of a restriction upon use or disclosure or request for confidential communications pursuant to 45 C.F.R.164.522, BA shall restrict the use or disclosure of an individual's PHI. BA may not respond directly to an individual's request to restrict the use or disclosure of PHI or to send all communication of PHI to an alternate address. BA shall refer such requests to the CE so that the CE can coordinate and prepare a timely response to the requesting individual and provide direction to the BA.
4. Obligations of CE.
- a. CE shall be responsible for using legally appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to BA under the BAA until the PHI is received by BA.
 - b. CE shall not request BA to use or disclose PHI in any manner that would not be permissible under HIPAA, the HITECH Act or the Privacy and Security Rule if done by CE.
 - c. CE shall provide BA with the notice of privacy practices that CE produces in accordance with 45 C.F.R. 164.520, as well as any changes to such notice.
 - d. CE shall provide BA with any changes in, or revocation of, permission by an individual to use or disclose PHI, if such changes affect BA's permitted or required uses and disclosures.
 - e. CE shall notify BA of any restriction to the use or disclosure of PHI that CE has agreed to in accordance with 45 C.F.R. 164.522.
5. Termination.
- a. Breach: A breach of a material term of the BAA by either party that is not cured within a reasonable period of time will provide grounds for the immediate termination of the contract. In addition, a party may terminate CE's use of VacTrAK as an EHR or any other use for any reason upon 30 days' written notice.
 - b. Reasonable Steps to Cure: In accordance with 45 C.F.R. 164.504(e)(1)(ii), CE and BA agree that, if it knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligation under the BAA, the nonbreaching party will take reasonable steps to get the breaching party to cure the breach or end the violation and, if the steps taken are unsuccessful, terminate the BAA if feasible, and if not feasible, report the problem to the Secretary of the U.S. Department of Health and Human Services and the Commissioner of the Alaska Department of Health and Social Services.
 - c. Effect of Termination: Upon termination of the contract for any reason, BA will, at the direction of the CE, either return or destroy all PHI received from CE or created, maintained, or transmitted on CE's behalf by BA in any form. Unless otherwise directed, BA is prohibited from retaining any copies of PHI received from CE or created, maintained, or transmitted by BA on behalf of CE. If destruction or return of PHI is not feasible, BA shall continue to extend the protections of this BAA to PHI and limit the further use and disclosure of the PHI.

The obligations in this BAA shall continue until all of the PHI provided by CE to BA is either destroyed or returned to CE or six years has passed, whichever is sooner.

6. Amendment. The parties acknowledge that state and federal laws relating to electronic data security and privacy are evolving, and that the parties may be required to further amend this BAA to ensure compliance with applicable changes in law. Upon receipt of a notification from CE that an applicable change in law affecting this BAA has occurred, the parties agree to amend this BAA to ensure compliance with changes in law.
7. Ownership of PHI. For purposes of this BAA, CE owns the designated record set that contains the PHI it transmits to BA or that BA receives, creates, maintains or transmits on behalf of CE.
8. Litigation Assistance. Except when it would constitute a direct conflict of interest for BA, BA will make itself available to assist CE in any administrative or judicial proceeding by testifying as witness as to an alleged violation of HIPAA, the HITECH Act, the Privacy or Security Rule, or other law relating to security or privacy.
9. Regulatory References. Any reference in this BAA to federal or state law means the section that is in effect or as amended.
10. Interpretation. This BAA shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy and Security Rule and applicable state and federal laws. The parties agree that any ambiguity in BAA will be resolved in favor of a meaning that permits the CE to comply with and be consistent with HIPAA, the HITECH Act, and the Privacy and Security Rule. The parties further agree that where this BAA conflicts with a contemporaneously executed confidentiality agreement between the parties, this BAA controls.
11. No Private Right of Action Created. This BAA does not create any right of action or benefits for individuals whose PHI is disclosed in violation of HIPAA, the HITECH Act, the Privacy and Security Rule or other law relating to security or privacy.

Section VII: Signature and Execution

By signing your name below you certify that you have read, understood, and agreed to the terms and conditions of this Agreement.

Email the completed and signed form to the Immunization Program at vactrak@alaska.gov.

Authorized Provider Organization Name:

Printed name:

Date:

Signature: