

EXHIBIT C

**HIPAA BUSINESS ASSOCIATE/QUALIFIED SERVICE ORGANIZATION  
ADDENDUM**

**(Applicable in connection with ACP's  
access to protected health information of Coalition  
Partner as a business associate of Coalition Partner)**

In addition to the other provisions in the Agreement and notwithstanding anything in the Agreement to the contrary, the parties shall be bound by the terms in this Exhibit (which is attached to and shall be deemed a part of the Agreement). In the event of a conflict between the provisions in the body of the Agreement and the provisions contained in this Exhibit, the provisions contained in this Exhibit shall prevail.

Preliminary Statement

This HIPAA Business Associate Addendum (“Addendum”) is effective between ACP (“Business Associate”) and you (“Covered Entity”). Covered Entity and Business Associate, collectively, may hereinafter be referred to as the “Parties,” as in the parties to this Addendum.

The Parties have entered into that certain Advocate Community Providers Terms and Conditions of Participation to which this Addendum is attached (the “Underlying Agreement”), under which the Business Associate uses and/or discloses PHI in its performance of the Services described below. The construction and interpretation of this Addendum is independent of that of the Underlying Agreement. The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information (the “Privacy Rule”) and the Standards for Security of Electronic Protected Health Information (the “Security Rule”) under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) including the 2013 HIPAA Omnibus Rule. This Addendum, in conjunction with the Privacy and Security Rules, sets forth the terms and conditions pursuant to which PHI (electronic and non-electronic) that is created, received, maintained, or transmitted by, the Business Associate from or on behalf of Covered Entity, will be handled between the Business Associate and Covered Entity and with third parties during the term of their Underlying Agreement and after its termination. The Parties agree as follows:

**1. PERMITTED USES AND DISCLOSURES OF PHI.**

**1.1 Services.** Pursuant to the Underlying Agreement, Business Associate provides services (“Services”) for Covered Entity that involve the use and disclosure of PHI. Except as otherwise specified herein, the Business Associate may make any and all uses of PHI necessary to perform its obligations under the Underlying Agreement. All other uses not authorized by this Addendum are prohibited. Moreover, Business Associate may disclose PHI for the purposes authorized by this Addendum only: (a) to its employees, subcontractors and agents, in accordance with Section 2.1(d), or (b) as otherwise permitted by or as required by the Privacy or Security Rule.

**1.2 Business Activities of the Business Associate.** Unless otherwise limited herein and if such use or disclosure of PHI would not violate the Privacy or Security Rules if done by the Covered Entity, the Business Associate may:

(a) Use the PHI in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of the Business Associate provided that such uses are permitted under state and federal confidentiality laws.

(b) Disclose the PHI in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of the Business Associate, provided that the Business Associate represents to Covered Entity, in writing, that (i) the disclosures are required by law, as provided for in 45 CFR § 103 or (ii) the Business Associate has received from the third party written assurances regarding its confidential handling of such PHI as required under 45 CFR § 164.504(e)(4) and § 164.314, and the third party notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(c) Business Associate may provide data aggregation services relating to the health care operations of the Covered Entity.

**1.3 Qualified Service Organization.** Business Associate acknowledges that it may also be a Qualified Service Organization as defined in 42 CFR 2.11 and as such: (i) acknowledges that, to the extent it receives, stores, processes or otherwise deals with any information, whether recorded or not, relating to a patient received or acquired by a federally assisted alcohol or drug program, it is fully bound by the regulations in 42 CFR Part 2; and (ii) if necessary, will resist in judicial proceedings any efforts to obtain access to any information, whether recorded or not, relating to a patient received or acquired by a federally assisted alcohol or drug program, except as permitted by 42 CFR Part 2.

## **2. RESPONSIBILITIES OF THE BUSINESS ASSOCIATE WITH RESPECT TO PHI.**

**2.1 Responsibilities of the Business Associate.** With regard to its use and/or disclosure of PHI, the Business Associate hereby agrees to do the following:

(a) Not use or disclose PHI other than as permitted or required by the Addendum or as required by law.

(b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by the Addendum.

(c) Report, in writing, to Covered Entity within ten (10) business days any use or disclosure of PHI not provided for by the Addendum of which it becomes aware, including breaches of unsecured PHI as required at 45 CFR 164.410, and any security incident of which it becomes aware, and cooperate with the Covered Entity in any mitigation or breach reporting efforts; this notice shall be deemed sufficient if it is delivered to the Parties at

their respective addresses listed above.

(d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, to ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.

(e) Except as provided in this subsection, ensure that any agent or subcontractor to whom the Business Associate provides PHI, as well as Business Associate, shall not export PHI beyond

the borders of the United States of America. If the Business Associate or its agent or subcontractor exports PHI beyond the borders of the United States of America, then, subject to the United States and New York State export control and foreign outsourcing laws, rules and regulations, the Business Associate will provide to Covered Entity prior to such export, a reasonable assurance, evidenced in writing, that the Business Associate, subcontractor, or agent will comply with the privacy and security obligations of Business Associate the set forth either in this Addendum or in applicable law, rules and regulations with respect to such PHI.

(f) Agrees to provide the Covered Entity, at the Covered Entity's request, a list of all agents and subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate.

(g) Within five (5) business days of a request from Covered Entity, make available PHI in a designated record set, if applicable, to Covered Entity, as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524.

(h) Within five (5) business days of a request from Covered Entity, make any amendment(s) to PHI, if applicable, in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526.

(i) As applicable, maintain and make available the information required to provide an accounting of disclosures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.528.

(j) To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).

(k) Upon request, may make its internal practices, books, and records available to the Secretary and to the Covered Entity for purposes of determining compliance with the HIPAA Rules.

(l) Comply with minimum necessary requirements under the HIPAA Rules.

### **3. RESPONSIBILITIES OF COVERED ENTITY.**

**3.1 Responsibilities of Covered Entity.** With regard to the use and/or disclosure of PHI by the Business Associate, Covered Entity hereby agrees:

(a) To inform the Business Associate of any limitations in the form of notice of privacy practices that Covered Entity provides to individuals pursuant to 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI hereunder.

(b) To inform the Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose PHI, to the extent that such limitation may affect Business Associate's use or disclosure of PHI hereunder.

(c) To notify the Business Associate, in writing and in a timely manner, of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may impact in any manner the use and/or disclosure of PHI by the Business Associate under this Addendum.

(d) Covered Entity will not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy and Security Rule if done by the Covered Entity.

### **4. OBLIGATIONS UPON TERMINATION.**

**4.1 Obligations of Business Associate upon Termination.** Business Associate agrees to return or destroy all PHI pursuant to 45 CFR § 164.504(e)(2)(I). Prior to doing so, the Business Associate further agrees to recover any PHI in the possession of its subcontractors or agents. If it is not feasible for the Business Associate to return or destroy said PHI, the Business Associate will notify Covered Entity in writing and the Covered Entity may disagree with the Business Associate's determination. Said notification shall include: (a) a statement that the Business Associate has determined that it is not feasible to return or destroy the PHI in its possession, and (b) the specific reasons for such determination. Business Associate further agrees to extend any and all protections, limitations and restrictions contained in this Addendum to the Business Associate's use and/or disclosure of any PHI retained after the termination of this Addendum, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible, including when applicable those under sections 2 of this Addendum. If it is infeasible for the Business Associate to obtain from a subcontractor or agent any PHI in the possession of the subcontractor or agent, the Business Associate must provide a written explanation to Covered Entity and require such subcontractor or agent to agree to extend any and all protections, limitations and restrictions contained in this Addendum to the subcontractor's and/or agent's use and/or disclosure of any PHI retained after the termination of this Addendum, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible. The Business Associate's obligations under this section 4.3 shall survive the expiration or termination of this Addendum for any reason.

## 5. MISCELLANEOUS.

**5.1 Business Associate.** For purposes of this Addendum, Business Associate shall include the named Business Associate herein. However, in the event that the Business Associate is otherwise a Covered Entity under the Privacy or Security Rule, that entity may appropriately designate a health care component of the entity, pursuant to 45 CFR § 164.504(a), as the Business Associate for purposes of this Addendum.

**5.2 Interpretation.** Any ambiguity in this Addendum shall be interpreted to permit compliance with the HIPAA Rules.

**5.3 No Third Party Beneficiaries.** Nothing expressed or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

**5.4 LIMITATION OF LIABILITY.** BUSINESS ASSOCIATE SHALL NOT BE LIABLE TO COVERED ENTITY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

**5.5 Construction of Terms.** The terms of this Addendum shall be construed in light of any applicable interpretation or guidance on HIPAA and/or the Privacy Rule issued by the Department of Health and Human Services of the Office of Civil Rights from time to time.

## 6. DEFINITIONS.

**6.1** The following terms used in this Addendum 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, PHI, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

**6.2** Specific definitions include:

(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 Addendum, shall mean the Party identified as the Business Associate above.

(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 Addendum, shall mean the Party identified as the Covered Entity above.

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

(d) Electronic Protected Health Information or Electronic PHI. “Electronic PHI” shall mean PHI which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.

(e) Privacy Officer. “Privacy Officer” shall have the meaning as set out in its definition at 45 CFR § 164.530(a)(1) as such provision is currently drafted and as it is subsequently updated, amended or revised, and in reference to this Addendum, shall mean the person identified as the Privacy Officer above.

(f) Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164.

(g) Qualified Service Organization Agreement. “Qualified Service Organization Agreement” shall have the same meaning as defined in 42 CFR 2.12(c)(4).

(h) Security Rule. “Security Rule” shall mean the Standards for Security of Electronic Protected Health Information at 45 CFR Parts 160, 162, and 164.

(i) A reference in this Addendum to a section in the HIPAA Rules means the section as in effect or as amended.