



INTERAGENCY AGREEMENT SUMMARY

(Interagency Agreement between state agencies, including the University of Tennessee or Board of Regents colleges and universities)

Begin Date February 9, 2023	End Date February 8, 2028	Agency Tracking # 31865-00868	Edison ID 77544		
Contracting State Agency Name University of Tennessee Health Science Center		Edison Supplier ID 0000002802			
CFDA # 93.778					
Service Caption UTHSC Consortium - Tennessee Population Health Data Network ("TN-POPnet")					
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Agreement Amount
2023	\$0.00	\$0.00			\$0.00
2024	\$0.00	\$0.00			\$0.00
2025	\$0.00	\$0.00			\$0.00
2026	\$0.00	\$0.00			\$0.00
2027	\$0.00	\$0.00			\$0.00
2028	\$0.00	\$0.00			\$0.00
TOTAL:	\$0.00	\$0.00			\$0.00
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations. <div style="display: flex; align-items: center;"> <div style="font-size: 2em; margin-right: 10px;">Crystal G. Allen</div> <div> Digitally signed by: Crystal G. Allen DN: CN = Crystal G. Allen email = Crystal.G.Allen@tn.gov C = US O = TennCare OU = Budget Date: 2023.01.25 14:21:12 -06'00' </div> </div>				<i>CPO USE - IA</i>	
Speed Chart (optional)		Account Code (optional)			

**INTERAGENCY AGREEMENT
BETWEEN THE STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION,
DIVISION OF TENNCARE
&
THE UNIVERSITY OF TENNESSEE HEALTH SCIENCE CENTER**

This Interagency Agreement (“Agreement”), entered into as of the last date of signature (“Effective Date”) is by and between the State of Tennessee, Department of Finance and Administration, Division of TennCare (hereinafter referred to as “TennCare”), and The University of Tennessee, a public higher education institution and instrumentality of the State of Tennessee, on behalf of its Health Science Center (hereinafter referred to as “UTHSC”), for the provision of project activities as part of the Tennessee Population Health Data Network, as further defined in the “Scope of Services.”

A. SCOPE OF SERVICES:

- A.1. TennCare shall provide all goods, services or deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Agreement.
- A.2. TennCare agrees that as part of its responsibility as the agency charged with safeguarding the health of residents of Tennessee, it is beneficial to partner with the UTHSC Tennessee Population Health Consortium (“Consortium”) and its Tennessee Population Health Data Network (“TN-POPnet”) to support research and quality improvement (“QI”) activities with potential to benefit the health and welfare of the people of Tennessee.

TN-POPnet includes data from members throughout Tennessee, based out of the following hubs and their affiliated health system and academic partners including, but not limited to:

- Memphis (UTHSC)–Methodist Le Bonheur Healthcare, Baptist Memorial Health Care, Regional One Health, Christ Community Health Services, Church Health, and the University of Memphis
- Jackson (UTHSC Family Medicine) - West Tennessee Healthcare
- Nashville (UTHSC)–Ascension Saint Thomas and Meharry Medical College
- Chattanooga (UTHSC)–Erlanger Health System
- Knoxville (UT and UTHSC)–UT Medical Center
- Johnson City (ETSU)–ETSU Health and Ballad Health

The Consortium and its TN-POPnet will focus on supporting practice-based QI and population health research initiatives to improve the quality and value of primary and preventive care, to encourage adoption of evidence-based practices, and measurably improve health outcomes, quality of life, and health equity for the people of Tennessee with or at risk for chronic diseases, including obesity, diabetes, cardiovascular disease, and cancer. In addition, the UTHSC Consortium in partnership with TennCare will serve to support, and, its TN-POPnet Data Governance Board (“Board”) and/or its Data Use Subcommittee will serve to review, all TennCare research data requests from the University of Tennessee System, including UTHSC; The University of Tennessee (UT) Knoxville, UT Chattanooga, UT Southern, and UT Martin. TennCare agrees that UTHSC, and its Business Associates, shall be allowed to use TennCare data to develop and carry out studies for these purposes as outlined in Attachment 1.

A.3. UTHSC shall:

- a) Provide ad hoc and periodic reports and consultation with TennCare staff on quality-of-care concerns as agreed upon between TennCare and UTHSC;
- b) Maintain archived databases to the extent data is used to support findings in a study;
- c) Provide data or access to data to third parties only at the request of or with permission from TennCare following the processes outlined in this agreement, and with certification of full HIPAA compliance by such third parties, said certification to be obtained submitted to TennCare for review, unless otherwise agreed upon by the parties; and
- d) Conduct special evaluations and studies as directed by TennCare contingent on available staff resources.

A.4. The studies and reports conducted pursuant to this Agreement shall be agreed upon by the parties on a case-by-case basis and subject to UTHSC's available staff. All studies to be conducted under this Agreement shall be submitted to the designated governance board for review, as detailed in Section A.8. below and to TennCare for internal review and approval in accordance with its documented processes prior to data usage and/or release.

A.5. UTHSC shall inform TennCare on a quarterly basis of the status of ongoing studies and final reports for completed studies during the term of this Agreement. UTHSC shall inform TennCare of any permanent changes in personnel listed herein as soon as possible, and in no case later than fifteen (15) days after a change occurs.

A.6. For all studies to be conducted under this Agreement, UTHSC shall submit all draft abstracts, presentations, and manuscripts or other forms of data release to TennCare for internal review and approval and comment, in accordance with its documented processes, prior to submitting to the TN-POPnet Data Governance Board ("Board") for final review and approval, as determined in Sections A.8 and A.9 below.

A.7. Both parties agree to obtain review and approval from the Institutional Review Board ("IRB") or governmental equivalent as required by law. UTHSC shall have the right to immediately terminate any study if it determines that the health, safety, or welfare of any human research subject involved in any study is at risk, or the IRB or other applicable review body, including governmental agency, identifies an inappropriate conflict of interest, or fails to approve, suspend, or terminate any required approval of a study.

A.8. The TN-POPnet Data Governance Board ("Board") governs all data use policies and procedures for TN-POPnet on behalf of the Tennessee Population Health Consortium ("Consortium"). The mission of the Consortium is to encourage adoption of evidence-based practices, transform primary and preventive care, and measurably improve health outcomes, quality of life, and health equity for the people of Tennessee. Requests for appointments must be approved or disapproved by the Board. Board members will fulfill specific roles as set forth in the charter for the Board, with the charter hereto incorporated by reference, and available upon request. TennCare agrees that the Board will provide final approval for all policies and procedures related to its internal operations.

TennCare agrees to assist UTHSC in obtaining the information necessary to conduct such studies. TennCare shall make available to UTHSC, on an agreed upon cadence, current

enrollment data, encounter data, provider data, and other appropriate data files relating to the TennCare program as agreed upon by the parties, for the creation of TN-POPnet data sets governed by the Board. The Board shall maintain agreed upon policies and procedures applicable to the data and its uses. TN-POPnet data personnel, with Board and TennCare permission, will make data available for all projects, studies, and reports approved under this Agreement. TennCare warrants that it has complied with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") when providing data, or access to data, to UTHSC.

- A.9. TennCare agrees that when there is necessity for quality assurance to collect and/or inspect health related records, TennCare will assist UTHSC in obtaining permission to collect and/or inspect those health-related records under the following conditions:
- a) UTHSC has obtained approval for the study requiring collection and/or inspection of the health-related records as detailed above; and
 - b) UTHSC will report to TennCare all information from the records, data, and/or studies, as may be required by TennCare, to fulfill its obligations for quality assurance.
- A.10. TennCare shall designate a single contact person within TennCare, as provided in Attachment 1, who will coordinate access to data by UTHSC, handle requests for consultation from TennCare, review of studies, review and approval of pre-publication manuscripts, and other Agreement activities as agreed upon by the parties.
- A.11 UTHSC and its Business Associates shall conduct pragmatic research, including, but not limited to, facilitating assessments of prevention, diagnosis, and treatment options to help clinicians, patients, and other stakeholders in making informed decisions that improve health care for both individuals and populations. UTHSC shall:
- a) maintain and use study data for preparation to research queries and de-identified or limited data set, as defined by HIPAA, studies following governance procedures outlined by the Board;
 - b) provide ad hoc and periodic (quarterly) reports and consultation with TennCare staff on use and sharing of data by the Project;
 - c) link the study data to other healthcare data for patients within the data sets administered by the Board, and
 - d) Collaborate with TennCare on projects of value to TennCare for optimizing quality and population health.
- A.12 Control Memorandum Process. The Control Memorandum ("CM") process shall be utilized by TennCare to clarify Agreement requirements, issue instruction to UTHSC, document action required of UTHSC, or request information from UTHSC. This process will be used to address issues or matters that do not require an amendment to this Agreement. Each CM must be in writing and indicate the date on which it was issued. CMs may provide relevant history, background, and other pertinent information regarding the issue(s) being addressed in the CM. Each CM will establish a deadline or timeframe for UTHSC's reply or other action. All CMs submitted to UTHSC must be signed and approved by the State's Project Director (or his/her designee).

To the extent possible, TennCare and UTHSC will discuss all potential CMs prior to issuance by TennCare and will work collaboratively to reach agreement regarding the subject matter of each CM. However, nothing in this Agreement shall be deemed to be a delegation to UTHSC of the

State's non-delegable duties relating to TennCare, as administered by the single state agency designated by the State and CMS pursuant to Title XIX of the Social Security Act (42 U.S.C § 1396 et seq.) and the Section 1115 research and demonstration waiver granted to the State and any successor programs.

A CM may include one (1) or more of the following:

1. On Request Report ("ORR") - a request directing UTHSC to provide information by the time and date set out in the CM.
2. Control Directive ("CD") - instructions that require UTHSC to complete, within a designated timeframe, one (1) or more deliverables or to perform any other request from TennCare that is within the scope of the Agreement. A CD may also provide clarification of certain Agreement terms. Once a CM/CD has been issued, it shall be considered to be incorporated into this Agreement.

B. TERM OF AGREEMENT:

This Agreement shall be effective on February 9, 2023 ("Effective Date") and extend for a period of Sixty (60) months after the Effective Date ("Term"). The Procuring State Agency shall have no obligation for goods or services provided by the Contracting State Agency prior to the Effective Date.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. There shall be no cost to TennCare for performance under this Agreement.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. TennCare and UTHSC are not bound by this Agreement until it is signed by the agency head or the agency head's designee. Each agency's legal counsel shall review and approve the Agreement as to form and legality.
- D.2. Modification and Amendment. Any modifications, amendments, renewals, or extensions shall be in writing, approved, and signed by the parties' who signed and approved this Agreement.
- D.3. Termination for Convenience. This Agreement may be terminated for any reason by either party by giving at least thirty (30) days written notice to the other before the effective date of termination.
- D.4. Subject to Funds Availability.

This Agreement is subject to the appropriation and availability of state and/or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, TennCare reserves the right to terminate this Agreement upon written notice to UTHSC. Said termination shall not be deemed a breach of this Agreement by TennCare. Upon receipt of the written notice, UTHSC shall cease all work associated with this Agreement. Should such an event occur, UTHSC shall be entitled to compensation for all satisfactory and goods delivered and accepted, or authorized services completed as of the termination date. Upon such termination, UTHSC shall have no right to recover from TennCare any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- D.5. Completeness. This Agreement is complete and contains the entire understanding between the parties relating to this subject matter, including all the terms and conditions of the parties' agreement. There are no other prior or contemporaneous agreements that modify, supplement, or contradict any of the express terms of the agreement.
- D.6. Communications and Contacts. All instructions, notices, consents, demands, or other communications shall be made in writing and directed to the following designated contact persons:

For TennCare:

TennCare Deputy Commissioner
Department of Finance and Administration
Division of TennCare
310 Great Circle Road
Nashville, TN 37243
Telephone: (615) 507-6443
Fax: (615) 253-5607

For UTHSC:

UTHSC Office of Sponsored Programs
Attn: Brenda Murrell
910 Madison Avenue, Suite 823
Memphis, TN 38163
Telephone: (901) 448-4889
Fax: (901) 448-7775
bmurrell@uthsc.edu

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

- D.7. Assignment and Subcontracting. UTHSC shall not assign this Agreement or enter into a subcontract for any of the services performed under this Agreement without obtaining the prior written approval of the TennCare. Notwithstanding any use of approved subcontractors, UTHSC shall be the prime contractor and shall be responsible for all work performed. TennCare reserves the right to request additional information or additional terms and conditions before approving an assignment of this Agreement in whole or in part of the use of subcontractors in fulfilling UTHSC's obligations under this Agreement.
- D.8. Records. UTHSC shall maintain documentation of services rendered under this Agreement. The books, records and documents of the Agreement, insofar as they relate to work performed under this Agreement, shall be maintained for a period of ten (10) full years from the final date of this Agreement and shall be subject to audit, at any reasonable time and upon reasonable notice, by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.9. Monitoring. UTHSC's activities conducted and records maintained pursuant to this Agreement shall be subject to monitoring and evaluation by TennCare, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Strict Performance. Failure by any party to this Agreement to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.

- D.11. State and Federal Compliance. Both Parties shall comply with all applicable state and federal laws and regulations in the performance of this Agreement.
- D.12. Headings. Section headings are for reference purposes only and shall not be construed as part of this Agreement.
- D. 13. Incorporation of Additional Documents. Unless otherwise specified, this Agreement and the below listed Attachments embody the entire understanding between TennCare and UTHSC regarding the transfer of the data to UTHSC for the Scope of Services:

Attachment 1: Data Transfer and Use Agreement-Project Specific Information Conditions
Scope of Work

Attachment 2: Data Transfer and Use Agreement-Data Specific Terms and Conditions:
Fully Identifiable Human Data

Attachment 3: Data Transfer and Use Agreement: Identification of Permitted
Collaborators

Attachment 4: IRB Approval Letter

Attachment 5: Sample Practice Improvement Report

Attachment 6: Business Associate Agreement

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Agreement, the special terms and conditions shall be subordinate to the Agreement's other terms and conditions.

- E.2. Confidential Information and Confidentiality of Records.

All material and information, regardless of form, medium or method of communication, provided to UTHSC by TennCare or acquired by on behalf of TennCare shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contracting State Agency to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

UTHSC's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by UTHSC of this Agreement; previously possessed by UTHSC without written obligations to TennCare to protect it; acquired by UTHSC without written restrictions against disclosure from a third party which, to UTHSC's knowledge, is free to disclose the information; independently developed by UTHSC without the use of the TennCare's information; or, disclosed by TennCare to others without restrictions against disclosure. Nothing in this paragraph shall permit UTHSC to disclose any information that is Confidential under federal or state law or regulations; regardless of whether it has been disclosed or made available to UTHSC due to intentional or negligent actions or inactions of agents of TennCare or third parties.

Nothing herein is intended to preclude UTHSC from disclosing the existence of this Agreement or the relationship of the Parties in reports of sponsored activity in the ordinary course of business and in legally required disclosures, including disclosures made pursuant to the Tennessee Public Records Act, Tennessee Code § 10-7-503, et seq.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Agreement.

- E.3. HIPAA Compliance. TennCare and UTHSC shall comply with obligations under HIPAA, the Health Information Technology for Economic and Clinical Health ("HITECH") Act, and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Agreement.
- a. UTHSC certifies to TennCare that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Agreement.
 - b. UTHSC certifies that it will cooperate with TennCare, including cooperation and coordination with TennCare privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Agreement so that both parties will be in compliance with the Privacy Rules.
 - c. TennCare and UTHSC will sign documents, including but not limited to a Business Associates Agreement ("BAA") as required by the Privacy Rules, that are reasonably necessary to keep TennCare and UTHSC in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Agreement is NOT protected health information ("PHI") as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a BAA or signing another document.
 - d. Any liability of UTHSC to TennCare and third parties for any claims, damages, losses or costs arising out of or related to acts performed by UTHSC under this Agreement will be governed by Tennessee Claims Commission Act, Tenn. Code Ann. §§ 9-8-301, et. seq. TennCare will not be liable to UTHSC for any loss, claim, or demand made by UTHSC, or made against UTHSC by any other party, due to or arising from the use of the data by UTHSC, except to the extent permitted by law when caused by the gross negligence or willful misconduct of TennCare. No indemnification for any loss, claim, damage, or liability is intended or provided by either party under this Agreement.
- E.4. Business Associate As UTHSC will provide services to TennCare pursuant to which the UTHSC will have access to, receive from, create, or receive on behalf of TennCare Protected Health Information, or UTHSC will have access to, create, receive, maintain or transmit on behalf of TennCare Electronic Protected Health Information (as those terms are defined under HIPAA and HITECH), UTHSC hereby acknowledges its designation as a business associate under HIPAA and agrees to comply with all applicable HIPAA regulations and any further responsibilities set forth in the Business Associate Agreement (See Attachment A) between the Parties.
- E.5. Notification of Breach and Notification of Suspected Breach. UTHSC shall notify TennCare's Privacy Office immediately upon becoming aware of and in no case later than 48 hours after discovery of any incident, either confirmed or suspected, that represents or may represent unauthorized access, use or disclosure of encrypted or unencrypted computerized data that materially compromises the security, confidentiality, or integrity of enrollee PHI maintained or held by UTHSC, including any unauthorized acquisition of enrollee PHI by an employee or otherwise authorized user of the UTHSC's system. This includes, but is not limited to, loss of remote computing or telework devices such as laptops, Personal Digital Assistances ("PDAs"), or any other type of Smartphones, USB drives, thumb drives, flash drives, CDs, and/or disks.

TennCare Privacy Officer
 Bureau of TennCare
 310 Great Circle Road
 Nashville, TN 37243
 P: 615.507.6820
 Privacy.TennCare@tn.gov

E.6. Personally Identifiable Information. While performing its obligations under this Agreement, UTHSC may have access to Personally Identifiable Information ("PII") held by TennCare. For the purposes of this Agreement, PII includes non-public information that can be used to distinguish or trace an individual's identity. UTHSC agrees it shall not do or omit to do anything which would cause TennCare to be in breach of any Privacy Laws. UTHSC shall, and shall cause its employees, affiliates, and representatives to:

- (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to UTHSC and in accordance with this Agreement, and Privacy Laws; and
- (ii) implement and maintain appropriate technical and organizational measures regarding information security to: a) ensure the security and confidentiality of PII; b) protect against any threats or hazards to the security or integrity of PII; and c) prevent unauthorized access to or use of PII.

UTHSC shall immediately notify TennCare of: (1) any disclosure or use of any PII by UTHSC or any of its employees, affiliates, and representatives in breach of this Agreement; and (2) of any disclosure of any PII to UTHSC or its employees, affiliates, and representatives where the purpose of such disclosure is not known to UTHSC or its employees, affiliates, and representatives. TennCare reserves the right to review UTHSC's policies and procedures used to maintain the security and confidentiality of PII and UTHSC shall require its employees, affiliates, and representatives to comply with all reasonable requests or directions from TennCare to enable TennCare to verify or ensure that UTHSC is in full compliance with its obligations under this Agreement in relation to PII.

Upon termination or expiration of the Agreement or at TennCare's direction at any time in its sole discretion, whichever is earlier, UTHSC shall immediately return to TennCare any and all PII which it has received under this Agreement and shall sanitize all records of such PII. In the event that returning or sanitizing the data is not feasible, UTHSC shall continue to protect all data it retains with the same degree of care as UTHSC protects its own data and agrees to limit further uses and disclosures of such data to those purposes that make the return or destruction not feasible as UTHSC maintains such data.

UTHSC shall report to TennCare any instances of unauthorized access to or potential disclosure of PII in the custody or control of UTHSC ("Unauthorized Disclosure") that come to UTHSC's attention. Any such report shall be made by UTHSC within forty-eight (48) hours after the Unauthorized Disclosure has come to the attention of UTHSC. UTHSC shall take all necessary measures to halt any further Unauthorized Disclosures. UTHSC, at the sole discretion of TennCare, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. UTHSC shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to TennCare under this Agreement or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Agreement.

E.7. Severability. If any terms and conditions of this Agreement are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Agreement are declared severable.

E.8. Authority. If other State or local agencies or offices, including UTHSC, perform services for TennCare, these entities do not have the authority to change or disapprove any administrative decision of TennCare, or otherwise substitute their judgment for that of TennCare with respect to the application of policies, rules, and regulations issued by TennCare.

- E.9. Applicable Laws, Rules, Policies and Court Orders. UTHSC agrees to comply with all applicable federal and State laws, rules, regulations, sub-regulatory guidance, executive orders, TennCare Waivers, and all current, modified, or future Court decrees, orders, or judgments applicable to the State's TennCare and CHIP programs. Such compliance shall be performed at no additional cost to the TennCare.
- E.10. Employees Excluded from Medicare, Medicaid, or CHIP. UTHSC does hereby attest, certify, and assure that UTHSC shall not knowingly employ, in the performance of this Agreement, employees who have been excluded from participation in the Medicare, Medicaid, and/or CHIP programs pursuant to Sections 1128 of the Social Security Act.
- E.11. Nondiscrimination Requirements
- a. UTHSC agrees that it shall comply with the applicable federal and State civil rights laws and regulations, which may include, but are not limited to, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and 42 U.S.C. § 18116. As part of this compliance no person on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classifications protected under federal or state laws shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of UTHSC's obligation under its agreement with TennCare or in the employment practices of UTHSC.
 - b. UTHSC agrees that its civil rights compliance staff member will work directly with TennCare's Nondiscrimination Compliance Director in order to implement and coordinate nondiscrimination compliance activities, as necessary. UTHSC shall provide to TennCare through its Office of Civil Rights Compliance, within ten (10) days of signing this Agreement, the name and contact information of its civil rights compliance staff member. If at any time that position is reassigned to another staff member, the new staff member's name and contact information shall be reported in writing to TennCare within ten (10) calendar days of assuming these duties.

IN WITNESS WHEREOF,

DocuSigned by:

Wesley G. Byerly

A189DC9E84C1453...

UTHSC SIGNATURE

1/25/2023 | 04:46:23 PST

DATE

Wesley G. Byerly, Pharm.D.; Interim Vice Chancellor for Research

PRINTED NAME AND TITLE OF SIGNATORY (ABOVE)

Jim Bryson

1/25/2023

TennCare SIGNATURE

DATE

JIM BRYSON COMMISSIONER

PRINTED NAME AND TITLE OF SIGNATORY (ABOVE)

Approved as to Form and Legality:

For UTHSC:

DATE

For TennCare:

DATE

Attachment 1

Data Transfer and Use Agreement

Project Specific Information

1. **Description of Data:** The data requested is for **all patients** within TennCare not just patients with diabetes, heart disease, or other chronic conditions. This is in order to provide more accurate quality reporting.

Data elements consist of basic information that will allow the TN-POPnet to accomplish two major goals:

1. Identify potential participants for IRB approved studies and assist applied health care researchers in evaluating the impact of healthcare delivery/health systems improvement efforts.
2. Provide participating ambulatory care clinics with practice improvement reports including standard quality measures. These reports assist participating providers to improve the care of the patients they serve by tracking processes and outcomes of care for people with or at risk for chronic disease to make sure they get recommended care.

The data elements can be viewed as a group of eight different sets as follows:

1. Demographics: Contains demographic and identifiable and geographic information for all patients. Especially zip code and race are crucial pieces.
2. Summary of Visits: A summary of the visits, primarily including dates of admission and discharge if applicable, length of stay if applicable, discharge status, provider information, facility or location and the main reason for visit.
3. Plan of future Visits: A summary of the scheduled future visits if available, primarily including, facility or location and the main reason for visit.
4. Health Plan: Includes the payer or insurance information and primary care provider associated with the plan. No amounts, only descriptions and names. i.e. Medicaid, TennCare, Blue Cross Blue Shield, etc.
5. Diagnosis: List of all diagnosis at a specific visit with their allocation, primary diagnosis, secondary, etc.
6. Procedures: List of all procedures (if available) at a specific visit with their allocation, primary diagnosis, secondary, etc.
7. Labs: All lab information by patient and date, preferably linked to a specific visit, but not necessary.
8. Anthropometrics: Anthropometrics by patient and date preferably linked to a specific visit, but not necessary, this includes: weight, height, blood pressure (systolic and diastolic), all of these crucial. We also ask that if available, please provide heart rate and any other anthropometric available.

It is preferable to receive the data elements in multiple files as stated above, but is not necessary, however filenames should follow a specific criteria all the time, this criteria is up to the sender to set. An example will be a demographics file named "demographics_XX_XXXX" in which the "X" state the month and year or the data pull, this format should never change, file name cannot be changed to "demo_XX_XXXX" or other file name.

Important notes:

An identifier for each patient is necessary, can be patient account number, Medical Record number, etc. An identifier for each visit is very welcome, since is a measure to visits, if there is none available, please provide a way to which we will be able to make a correct count of encounters/visits by patient. Data elements and file names need to be sent always in the same format, headers of files or fields should always remain the same.

2. **Description of Project:** The University of Tennessee on behalf of its Health Science Center (“UTHSC”) Tennessee Population Health Consortium (“Consortium”), Center for Health System Improvement and Center for Biomedical Informatics are currently supporting the Tennessee Population Health Data Network (“TN-POPnet”) by setting up data feeds from clinical practices and hospitals throughout Tennessee and the Mid-South and standardizing all the data into a common data model for ease of use. The TN-POPnet serves as both: 1) a specialized diabetes and chronic disease registry to help participating providers improve the care of the patients they serve by tracking processes and outcomes of care for people with or at risk for chronic disease to make sure they get recommended care, and 2) a practice-based research network (“PBRN”) to assist applied health care researchers to evaluate the impact of healthcare delivery/health systems improvement efforts.

All TN-POPnet participating organizations and clinical practices pledged to work together through the TN-POPnet to improve primary and preventive care and promote wellness for people with or at risk for chronic diseases in Tennessee and the Mid-South. Specifically, the TN-POPnet partners have agreed to participate in a learning collaborative with other TN-POPnet members to learn and share: best practices in primary and preventive care, practice data on care performance, practice improvement methods, and ways to identify and overcome barriers to best primary and preventive care. In addition, TN-POPnet partners work together to develop patient-centered medical home (“PCMH”) capacity, and they participate in the TN-POPnet in order to: track practice data, get feedback on practice performance and use this information to improve care.

TN-POPnet is also being used as the database foundation of the Agency for Healthcare Research and Quality (“AHRQ”) funded study entitled “Tennessee Heart Health Network: Implementing Patient-Centered Practices in Primary Care to Improve Cardiovascular Health” (Dr. Jim Bailey PI, Dr. Ben Heavrin, Co-PI).

3. **Data Transmission:**

TennCare Contact for Data Transfer:

Name:	TennCare Medical Office Attn: David Collier
Address:	310 Great Circle Road, Nashville, TN 37238
Email:	david.collier@tn.gov
Phone:	(615) 507-6498

TennCare shall transmit the Data to UTHSC electronically to:

Name:	Tennessee Population Health Consortium Attn: Satya Surbhi
Address:	956 Court Avenue, Coleman D224 Memphis, Tennessee 38103
Email:	<u>ssurbhi@uthsc.edu</u>
Phone:	(646) 438-0919

Upon execution of this Agreement, TennCare shall send any specific instructions necessary to complete the transfer of the Data to the contact person listed above.

4. **Reimbursement of Costs:**



None

5. **Deliverables:** The UTHSC Tennessee Population Health Consortium will produce quarterly practice improvement reports including standard quality of care metrics for TennCare clinic sites. These reports will be continually improved in collaboration with TennCare providers and staff in order to meet practice needs. An example Practice Improvement Report is attached as Attachment 5.

Attachment 2

Data Transfer and Use Agreement
Data-specific Terms and Conditions:
Fully Identifiable Human Data

Additional Terms and Conditions:

☐

None. No additional terms and conditions are required.

-OR-



The additional terms and conditions are as set forth below and agreed upon between the Parties:

1. TennCare and UTHSC are HIPAA Covered Entities, and the Data will be Protected Health Information as defined by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). The Data will contain identifiers set forth in Section 164.514(e)(2) of the HIPAA regulations and is therefore considered fully identifiable. This Agreement only authorizes the UTHSC to use the Data for the research Project described herein; any non-research use of the Data would require execution of a separate agreement between the Parties.
2. Nothing herein shall authorize the UTHSC to use or further disclose the Data in a manner that would violate the requirements of TennCare under 45 CFR 164.514.
3. Unless otherwise required by law, UTHSC shall not use or further disclose the Data other than as permitted by (i) this Agreement, (ii) the Institutional Review Board ("IRB")-Approved Protocol, and (iii) IRB-Approved Authorization/Consent Form (unless a waiver of authorization has been obtained). UTHSC shall provide documentation of such IRB-Approved Protocol or waiver of authorization upon TennCare's written request to the UTHSC's Contact for Formal Notices identified in the signature block.

☐ If this box is checked, an appropriately authorized Privacy Board has provided a waiver of authorization for this Project.
4. In the event UTHSC becomes aware of any use or disclosure of the Data not provided for by this Agreement, UTHSC shall notify TennCare of such use or disclosure within 48 hours and shall provide TennCare with a detailed plan to correct or mitigate such use or disclosure within 15 business days. UTHSC acknowledges that TennCare may have an obligation to make further notifications as set forth in Subpart D of 45 CFR 164. Further, UTHSC agrees to assist with any action(s) necessary to remedy the breach as reasonably requested by the TennCare.
5. UTHSC agrees to remove or sanitize the information that identifies the individual who is the subject of the information in accordance with UTHSC policy and NIST 800-88 at the earliest time at which removal or sanitization can be accomplished consistent with the purpose of the Project.
6. By signing this Agreement, UTHSC provides assurance that relevant institutional policies and applicable federal, state, or local laws and regulations (if any) have been followed, including the completion of any IRB review or approval that may be required.

7. The Parties agree to take such action as is necessary to amend this Agreement, from time to time, in order for the Parties to remain in compliance with the requirements of the HIPAA Privacy Regulations.
8. Each Party will ensure that suitable systems are in place for the tracking of the Data (and its security) while in its possession.
9. Notices under this agreement shall be deemed given upon documented delivery, whether by recognized national courier or U.S. Mail, first class postage pre-paid, return-receipt-requested, sent to the addresses identified in the signature block.

Attachment 3

Data Transfer and Use Agreement
Identification of Permitted Collaborators (if any)

For all purposes of this Agreement, the definition of "Collaborator Personnel" checked below will pertain:

☐

"Collaborator Personnel" means: None. No collaborators are permitted on the Project.

-OR-



"Collaborator Personnel" means as set forth below and agreed upon between the Parties:

UTHSC will be collaborating with other TN-POPnet partner organizations who will assist UTHSC in reviewing and formatting practice improvement reports and identifying areas for future community-wide reports through the TN-POPnet Data Governance Board. Other partner organizations can request data extracts for IRB approved research, but procedures for approval of all data requests from the TN-POPnet will be subject to approval by the TN-POPnet Data Governance Board. TennCare will have representation on the TN-POPnet Data Governance Board, and all data used by collaborators will be subject to approval of TennCare through the TN-POPnet Data Governance Board and as otherwise outlined in this agreement.

Attachment 4
IRB Approval Letter



Institutional Review Board
910 Madison Avenue, Suite 600
Memphis, TN 38163
Tel: (901) 448-4824

August 24, 2021

James E Bailey, MD, MPH, FACP
UTHSC - COM - Medicine - Gen Internal Med
D228A Coleman Building
956 Court Avenue
Memphis, TN 38163

Re: 14-03088-XP
Study Title: Tennessee Population Health Data Network

Dear Dr. Bailey:

The Administrative Section of the UTHSC Institutional Review Board (IRB) reviewed your application for revision of your previously approved project, referenced above.

The IRB determined that your revision application is eligible for expedited review under 45 CFR 46.110(b)(2). The attached revisions were approved as complying with proper consideration of the rights and welfare of human subjects and the regulatory requirements for the protection of human subjects.

Approval does not alter the expiration date of this project, which is January 26, 2022. Re-approval of your project is required by the IRB in accord with the conditions specified above. You may not continue the research study beyond the time or other limits specified unless you obtain prior written approval of the IRB.

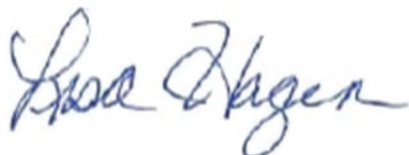
The revisions to this study may not be instituted until you receive approval from the institution(s) where the research is being conducted.

ROH For studies involving Regional One Health: In order to conduct this study as approved by the IRB, you **MUST** obtain or have obtained an **INITIAL** study approval from Regional One Health.

In the event that subjects are to be recruited using solicitation materials, such as brochures, posters, web-based advertisements, etc., these materials must receive prior approval of the IRB. Any revisions in the approved application must also be submitted to and approved by the IRB.

prior to implementation. In addition, you are responsible for reporting any unanticipated problems, including reportable adverse events, involving risks to subjects or others in the manner required by the local IRB policy. Lastly, you must request to close your project when you have completed data analysis by submitting a study closure form to the IRB.

Sincerely,



Signature applied by Lisa Robin Hagen on 08/24/2021 09:00:06 AM CDT

Lisa Hagen BA
IRB Administrative Research Specialist
UTHSC IRB

Attachment: Revisions

1. The study application was updated to Version 1.33 to incorporate:
 - a. The addition of Deborah Ogunsanmi as research support staff
 - b. Updating KSP contact information; and
 - c. Converted to newest application format
2. Waiver of informed consent remains applicable under 45 CFR 46.116(d).

Please note that while the IRB is still processing IRB submissions during the COVID-19 pandemic, you must follow the UTHSC IRB's COVID 19 policy located on our website here: <https://www.uthsc.edu/research/compliance/irb/covid-19.php> You must review the policy and adhere to it as it relate to any and each of your UTHSC IRB studies.

Attachment 5**Sample Practice Improvement Report****Attachment 5: Sample Practice Improvement Report**

Practice: Clinic A

Period: April 2017 – March 2018

I. Diabetes Patient Demographics¹

Source	Total Patients	Diabetes Patients (% of Total Patients)
Clinic A	3,511	967 (28%)
Registry Pop. (with PCP) ²	118,685	21,906 (18%)
Registry Pop. (no PCP) ³	117,985	13,193 (11%)

¹ All patients seen one or more times by the practice ages 18 – 89 with a diabetes diagnosis for any encounter OR any lab results for HbA1c ≥ 6.5 in the reporting year. ² Registry population with known primary care provider (PCP) is defined as patients meeting the above criteria who were seen at any practice in the reporting period. ³ Registry population without known primary care provider (PCP) is defined as patients meeting the above criteria who were only seen at any hospital in Methodist Healthcare system in the reporting period.

BMI⁴

	Median BMI	Min BMI	Max BMI
Clinic A	32.1	16.8	99.2
Registry Pop. (with PCP)	32.6	14.0	99.2
Registry Pop. (no PCP)	32.9	14.2	97.9

Percent Female

Clinic A	59.8%
Registry Pop. (with PCP)	56.3%
Registry Pop. (no PCP)	60.3%

Age

	Median Age	Min Age	Max Age
Clinic A	66	20	89
Registry Pop. (with PCP)	60	18	89
Registry Pop. (no PCP)	54	18	68

⁴ For BMI, values were included within the determined valid range, 14 - 100. All values outside this range were included in the population as missing values

Chronic conditions by Diagnosis Code⁵

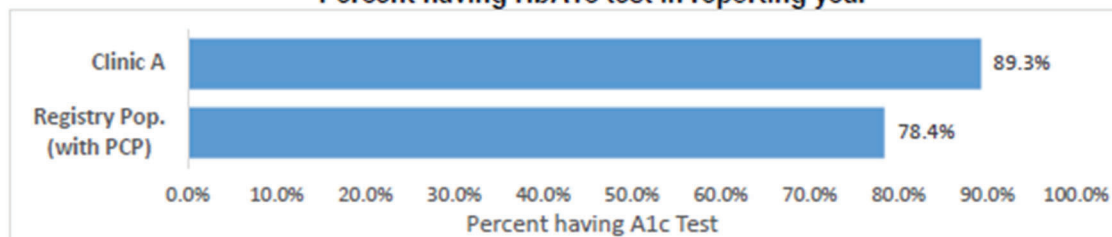
	Arthritis	Asthma	Cerebrovascular Disease (stroke or transient ischemic attack)	Chronic Kidney Disease	Chronic Obstructive Pulmonary Disease	Congestive Heart Failure	Coronary Artery Disease	Depression	Diabetes (Type I)	Diabetes (all non gestational)	Female breast cancer	Hypertension	Hypertension/high blood pressure	Obesity	Overweight	Prediabetes
Clinic A	16.6	9.5	4.2	28.2	8.7	9.9	10.9	3.8	0.0	79.0	0.4	49.6	78.8	62.2	31.5	25.6
Registry PCP	9.0	7.9	1.5	24.8	6.9	5.9	8.6	5.0	0.1	84.8	0.8	42.3	68.7	62.7	27.5	22.8
Registry no PCP	5.9	9.6	2.0	20.3	2.4	4.7	4.2	1.0	0.0	43.2	0.2	5.4	14.7	8.2	2.6	0.2

⁵ Chronic Conditions above are defined based on ICD-10 diagnosis codes.

II. Comprehensive Diabetes Care Measures

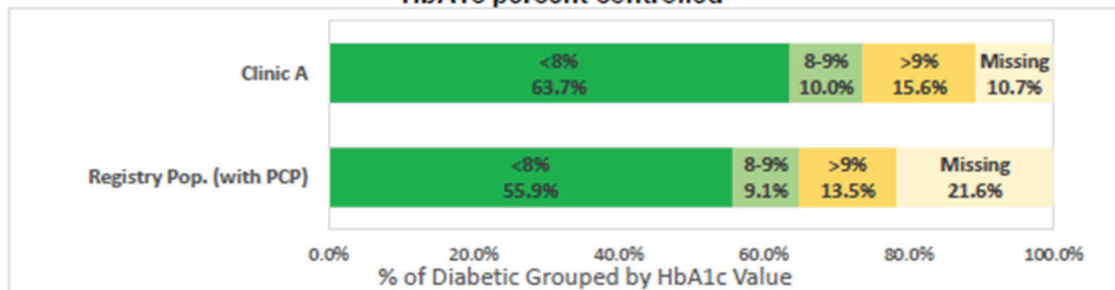
Based on administrative specifications for HEDIS 2015 measures. Population age is defined as 18 - 75 years. For all measures, the denominator is the entire eligible diabetic population.

Percent having HbA1c test in reporting year ⁶



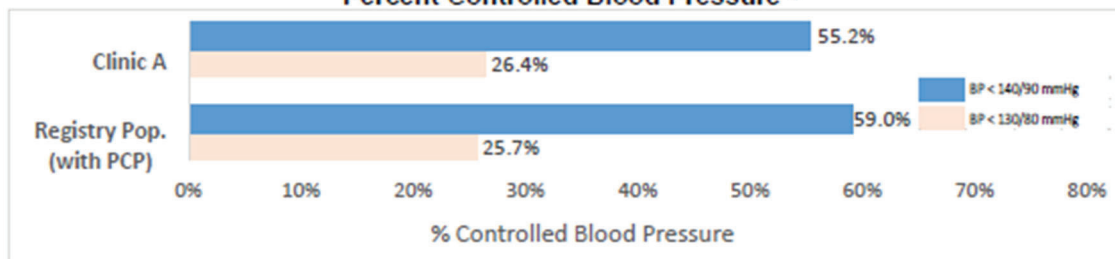
⁶ HEDIS specification for HbA1c Testing: The numerator is any diabetic patient having an HbA1c Test in the reporting period.

HbA1c percent controlled ⁷



⁷ HEDIS specification for HbA1c Poor Control and Control: For Poor Control (> 9%), the numerator is any patient having the most recent HbA1c level > 9.0% or missing a result, or not having a test in the reporting period. For Control (< 8%), the numerator is any patient having the most recent HbA1c level < 8.0% in the reporting period.

Percent Controlled Blood Pressure ⁸



⁸ Blood pressure control based on HEDIS specification (blue bars): < 140/90 mmHg. The numerator is taken as any patient having most recent systolic blood pressure < 140 mmHg and most recent diastolic blood pressure < 90 mmHg. Blood pressure control based on ACC 2017 guidelines (yellow bars): < 130/80 mmHg. The numerator is taken as any patient having most recent systolic blood pressure < 130 mmHg and most recent diastolic blood pressure < 80 mmHg. In both cases, patients with no blood pressure result are included in the denominator.

III. Health Care Utilization of Diabetics ⁹

≥ 1 ED Visit (%)

Clinic A	30.7%
Registry Pop. (with PCP)	24.7%
Registry Pop. (no PCP)	71.6%

≥ 1 Hospital Visit (%)

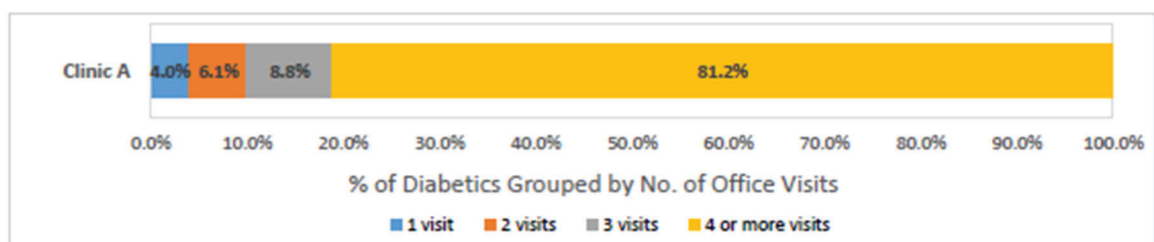
Clinic A	10.7%
Registry Pop. (with PCP)	7.4%
Registry Pop. (no PCP)	35.7%

30 Day Readmission Rate (%)¹⁰

Clinic A	25.2%
Registry Pop. (with PCP)	18.0%
Registry Pop. (no PCP)	12.7%

Physician Office Visits¹¹

	No. of visits per patient
Clinic A	5.9



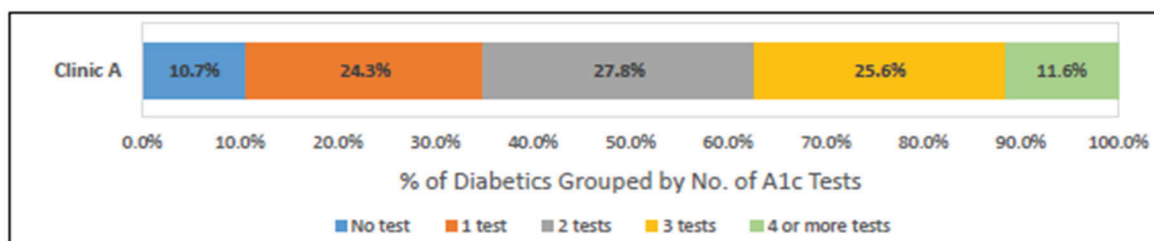
⁹ Only includes healthcare utilization (ED visits, hospital visits, and 30-day readmissions) in Methodist Healthcare system.

¹⁰ Denominator is all diabetic patients with > 1 Hospital Visit in a year.

¹¹ Physician office visits made at your clinic by diabetic patients who had one or more visits in the reporting period.

IV. HbA1c Testing Details for Diabetics¹²

	No. of tests per patient
Clinic A	2.0



¹² The denominator is any diabetic patient seen at your clinic. The numerator is number of HbA1c Test in the reporting period.

V. All Patient Demographics

	Total number of patients
Clinic A	3,511
Registry Pop. (with PCP)	118,685
Registry Pop. (no PCP)	117,985

BMI

	Median BMI	Min BMI	Max BMI
Clinic A	30.5	14.2	99.2
Registry Pop. (with PCP)	30.0	14.0	99.2
Registry Pop. (no PCP)	29.3	14.0	99.6

Percent Female

Clinic A	60.4%
Registry Pop. (with PCP)	60.3%
Registry Pop. (no PCP)	59.5%

Age

	Median Age	Min Age	Max Age
Clinic A	61	18	89
Registry Pop. (with PCP)	54	18	89
Registry Pop. (no PCP)	37	18	68

Chronic Conditions by Diagnosis Code ¹³

	Arthritis	Asthma	Cerebrovascular Disease (stroke or transient ischemic attack)	Chronic Kidney Disease	Chronic Obstructive Pulmonary Disease	Congestive Heart Failure	Coronary Artery Disease	Depression	Diabetes (Type I)	Diabetes (all non gestational)	Female breast cancer	Hyperlipidemia	Hypertension/high blood pressure	Obesity	Overweight	Prediabetes
Clinic A	11.4	6.7	2.2	10	5.8	4.3	5.4	2.6	0.0	21.8	0.4	31.0	53.4	46.6	27.4	13.1
Registry Pop. (with PCP)	5.5	5.2	0.6	5.9	4.3	1.7	3.2	4.2	0.0	15.6	0.5	20.8	35.9	41.5	27.2	9.4
Registry Pop. (no PCP)	2.9	5.5	0.6	4.4	1.9	1.3	1.4	0.7	0.0	4.8	0.2	3.4	13.4	12.7	7.9	0.1

¹³ Chronic Conditions above are defined based on ICD-10 diagnosis codes.

Attachment 6

Provider Business Associate Agreement

(BUSINESS ASSOCIATE AGREEMENT TO FOLLOW THIS PAGE –

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HIPAA Business Associate Agreement

THIS HIPAA BUSINESS ASSOCIATE AGREEMENT (“Agreement”) is between The State of Tennessee, Division of TennCare (“TennCare” or “Covered Entity”), located at 310 Great Circle Road, Nashville, TN 37243 and The University of Tennessee, an educational institution and instrumentality of the State of Tennessee, on behalf of its Health Science Center (“Business Associate”), located at 62 S. Dunlap, Suite 220, Memphis, TN 38163, including all office locations and other business locations at which Business Associate data may be used or maintained. Covered Entity and Business Associate may be referred to herein individually as “Party” or collectively as “Parties.”

BACKGROUND

The Parties acknowledge that they are subject to the Privacy and Security Rules (45 C.F.R. Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and as amended by the final rule modifying the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules under the Health Information Technology for Economic and Clinical Health Act (HITECH). If Business Associate provides services to Covered Entity pursuant to one or more contractual relationships, said Agreements are detailed below and hereinafter referred to as “Service Agreements.”

LIST OF AGREEMENTS AFFECTED BY THIS HIPAA BUSINESS ASSOCIATE AGREEMENT:

Interagency Agreement #31865-868 - UTHSC Consortium - Tennessee Population Health Data Network (“TN-POPnet”)

In the course of performing services under a Service Agreement, Business Associate may come into contact with, use, or disclose Protected Health Information (“PHI”). Said Service Agreements are hereby incorporated by reference and shall be taken and considered as a part of this document the same as if fully set out herein.

In accordance with the federal privacy and security rules and regulations set forth at 45 C.F.R. Part 160 and Part 164, Subparts A, C, D and E, which require Covered Entity to have a written memorandum with each of its Business Associates, the Parties wish to establish satisfactory assurances that Business Associate will appropriately safeguard PHI that Business Associate may receive (if any) from or on behalf of Covered Entity, and, therefore, execute this Agreement.

1. DEFINITIONS

All capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms defined in 45 C.F.R. Parts 160 through 164 or other applicable law or regulation. A reference in this Agreement to a section in the Privacy or Security Rule means the section as in effect or as amended.

1.1 “Commercial Use” means obtaining PHI with the intent to sell, transfer or use it for commercial, or personal gain, or malicious harm; sale to third party for consumption, resale, or processing for resale; application or conversion of data to make a profit or obtain a benefit contrary to the spirit of this Agreement, including but not

limited to presentation of data or examples of data in a conference or meeting setting where the ultimate goal is to obtain or gain new business.

1.2 “Confidential Information” shall mean any non-public, confidential or proprietary information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, which is supplied by TennCare to the Business Associate under this Agreement. Any information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, relating to individuals enrolled in the TennCare program (“TennCare enrollees”), or relating to individuals who may be potentially enrolled in the TennCare program, which is provided to or obtained through the Business Associate’s performance under this Agreement, shall also be treated as “Confidential Information” to the extent that confidential status is afforded such information under state and federal laws or regulations. All confidential information shall not be subject to disclosure under the Tennessee Public Records Act.

1.3 “Electronic Signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

1.4 “Marketing” shall have the meaning under 45 C.F.R. § 164.501 and the act or process of promoting, selling, leasing or licensing any TennCare information or data for profit without the express written permission of TennCare.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE (Privacy Rule)

2.1 Compliance with the Privacy Rule. Business Associate shall fully comply with the requirements under the Privacy Rule applicable to "business associates," as that term is defined in the Privacy Rule and not use or further disclose PHI other than as permitted or required by this Agreement, the Service Agreements, or as required by law. In case of any conflict between this Agreement and the Service Agreements, this Agreement shall govern.

2.2 HITECH Act Compliance. The Health Information Technology for Economic and Clinical Health Act (HITECH) was adopted as part of the American Recovery and Reinvestment Act of 2009. HITECH and its implementing regulations impose new requirements on Business Associates with respect to privacy, security, and Breach notification. Business Associate hereby acknowledges and agrees that to the extent it is functioning as a Business Associate of Covered Entity, Business Associate shall comply with any applicable provisions of HITECH. Business Associate and the Covered Entity further agree that the provisions of HIPAA and HITECH that apply to business associates and that are required to be incorporated by reference in a business associate agreement have been incorporated into this Agreement between Business Associate and Covered Entity. Should any provision not be set forth specifically, it is as if set forth in this Agreement in its entirety and is effective as of the Applicable Effective Date, and as amended.

2.3 Business Management. Business Associate may use and disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of Business Associate. Business Associate may provide data aggregation services relating to the Health Care Operations of TennCare, or as required by law. Business Associate is expressly prohibited from using or disclosing PHI other than as permitted by this Agreement, any associated Service Agreements, or as otherwise permitted or required by law, and is prohibited from uses or disclosures of PHI that would not be permitted if done by the Covered Entity.

2.4 Privacy Safeguards and Policies. Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the Service Agreement(s), this Agreement or as required by law. This includes the implementation of Administrative, Physical, and Technical Safeguards to reasonably and appropriately protect the Covered Entity’s PHI against any reasonably anticipated threats or hazards, utilizing the technology commercially available to the Business Associate (See also Section 3.2). The Business Associate shall

maintain appropriate documentation of its compliance with the Privacy Rule, including, but not limited to, its policies, and procedures, records of training and sanctions of members of its Workforce.

2.5 Business Associate Contracts. Business Associate shall require any agent, including a Subcontractor, to whom it provides PHI received from, maintained, created or received by Business Associate on behalf of Covered Entity, or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI or other confidential TennCare information, to agree, by written agreement with Business Associate, to substantially similar, but not less stringent restrictions and conditions that apply through this Agreement to Business Associate with respect to such information except for the provision at section 4.6, which shall only apply to the Business Associate notwithstanding the requirements in this section 2.5.

2.6 Mitigation of Harmful Effect of Violations. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

2.7 Reporting of Violations in Use and Disclosure of PHI. Business Associate shall require its employees, agents, and Subcontractors to promptly report to Business Associate immediately upon becoming aware of any use or disclosure of PHI in violation of this Agreement and to report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement. The Business Associate shall report such violation to Covered Entity immediately upon becoming aware of, and in no case later than 48 hours after discovery.

2.8 Breach of Unsecured Protected Health Information. As required by the Breach Notification Rule, Business Associate shall, and shall require its Subcontractor(s) to, maintain systems to monitor and detect a Breach of Unsecured PHI, whether in paper or electronic form.

2.8.1 Business Associate shall provide to Covered Entity notice of a Breach of Unsecured PHI immediately upon becoming aware of the Breach, and in no case later than 48 hours after discovery.

2.8.2 Business Associate shall cooperate with Covered Entity in timely providing the appropriate and necessary information to Covered Entity.

2.8.3 Covered Entity shall make the final determination whether the Breach requires notification to affected individuals and whether the notification shall be made by Covered Entity or Business Associate.

2.9 Access of Individual to PHI and other Requests to Business Associate. If Business Associate receives PHI from Covered Entity in a Designated Record Set, Business Associate agrees to provide access to PHI in a Designated Record Set to Covered Entity in order to meet its requirements under 45 C.F.R. § 164.524. If Business Associate receives a request from an Individual for a copy of the Individual's PHI, and the PHI is in the sole possession of the Business Associate, Business Associate will provide the requested copies to the Individual in a timely manner. If Business Associate receives a request for PHI not in its possession and in the possession of the Covered Entity, or receives a request to exercise other Individual rights as set forth in the Privacy Rule, Business Associate shall promptly forward the request to Covered Entity. Business Associate shall then assist Covered Entity as necessary in responding to the request in a timely manner. If a Business Associate provides copies of PHI to the Individual, it may charge a reasonable fee for the copies as the regulations shall permit.

2.10 Requests to Covered Entity for Access to PHI. The Covered Entity shall forward to the Business Associate in a timely manner any Individual's request for access to or a copy (in any form they choose, provided the PHI is readily producible in that format) of their PHI that shall require Business Associate's participation, after which the Business Associate shall provide access to or deliver such information as follows:

- (a) The Parties understand that if either Party receives a request for access to or copies of PHI from an Individual which the Party may complete with only its own onsite information, the time for such response shall be thirty (30) days, with notification to the Covered Entity upon completion.
- (b) If the Covered Entity receives a request and requires information from the Business Associate in addition to the Covered Entity's onsite information to fulfill the request, the Business Associate shall have fifteen (15) days from date of Covered Entity's notice to provide access or deliver such information to the Covered Entity so that the Covered Entity may timely respond to the Individual within the thirty (30) day requirement of 45 C.F.R. § 164.524.
- (c) If the Party designated above as responding to the Individual's request is unable to complete the response to the request in the time provided, that Party shall provide the Individual, or Individual's designee, with a written statement of the reasons for the delay and the date by which the Party will complete its action on the request. The Party may extend the response time once for no more than thirty (30) additional days.
- (d) Business Associate is permitted to send an Individual or Individual's designee unencrypted emails including Electronic PHI if the Individual requests it, provided the Business Associate has advised the Individual of the risk and the Individual still prefers to receive the message by unencrypted email.

2.11 Individuals' Request to Amend PHI. If Business Associate receives PHI from Covered Entity in a Designated Record Set, Business Associate agrees to make any amendments to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526, regarding an Individual's request to amend PHI. The Business Associate shall make the amendment promptly in the time and manner designated by Covered Entity, but shall have thirty (30) days' notice from Covered Entity to complete the amendment to the Individual's PHI and to notify the Covered Entity upon completion.

2.12 Recording of Designated Disclosures of PHI. Business Associate shall document any and all disclosures of PHI by Business Associate or its agents, including information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

2.13 Accounting for Disclosures of PHI. The Business Associate agrees to provide to Covered Entity or to an Individual, or Individual's designee, in time and manner designated by Covered Entity, information collected in accordance with this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. The Covered Entity shall forward the Individual's request requiring the participation of the Business Associate to the Business Associate in a timely manner, after which the Business Associate shall provide such information as follows:

- (a) If Covered Entity directs Business Associate to provide an accounting of disclosures of the Individual's PHI directly to the Individual, the Business Associate shall have sixty (60) days from the date of the Individual's request to provide access to or deliver such information to the Individual or Individual's designee. The Covered Entity shall provide notice to the Business Associate in time to allow the Business Associate a minimum of thirty (30) days to timely complete the Individual's request.
- (b) If the Covered Entity elects to provide the accounting to the Individual, the Business Associate shall have thirty (30) days from date of Covered Entity's notice of request to provide information for the Accounting to the Covered Entity so that the Covered Entity may timely respond to the Individual within the sixty (60) day period.
- (c) If either of the Parties is unable to complete the response to the request in the times provided above, that Party shall notify the Individual with a written statement of the reasons for the delay and the date by which the Party will complete its action on the request. The Parties may extend the response time once for no more than thirty (30) additional days.
- (d) The accounting of disclosures shall include at least the following information:

- (1) date of the disclosure;
 - (2) name of the third party to whom the PHI was disclosed,
 - (3) if known, the address of the third party;
 - (4) brief description of the disclosed information; and
 - (5) brief explanation of the purpose and basis for such disclosure.
- (e) The Parties shall provide one (1) accounting in any twelve (12) months to the Individual without charge. The Parties may charge a reasonable, cost-based fee, for each subsequent request for an accounting by the same Individual if he/she is provided notice and the opportunity to modify his/her request. Such charges shall not exceed any applicable State statutes or rules.

2.14 Minimum Necessary. Business Associate shall use reasonable efforts to limit any use, disclosure, or request for use or disclosure of PHI to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of the Privacy Rule.

2.14.1 Business Associate represents to Covered Entity that all its uses and disclosures of, or requests for, PHI shall be the minimum necessary in accordance with the Privacy Rule requirements.

2.14.2 Covered Entity may, pursuant to the Privacy Rule, reasonably rely on any requested disclosure as the minimum necessary for the stated purpose when the information is requested by Business Associate.

2.14.3 Business Associate shall adequately and properly maintain all PHI received from, or created or received on behalf of, Covered Entity.

2.15 Privacy Compliance Review upon Request. Business Associate agrees to make its internal practices, books and records, including policies, procedures, and PHI, relating to the use and disclosure of PHI received from, created by or received by Business Associate on behalf of Covered Entity available to the Covered Entity or to the Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the requester, for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule.

2.16 Cooperation in Privacy Compliance. Business Associate agrees to fully cooperate in good faith and to assist Covered Entity in complying with the requirements of the Privacy Rule.

3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE (Security Rule)

3.1 Compliance with Security Rule. Business Associate shall fully comply with the requirements under the Security Rule applicable to "Business Associates," as that term is defined in the Security Rule. In case of any conflict between this Agreement and Service Agreements, this Agreement shall govern.

3.2 Security Safeguards and Policies. Business Associate shall implement Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity as required by the Security Rule. This includes specifically, but is not limited to, the utilization of technology commercially available at the time to the Business Associate to protect the Covered Entity's PHI against any reasonably anticipated threats or hazards. The Business Associate understands that it has an affirmative duty to perform a regular review or assessment of security risks, conduct active risk management and supply best efforts to assure that only authorized persons and devices access its computing systems and information storage, and that only authorized transactions are allowed. The Business Associate will maintain appropriate documentation of its compliance with the Security Rule.

3.3 Security Provisions in Business Associate Contracts. Business Associate shall ensure that any agent to whom it provides Electronic PHI received from, maintained, or created for Covered Entity or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI supplied by Covered Entity, shall execute a bilateral contract (or the appropriate equivalent if the agent is a government entity) with Business Associate, incorporating substantially similar, but not less stringent restrictions and conditions in this Agreement with Business Associate regarding PHI except for the provision in Section 4.6.

3.4 Reporting of Security Incidents. The Business Associate shall track all Security Incidents as defined and as required by HIPAA and shall periodically report such Security Incidents in summary fashion as may be requested by the Covered Entity. The Covered Entity shall not consider as Security Incidents, for the purpose of reporting, external activities (port enumeration, etc.) typically associated with the “footprinting” of a computing environment as long as such activities have only identified but not compromised the logical network perimeter, including but not limited to externally facing firewalls and web servers. The Business Associate shall reasonably use its own vulnerability assessment of damage potential and monitoring to define levels of Security Incidents and responses for Business Associate’s operations. However, the Business Associate shall expediently notify the Covered Entity’s Privacy Officer of any related Security Incident, immediately upon becoming aware of any unauthorized acquisition including but not limited to use, disclosure, modification, or destruction of PHI by an employee or otherwise authorized user of its system of which it becomes aware.

3.4.1 Business Associate identifies the following key contact persons for all matters relating to this Agreement:

Jim Bailey (jeb@uthsc.edu)
 Satya Surbhi (ssurbhi@uthsc.edu)
 Umar Kabir (ukabir@uthsc.edu)
 Brenda K. Murrell (ospcontracts@uthsc.edu)
 Trent Pitts (tpitts6@uthsc.edu)

Business Associate shall notify Covered Entity of any change in these key contacts during the term of this Agreement in writing within ten (10) business days.

3.5 Contact for Security Incident Notice. Notification for the purposes of Sections 2.8 and 3.4 shall be in writing made by email/fax, certified mail or overnight parcel immediately upon becoming aware of the event, with supplemental notification by facsimile and/or telephone as soon as practicable, to:

TennCare Privacy Officer
 310 Great Circle Rd.
 Nashville Tennessee 37243
 Phone: (615) 507-6697
 Facsimile: (615) 734-5289
 Email: Privacy.TennCare@tn.gov

3.6 Security Compliance Review upon Request. Business Associate shall make its internal practices, books, and records, including policies and procedures relating to the security of Electronic PHI received from, created by or received by Business Associate on behalf of Covered Entity, available to the Covered Entity or to the Secretary of the United States Department of Health in Human Services or the Secretary’s designee, in a time and manner designated by the requester, for purposes of determining Covered Entity’s, Business Associate’s compliance with the Security Rule.

3.7 Cooperation in Security Compliance. Business Associate shall fully cooperate in good faith to assist Covered

Entity in complying with the requirements of the Security Rule.

3.8 Refraining from intimidation or retaliation. A Covered Entity or Business Associate may not threaten, intimidate, coerce, harass, discriminate against, or take any other retaliatory action against any Individual or other person for-- (a) Filing of a complaint under 45 C.F.R. § 160.306; (b) testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing; or (c) opposing any act or practice made unlawful, provided the Individual or person has a good faith belief that the practice opposed is unlawful, and the manner of opposition is reasonable and does not involve a disclosure of PHI in violation of HIPAA.

4. USES AND DISCLOSURES BY BUSINESS ASSOCIATE

4.1 Use and Disclosure of PHI for Operations on Behalf of Covered Entity. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform Treatment, Payment or Health Care Operations for, or on behalf of, Covered Entity as specified in Service Agreements, provided that such use or disclosure would not violate the Privacy and Security Rule, if done by Covered Entity.

4.2 Other Uses of PHI. Except as otherwise limited in this Agreement, Business Associate may use PHI within its Workforce as required for Business Associate's proper management and administration, not to include Marketing or Commercial Use, or to carry out the legal responsibilities of the Business Associate.

4.3 Third Party Disclosure Confidentiality. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or, if permitted by law, this Agreement, and the Service Agreement, provided that, if Business Associate discloses any PHI to a third party for such a purpose, Business Associate shall enter into a written agreement with such third party requiring the third party to: (a) maintain the confidentiality, integrity, and availability of PHI and not to use or further disclose such information except as required by law or for the purpose for which it was disclosed, and (b) notify Business Associate of any instances in which it becomes aware in which the confidentiality, integrity, and/or availability of the PHI is Breached immediately upon becoming aware.

4.4 Other Uses Strictly Limited. Nothing in this Agreement shall permit the Business Associate to share PHI with Business Associate's affiliates or contractors except for the purposes of the Service Agreement(s) between the Covered Entity and Business Associate(s) identified in the "LIST OF AGREEMENTS AFFECTED BY THIS HIPAA BUSINESS ASSOCIATE AGREEMENT" on page one (1) of this Agreement.

4.5 Covered Entity Authorization for Additional Uses. Any use of PHI or other confidential TennCare information by Business Associate, its Subcontractors, its affiliate or Contractor, other than those purposes of this Agreement, shall require express written authorization by the Covered Entity, and a Business Associate agreement or amendment as necessary. Activities which are prohibited include, but not are not limited to, Marketing or the sharing for Commercial Use or any purpose construed by Covered Entity as Marketing or Commercial use of TennCare enrollee personal or financial information with affiliates, even if such sharing would be permitted by federal or state laws.

4.6 Prohibition of Offshore Disclosure. Nothing in this Agreement shall permit the Business Associate to share, use or disclose PHI in any form via any medium with any third party beyond the boundaries and jurisdiction of the United States without express written authorization from the Covered Entity.

4.7 Prohibition of Other Uses and Disclosures. Business Associate shall not use or disclose PHI that is Genetic Information for underwriting purposes. Moreover, the sale, marketing or the sharing for commercial use or any

purpose construed by Covered Entity as the sale, marketing or commercial use of TennCare enrollee personal or financial information with affiliates, even if such sharing would be permitted by federal or state laws, is prohibited.

4.8 Data Use Agreement - Use and Disclosure of Limited Data Set. Business Associate may use and disclose a Limited Data Set that Business Associate creates for Research, public health activity, or Health Care Operations, provided that Business Associate complies with the obligations below. Business Associate may not make such use and disclosure of the Limited Data Set after any cancellation, termination, expiration, or other conclusion of this Agreement.

4.9 Limitation on Permitted Uses and Disclosures. Business Associate will limit the uses and disclosures it makes of the Limited Data Set to the following: Research, public health activity, or Health Care Operations, to the extent such activities are related to covered functions, including business planning and development such as conducting cost-management and planning-related analysis related to managing and operating Business Associates functions, formulary development and administration, development and improvement of methods of payment or coverage policies, customer service, including the provision of data analysis for policy holders, plan sponsors, or other customers, to the extent such activities are related to covered functions, provided that PHI is not disclosed and disclosure is not prohibited pursuant to any other provisions in this Agreement related to Marketing or Commercial use.

4.10 Business Associate shall enter into written agreements that are substantially similar to this Business Associate Agreements with any Subcontractor or agent which Business Associate provides access to Protected Health Information.

4.11 Business Associates shall implement and maintain information security policies that comply with the HIPAA Security Rule.

5. OBLIGATIONS OF COVERED ENTITY

5.1 Notice of Privacy Practices. Covered Entity shall provide Business Associate with the notice of Privacy Practices produced by Covered Entity in accordance with 45 C.F.R. § 164.520, as well as any changes to such notice.

5.2 Notice of Changes in Individual's Access or PHI. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses.

5.3 Notice of Restriction in Individual's Access or PHI. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use of PHI.

5.4 Reciprocity for Requests Received by Business Associate. The Parties agree that this Section (Section 5) is reciprocal to the extent Business Associate is notified or receives an inquiry from any Individual within Covered Entity's covered population.

6. TERM AND TERMINATION

6.1 Term. This Agreement shall be effective as of the date on which it has been signed by both parties and shall terminate when all PHI which has been provided, regardless of form, by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if the Parties agree that it is unfeasible to return or destroy PHI, subsection 6.3.5 below shall apply.

6.2 Termination for Cause. This Agreement authorizes and Business Associate acknowledges and agrees Covered Entity shall have the right to terminate this Agreement and Service Agreement in the event Business Associate fails to comply with, or violates a material provision of this Agreement and any provision of the Privacy and Security Rules.

6.2.1 Upon Covered Entity's knowledge of a Breach by Business Associate, Covered Entity shall either:

- (a) Provide notice of breach and an opportunity for Business Associate to reasonably and promptly cure the breach or end the violation, and terminate this BAA if Business Associate does not cure the breach or end the violation within the reasonable time specified by Covered Entity; or
- (b) Immediately terminate this BAA if Business Associate has breached a material term of this BAA and cure is not possible.

6.3 Effect of Termination. Upon termination of this Agreement for any reason, except as provided in subsections 6.3.2 and 6.3.5 below, Business Associate shall at its own expense either return and/or destroy all PHI and other confidential information received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision applies to all confidential information regardless of form, including but not limited to electronic or paper format. This provision shall also apply to PHI and other confidential information in the possession of sub-contractors or agents of Business Associate.

6.3.1 The Business Associate shall consult with the Covered Entity as necessary to assure an appropriate means of return and/or destruction and shall notify the Covered Entity in writing when such destruction is complete. If information is to be returned, the Parties shall document when all information has been received by the Covered Entity.

6.3.2 This provision (Section 6.3 and its subsections) shall not prohibit the retention of a single separate, archived file of the PHI and other confidential TennCare information by the Business Associate if the method of such archiving reasonably protects the continued privacy and security of such information and the Business Associate obtains written approval at such time from the Covered Entity. Otherwise, neither the Business Associate nor its Subcontractors and agents shall retain copies of TennCare confidential information, including enrollee PHI, except as provided herein in subsection 6.3.5.

6.3.3 The Parties agree to anticipate the return and/or the destruction of PHI and other TennCare confidential information, and understand that removal of the confidential information from Business Associate's information system(s) and premises will be expected in almost all circumstances. The Business Associate shall notify the Covered Entity whether it intends to return and/or destroy the confidential with such additional detail as requested. In the event Business Associate determines that returning or destroying the PHI and other confidential information received by or created for the Covered Entity at the end or other termination of the Service Agreement is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction unfeasible.

6.3.4 Except for Business Associate Agreements in effect prior to April 21, 2005 when the Security Rule became effective, for the renewal or amendment of those same Agreements, or for other unavoidable circumstances, the Parties contemplate that PHI and other confidential information of the Covered Entity shall not be merged or aggregated with data from sources unrelated to that Agreement, or Business Associate's other business data, including for purposes of data backup and disaster recovery, until the parties identify the means of return or destruction of the TennCare data or other confidential information of the Covered Entity at the conclusion of the Service Agreement, or otherwise make an express alternate agreement consistent with the provisions of Section 6.3 and its subsections.

6.3.5 Upon written mutual agreement of the Parties that return or destruction of PHI is unfeasible and upon

express agreement as to the means of continued protection of the data, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction unfeasible, for so long as Business Associate maintains such PHI.

7. MISCELLANEOUS

7.1 Regulatory Reference. A reference in this Agreement to a section in the Privacy and/or Security Rule means the section as in effect or as amended.

7.2 Amendment. The Parties agree to take such action to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act, Public Law 104-191. Business Associate and Covered Entity shall comply with any amendment to the Privacy and Security Rules, the Health Insurance Portability and Accountability Act, Public Law 104-191, and related regulations upon the effective date of such amendment, regardless of whether this Agreement has been formally amended, including, but not limited to, changes required by the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

7.3 Survival. The respective rights and obligations of Business Associate under Confidentiality and Section 6.3 of this Agreement shall survive the termination or expiration of this Agreement.

7.4 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and the Business Associate to comply with the Privacy and Security Rules.

7.5 Headings. Paragraph Headings used in this Agreement are for the convenience of the Parties and shall have no legal meaning in the interpretation of the Agreement.

7.6 Notices and Communications. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered by electronic mail, hand, by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below, or to such other party, facsimile number, or address as may be hereafter specified by written notice. (For purposes of this section, effective notice to "Respective Party" is not dependent on whether the person named below remains employed by such Party.) The Parties agree to use their best efforts to immediately notify the other Party of changes in address, telephone number, and fax numbers and to promptly supplement this Agreement as necessary with corrected information.

Notifications relative to Sections 2.8 and 3.4 of this Agreement must also be reported to the Privacy Officer pursuant to Section 3.5.

COVERED ENTITY:
Stephen Smith, Director
Division of TennCare
310 Great Circle Rd.
Nashville, TN 37243
Fax: (615) 253-5607

BUSINESS ASSOCIATE:
Anthony A. Ferrarra, Sr. Vice Chancellor / CFO
University of Tennessee Health Science Center
62 S. Dunlap, Ste 220
Memphis, TN 38163
P: (901) 448-7330

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the date of hand delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the facsimile machine at the receiving location and receipt is verbally confirmed by the sender.

7.7 Transmission of PHI or Other Confidential Information. Regardless of the transmittal methods permitted above, Covered Entity and Business Associate agree that all deliverables set forth in this Agreement that are required to be in the form of data transfers shall be transmitted between Covered Entity and Business Associate via the data transfer method specified in advance by Covered Entity. This may include, but shall not be limited to, transfer through Covered Entity's SFTP system. Failure by the Business Associate to transmit such deliverables in the manner specified by Covered Entity may, at the option of the Covered Entity, result in liquidated damages if and as set forth in one (1) or more of the Service Agreements between Covered Entity and Business Associate listed above. All such deliverables shall be considered effectively submitted upon receipt or recipient confirmation as may be required.

7.8 Strict Compliance. No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect, or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.

7.9 Severability. With respect to any provision of this Agreement finally determined by a court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent permitted by applicable law, and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.

7.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee except to the extent that Tennessee law has been pre-empted by HIPAA and HITECH and without giving effect to principles of conflicts of law. Jurisdiction shall be Davidson County, Nashville, Tennessee, for purposes of any litigation resulting from disagreements of the parties for purpose of this Agreement and the Service Agreement (s).

7.11 Compensation. There shall be no remuneration for performance under this Agreement except as specifically provided by, in, and through, existing administrative requirements of Tennessee State government and Services Agreement(s) referenced herein.

7.12 Validity of Execution. Unless otherwise agreed, the parties may conduct the execution of this Business Associate Agreement transaction by electronic means. The parties may agree that an electronic record of the Agreement containing an Electronic Signature is valid as an executed Agreement.

IN WITNESS WHEREOF, the Parties execute this Agreement to be valid and enforceable from the last date set out below:

DIVISION OF TENNCARE

By: Stephen Smith / 38
Stephen Smith, Director
 Date: 1/25/2023

Division of TennCare
 310 Great Circle Road
 Nashville, TN 37243
 Fax: (615) 253-5607

BUSINESS ASSOCIATE

DocuSigned by:
 By: Anthony A. Ferrara
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Anthony A. Ferrara, Sr. Vice Chancellor / CFO
 Date: 1/18/2023 | 13:03:33 PST

Anthony A. Ferrara, Sr. Vice Chancellor / CFO
 University of Tennessee Health Science Center
 62 S. Dunlap, Suite 220
 Memphis, TN 38163