

**AGREEMENT BETWEEN COUNTY OF LAKE AND LISA WARNER,
MBA FOR SUPPORT SERVICES FOR MANAGED CARE FOR
FISCAL YEAR 2023-24**

This Agreement is made and entered into by and between the County of Lake, hereinafter referred to as “County,” and Lisa Warner, hereinafter referred to as “Contractor,” collectively referred to as the “parties.”

1. **SERVICES.** Subject to the terms and conditions set forth in this Agreement, Lisa Warner shall provide to County the services described in the “**Scope of Services**” attached hereto and incorporated herein as **Exhibit A** at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and **Exhibits A/B/C/D**, the Agreement shall prevail.

2. **TERM.** This Agreement shall commence on **July 1, 2023, and shall terminate on June 30, 2024, unless earlier terminated as hereinafter provided.** In the event County desires to temporarily continue services after the expiration of this Agreement, such continuation shall be deemed on a month-to-month basis, subject to the same terms, covenants, and conditions contained herein.

3. **COMPENSATION.** Contractor has been selected by County to provide the services described hereunder in **Exhibit A**, titled, “**Scope of Services**”. **Compensation to Contractor shall not exceed Fifteen Thousand Dollars (\$15,000).**

The County shall compensate Contractor for services rendered, in accordance with the provisions set forth in **Exhibit B**, titled “**Fiscal Provisions**” attached hereto and incorporated herein, provided that Contractor is not in default under any provisions of this Agreement.

4. **TERMINATION.** This Agreement may be terminated by mutual consent of the parties or by County upon 30 days written notice to Contractor.

In the event of non-appropriation of funds for the services provided under this Agreement, County may terminate this Agreement, without termination charge or other liability.

Upon termination, Contractor shall be paid a prorated amount for the services provided up to the date of termination.

5. **MODIFICATION.** This Agreement may only be modified by a written amendment hereto, executed by both parties; however, matters concerning scope of services which do not affect the compensation may be modified by mutual written consent of Contractor and County executed by the Lake County Behavioral Health Services Director.

6. **NOTICES.** All notices that are required to be given by one party to the other under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited with the United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses, unless such addresses are changed by notice, in writing, to the other party.

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County of Lake
Lake County Behavioral Health Services
PO Box 1024
6302 Thirteenth Avenue
Lucerne, CA 95458-1024
Attn: Elise Jones, MA
Deputy Director, Administration

Lisa Warner, MBA
1573 Reese River Rd
Fernley, NV 89408

Attn: Lisa Warner, MBA

7. **EXHIBITS.** The Agreement Exhibits, as listed below, are incorporated herein by reference:

Exhibit A - Scope of Services
Exhibit B - Fiscal Provisions
Exhibit C - Compliance Provisions
Exhibit D –Business Associate – Qualified Service Organization

8. **TERMS AND CONDITIONS.** Contractor warrants and agrees that it shall comply with all terms and conditions of this Agreement including **Exhibit A, Exhibit B, and Exhibit C**, titled, “**Compliance Provisions**”, and **Exhibit D, entitled “Business Associate – Qualified Service Organization Agreement,”** attached hereto and incorporated herein in addition to all other applicable federal, state and local laws, regulations and policies.

9. **INTEGRATION.** This Agreement, including attachments, constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior Agreements, related proposals, oral and written, and all negotiations, conversations or discussions heretofore and between the parties.

County and Contractor have executed this Agreement on the day and year first written above.

LAKE COUNTY BEHAVIORAL HEALTH
SERVICES

LISA WARNER, MBA

Stephen Carter, Jr.
Interim Behavioral Health Director
Date: _____

Lisa Warner, MBA

Date: _____

APPROVED AS TO FORM:
LLOYD GUINTIVANO
County Counsel

By: _____

Date: 07/06/2023
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EXHIBIT A – SCOPE OF SERVICES

1. **DESCRIPTION OF SERVICES.** On behalf of County, Contractor agrees to provide the following support services for Managed Care:

- A. Specialty Mental Health and Drug Medi-Cal site certifications with consultation regarding onsite-reviews.
- B. Contract consultation, training, and completion.
- C. Medicare provider certifications.
- D. Training in Managed Care functions as deemed appropriate and necessary.

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EXHIBIT B – FISCAL PROVISIONS

1. **CONTRACTOR'S FINANCIAL RECORDS.** Contractor shall keep financial records for funds received hereunder, separate from any other funds administered by Contractor, and maintained in accordance with Generally Accepted Accounting Principles and Procedures and the Office of Management and Budget's Cost Principles.

2. **INVOICES.**

2.1 Contractor's invoices shall be submitted in arrears on a monthly basis, or such other time that is mutually agreed upon in writing and shall be itemized and formatted to the satisfaction of the County.

2.2 Contractor shall bill County on or before the fifteenth (15th) working day of the month following the month in which specialty services were provided.

2.3 Contractor's invoices shall be submitted electronically by email to LCBHS_Fiscal@Lakecountyca.gov.

2.4 County shall make payment within 30 business days of an undisputed invoice for the compensation stipulated herein for supplies delivered and accepted or services rendered and accepted, less potential deductions, if any, as herein provided. Payment on partial deliverables may be made whenever amounts due so warrant or when requested by the Contractor and approved by the Assistant Purchasing Agent.

2.5 County shall not be obligated to pay Contractor for services provided which are the subject of any bill if Contractor submits such bill to County more than thirty (30) days after the date Contractor provides the services, or more than thirty (30) days after this Agreement terminates, whichever is earlier.

2.6 Contractor and County shall each appoint one responsible representative for the purpose of resolving any billing questions or disputes which may arise during the term of this Agreement. Should such issues arise, County shall still be obligated to pay Contractor on a timely basis for those amounts and/or services which are not in dispute or with respect to which there are no questions. Questioned amounts, once adjusted (if necessary) as agreed by the two representatives, shall be paid to Contractor immediately after the Agreement is reached by the two representatives.

3. **AUDIT REQUIREMENTS AND AUDIT EXCEPTIONS.**

3.1 Contractor warrants that it shall comply with all audit requirements established by County and will provide a copy of Contractor's Annual Independent Audit Report, if applicable.

3.2 County may conduct periodic audits of Contractor's financial records, notifying Contractor no less than 48 hours prior to scheduled audit. Said notice shall include a detailed listing of the records required for review. Contractor shall allow County, or other appropriate entities designated by County, access to all financial records pertinent to this Agreement.

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4. **PAYMENT TERMS.** County shall reimburse Contractor for services provided per the schedule below:

4.1 County shall pay Contractor at the rate of Sixty Dollars (\$60.00) per hour.

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EXHIBIT C – COMPLIANCE PROVISIONS

1. **INFORMATION INTEGRITY AND SECURITY.** Contractor shall immediately notify County of any known or suspected breach of personal, sensitive and confidential information related to Contractor's work under this Agreement.

2. **NON-DISCRIMINATION.** Contractor shall not unlawfully discriminate against any qualified worker or recipient of services because of race, religious creed, color, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, marital status or age.

3. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS.**

3.1 The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:

A. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

B. Have not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in the preceding paragraph; and

D. Have not, within a three-year period preceding this Agreement, had one or more public transactions terminated for cause or default.

3.2 Contractor shall report immediately to County, in writing, any incidents of alleged fraud and/or abuse by either Contractor or Contractor's subcontractor. Contractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by County.

4. **INDEMNIFICATION AND HOLD HARMLESS.** Contractor and County shall each indemnify and defend the other's officers, employees, and agents against and hold them harmless from any and all claims, losses, damages, and liability for damages, including attorney's fees and other costs of defense incurred by either party, whether for damage to or loss of property, or injury to or death of person, including properties of either party and injury to or death of each other's officials, employees or agents, arising out of, or connected with Contractor's operations hereunder or the performance of the work described herein, unless such damages, loss, injury or death is caused solely by the negligence of either party.

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5. **STANDARD OF CARE.** Contractor represents that it is specially trained, licensed, experienced and competent to perform all the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed, whether by Contractor or designated subcontractors, in a manner according to generally accepted practices.

6. **INTEREST OF CONTRACTOR.** Contractor assures that neither it nor its employees has any interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services hereunder.

7. **DUE PERFORMANCE – DEFAULT.** Each party agrees to fully perform all aspects of this agreement. If a default to this Agreement occurs, then the party in default shall be given written notice of said default by the other party. If the party in default does not fully correct (cure) the default within 30 days of the date of that notice (i.e. the time to cure) then such party shall be in default. The time period for corrective action of the party in default may be extended in writing executed by both parties, which must include the reason(s) for the extension and the date the extension expires.

Notice given under this provision shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable time period. No such notice shall be deemed a termination of this Agreement, unless the party giving notice so elects in that notice, or so elects in a subsequent written notice after the time to cure has expired.

8. **ATTORNEY'S FEES AND COSTS.** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such part may be entitled.

9. **ASSIGNMENT.** Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of County except that claims for money due or to become due Contractor from County under this Agreement may be assigned by Contractor to a bank, trust company, or other financial institution without such approval. Written notice of any such transfer shall be furnished promptly to County. Any attempt at assignment of rights under this Agreement except for those specifically consented to by both parties or as stated above shall be void.

10. **INDEPENDENT CONTRACTOR.** It is specifically understood and agreed that, in the making and performance of this Agreement, Contractor is an independent contractor and is not an employee, agent or servant of County. Contractor is not entitled to any employee benefits. County agrees that Contractor shall have the right to control the manner and means of accomplishing the result agreed for herein.

Contractor is solely responsible for the payment of all federal, state and local taxes, charges, fees, or contributions required with respect to Contractor and Contractor's officers, employees,

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and agents who are engaged in the performance of this Agreement (including without limitation, unemployment insurance, social security and payroll tax withholding.)

11. OWNERSHIP OF DOCUMENTS. All non-proprietary reports, drawings, renderings, or other documents or materials prepared by Contractor hereunder are the property of the County. In the event of the termination of this Agreement for any reason whatsoever, Contractor shall promptly turn over all said reports, drawings, renderings, information, and/or other documents or materials to County, without exception or reservation.

12. SEVERABILITY. If any provision of this Agreement is held to be unenforceable, the remainder of this Agreement shall be severable and not affected thereby.

13. ADHERENCE TO APPLICABLE DISABILITY LAW. Contractor shall be responsible for knowing and adhering to the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, (42 U.S.C. Sections 12101, et seq.). California Government Code Sections 12920 et seq., and all related state and local laws.

14. HIPAA COMPLIANCE. Contractor will adhere to Titles 9 and 22 and all other applicable Federal and State statutes and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and will make his best efforts to preserve data integrity and the confidentiality of protected health information.

15. SAFETY RESPONSIBILITIES. Contractor will adhere to all applicable CalOSHA requirements in performing work pursuant to this Agreement. Contractor agrees that in the performance of work under this Agreement, Contractor will provide for the safety needs of its employees and will be responsible for maintaining the standards necessary to minimize health and safety hazards.

16. JURISDICTION AND VENUE. This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue of any action or proceeding regarding this Agreement or performance thereof shall be in Lake County, California. Contractor waives any right of removal it might have under California Code of Civil Procedure Section 394.

17. NO THIRD-PARTY BENEFICIARIES. Nothing contained in this Agreement shall be construed to create, and the parties do not intend to create any rights in or for the benefit of third parties.

18. UNUSUAL OCCURRENCE REPORTING. Contractor is required to have procedures for reporting unusual occurrences relating to health and safety issues. Contractor shall report to County any unusual events, accidents, or injuries requiring medical treatment for clients, staff, or members of the community. An unusual occurrence shall be reported to the County in writing (or electronic mail) as soon as possible but no later than three (3) working days of the Contractor's knowledge of the event. An unusual occurrence is subject to investigation by Lake County Behavioral Health; and upon a request, a copy of the County's investigation shall be

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made available to the State Department of Behavioral Health, which may subsequently conduct its own investigation.

19. **OVERSIGHT.** Lake County Behavioral Health Services shall conduct oversight and impose sanctions on the Contractor for violations of the terms of this Agreement, and applicable federal and state law and regulations, in accordance with Welfare & Institutions Code 14712(c)(3) and CCR, Title 9, Section 1810.380 and 1810.385. Remedies in instances where the State Department of Health Care Services or the County Mental Health Plan determine the subcontractor has not performed satisfactorily and right to audit will exist through 10 years from the final data of the contract period or from the date of completion of any audit, whichever is later.

20. **NON-APPROPRIATION.** In the event County is unable to obtain funding at the end of each fiscal year for specialty mental health services required during the next fiscal year, County shall have the right to terminate this Agreement, without incurring any damages or penalties, and shall not be obligated to continue performance under this Agreement. To the extent any remedy in this Agreement may conflict with Article XVI of the California Constitution or any other debt limitation provision of California law applicable to County, Contractor hereby expressly and irrevocably waives its right to such remedy.

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Exhibit D

Business Associate – Qualified Service Organization Agreement

THIS HIPAA BUSINESS ASSOCIATE and QUALIFIED SERVICE ORGANIZATION AGREEMENT (the "Agreement") is entered into effective July 1, 2021 (the "Effective Date"), by and between **Lisa Warner, MBA**, ("Business Associate/Qualified Service Organization") and **Lake County Behavioral Health Services** (the "Covered Entity").

Business Associate/Qualified Service Organization and Covered Entity have a business relationship (the "Relationship" or the "Agreement") in which Business Associate/Qualified Service Organization may perform functions or activities on behalf of Covered Entity involving the use and/or disclosure of protected health information received from, or created or received by, Business Associate/Qualified Service Organization on behalf of Covered Entity. Business Associate is also a Qualified Service Organization (QSO) under 42 CFR, Part 2 and agrees to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information. Therefore, if Business Associate is functioning as a Business Associate or QSO to Covered Entity, Business Associate agrees to the following terms and conditions set forth in this Business Associate/Qualified Service Organization Agreement.

Definitions

Catch-all definition:

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use. Terms used, but not otherwise defined, in this agreement shall have the same meaning as those terms in the HIPAA and CFR 42 Part 2 Regulations. Protected Health Information (PHI) includes electronic Protected Health Information (ePHI).

Specific definitions:

- (a) **Business Associate**. "Business Associate" shall generally have the same meaning as the term "Business Associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean *Lisa Warner*.
- (b) **Qualified Service Organization**. "Qualified Service Organization" shall generally have the same meaning as defined in 42 CFR 2.11, and in reference to the party to this agreement, shall mean *Lisa Warner*.
- (c) **Covered Entity**. "Covered Entity" shall generally have the same meaning as the term "Covered Entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean *Lake County Behavioral Health Services*.
- (d) **HIPAA Rules**. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164 as well as the HITECH Act.

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- (e) **CFR 42 Part 2.** “CRF 42 Part 2” shall mean the federal law governing Confidentiality of Alcohol and Drug Abuse Patient Records and its implementing regulations.

Obligations and Activities of Business Associate/Qualified Service Organization

Business Associate/QSO agrees to:

- (a) **Limitations on Uses and Disclosures of PHI.** Business Associate/QSO shall not, and shall ensure that its directors, officers, employees, and agents do not, use or disclose PHI in any manner that is not permitted or required by the Relationship, this Agreement, or required by law. All uses and disclosures of, and requests by Business Associate/QSO, for PHI are subject to the minimum necessary rule of the Privacy Standards and shall be limited to the information contained in a limited data set, to the extent practical, unless additional information is needed to accomplish the intended purpose, or as otherwise permitted in accordance with Section 13405(b) of HITECH and any implementing regulations. See Permitted Uses and Disclosures by Business Associate below.
- (b) **Required Safeguards To Protect PHI.** Use, and document the implementation of, appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by this Agreement;
- (c) **Reporting of Improper Use and Disclosures or Breaches of Unsecured PHI.** Report to Covered Entity within 24 business hours of Business Associate/QSO becoming aware of any use or disclosure of protected health information not provided for by the Agreement. Business Associate/QSO shall also report to Covered Entity within 24 business hours any breaches of unsecured protected health information as required at 45 C.F.R. §§ 164.400-414, and any security incident of which it becomes aware. Report should be made to:

Compliance Officer
Lake County Behavioral Health Services
1-877-610-2355

- (d) **Mitigation of Harmful Effects.** Business Associate/QSO agrees to mitigate, to the extent practicable, any harmful effect of a use or disclosure of PHI by Business Associate/QSO in violation of the requirements of this Agreement, including, but not limited to, compliance with any state law or contractual data breach requirements. Business Associate/QSO shall cooperate with Covered Entity's breach notification and mitigation activities, and shall be responsible for all costs incurred by Covered Entity for those activities.
- (e) **Access to Information.** Within five (5) business days of a request by the Covered Entity, make available protected health information in a designated record set as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524. In the event an

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individual delivers directly to the Business Associate/QSO a request for access to protected health information, the Business Associate/QSO shall within two (2) business days forward such request to the Covered Entity;

- (f) **Availability of PHI for Amendment.** Within five (5) business days of request of a Covered Entity, make amendment(s) to protected health information in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526. This includes, but is not limited to, the Business Associate/QSO providing such information to the Covered Entity for amendment and incorporation of any such amendment(s) in the protected health information. In the event an individual delivers directly to the Business Associate/QSO a request for amendment(s) to protected health information, the Business Associate/QSO shall within two (2) business days forward such request to the Covered Entity;
- (g) **Documentation of Disclosures.** Maintain a record of all disclosures of protected health information and information related to such disclosures, including the name of the recipient and the date of disclosure. If known, the records shall also include, the address of the recipient of the protected health information, a brief description of the protected health information disclosed, and the purpose of the disclosure which includes an explanation of the basis of such disclosure;
- (h) **Accounting of Disclosures.** Within five (5) days of notice by Covered Entity to Business Associate/QSO that it has received a request for an accounting of disclosures of PHI regarding an individual during the six (6) years prior to the date on which the accounting was requested, Business Associate/QSO shall make available to Covered Entity information to permit Covered Entity to respond to the request for an accounting of disclosures of PHI, as required by 45 C.F.R. § 164.528. In the case of an electronic health record maintained or hosted by Business Associate/QSO on behalf of Covered Entity, the accounting period shall be three (3) years and the accounting shall include disclosures for treatment, payment and healthcare operations, in accordance with the applicable effective date of Section 13402(a) of HITECH. In the event the request for an accounting is delivered directly to Business Associate/QSO, Business Associate/QSO shall within two (2) days forward such request to Covered Entity;
- (i) **Availability of Books and Records.** Business Associate/QSO shall make its internal practices, books, and records relating to the use and disclosure and privacy protection of PHI received from Covered Entity, or created, maintained or received by Business Associate/QSO on behalf of the Covered Entity, available to the Covered Entity, the State of California, and the Secretary of the Department of Health and Human Services, in the time and manner designated by the Covered Entity, State or Secretary, for purposes of determining Covered Entity's compliance with the Privacy Standards. Business Associate/QSO shall notify the Covered Entity upon receipt of such a request for access by the State or Secretary, and shall provide the Covered Entity with a copy of the request as well as a copy of all materials disclosed.

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- (j) **Electronic PHI.** To the extent that Business Associate/QSO creates, receives, maintains or transmits electronic PHI on behalf of Covered Entity, Business Associate/QSO shall:
- (I) Comply with 45 C.F.R. §§164.308, 312, and 316 in the same manner as such sections apply to Covered Entity, pursuant to Section 13401(a) of HITECH, and otherwise implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI;
 - (II) Ensure that any agent to whom Business Associate/QSO provides electronic PHI agrees to implement reasonable and appropriate safeguards to protect it; and
 - (III) Report to Covered Entity any security incident of which Business Associate/QSO becomes aware.
- (k) **Business Associate/QSO as Agent of Covered Entity.** To the extent the Business Associate/QSO is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate/QSO shall comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).

Permitted Uses and Disclosures by Business Associate/QSO

- (a) Business Associate/QSO may only use or disclose protected health information:
- (i) To carry out its duties to the Covered Entity pursuant to the terms of the Relationship;
 - (ii) For its own proper management and administration; and
 - (iii) To carry out its legal responsibilities.
- (b) Business Associate/QSO may use or disclose protected health information as required by law.
- (c) Business Associate/QSO agrees to limit uses and disclosures and requests for protected health information to the minimum amount necessary to accomplish the purpose of the request, use, or disclosure, and consistent with the Covered Entity's minimum necessary policies and procedures.
- (d) Business Associate/QSO may disclose protected health information for the proper management and administration of the Business Associate/QSO or to carry out the legal responsibilities of the Business Associate/QSO, provided the disclosures are required by law, or Business Associate/QSO obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person. Additionally, Business Associate/QSO must obtain an agreement from the

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receiving party to immediately notify the Business Associate/QSO of any instances of which it is aware in which the confidentiality of the information has been breached.

- (e) Business Associate/QSO may provide data aggregation services relating to the health care operations of the Covered Entity.

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

- (a) Covered Entity shall notify Business Associate/QSO within five (5) business days of notice of any limitation(s) in the notice of privacy practices of Covered Entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate/QSO's use or disclosure of protected health information.
- (b) Covered Entity shall notify Business Associate/QSO within five (5) business days of notice of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect Business Associate/QSO's use or disclosure of protected health information.
- (c) Covered Entity shall notify Business Associate/QSO within five (5) business days of notice of any restriction on the use or disclosure of protected health information that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate/QSO's use or disclosure of protected health information.

42 CFR Part 2 – Substance Abuse Treatment PHI

- (a) **Qualified Service Organization Status.** To the extent that in performing its services for or on behalf of Covered Entity, Business Associate/QSO uses, discloses, maintains, or transmits protected health information that is protected by 42 CFR, Part 2, Business Associate/QSO acknowledges and agrees that it is a QSO for the purpose of such federal law. Business Associate/QSO acknowledges that in receiving, storing, processing or otherwise dealing with any PHI from the Covered Entity, it is fully bound by 42 C.F.R. Part 2.
- (b) **Judicial and Administrative Proceedings.** Business Associate/QSO will resist any efforts, including judicial proceedings, to obtain PHI except as provided in 42 C.F.R. Part 2. In the event Business Associate/QSO receives a subpoena, court or administrative order or other discovery request or mandate for release of PHI, Covered Entity shall have the right to control Business Associate/QSO's response to such request. Business Associate/QSO shall notify Covered Entity of the request as soon as reasonably practicable, but in any event within two (2) days of receipt of such request.
- (c) **Limitations.** Business Associate/QSO may use and/or disclose PHI within BA/QSO for the proper management and administration of its business, except as otherwise limited by

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the Agreement or 42 C.F.R. Part 2. Business Associate/QSO may use and/or disclose PHI within BA/QSO to carry out its legal responsibilities, except as otherwise limited by the Agreement or 42 C.F.R. Part 2. Re-disclosure of client information to third party is prohibited by 42 CFR Part 2 except to report violations of law as permitted by HIPAA and 42 C.F.R. Part 2.

- (d) **Notification.** Covered Entity will notify Business Associate/QSO of any changes in or revocation of, authorization by an Individual to use or disclose PHI. Covered Entity will notify Business Associate/QSO of any Individual requests for restrictions to the use or disclosure of PHI. Business Associate/QSO acknowledges it is fully bound by HIPAA and 42 C.F.R. Part 2.
- (e) **CFR 42 Part 2 Precedence.** Mandatory provisions of HIPAA preempt provisions of the Agreement. Provisions of the Agreement not mandated by HIPAA but nonetheless permitted by HIPAA will control. In the event of inconsistencies between HIPAA and 42 C.F.R. Part 2, the more restrictive rule will control.

Parties will comply with any and all federal, state and local laws pertaining to client confidentiality including, but not limited to, state mental health and developmental disability confidentiality law, state and federal drug and alcohol confidentiality laws and state AIDS/HIV confidentiality laws.

Term and Termination

- (a) **Term.** The Term of this Agreement shall be effective as of July 1, 2021 and shall terminate at the time Lisa Warner (*Business Associate/QSO*) ceases to provide professional consulting services for Lake County Behavioral Health Services or on the date Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.
- (b) **Termination for Cause.** Business Associate/QSO authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate/QSO has violated a material term of the Agreement. At the Covered Entity's option, the Covered Entity may permit the Business Associate/QSO to cure or end any such violation within the time specified by the Covered Entity. Covered Entity's option to have cured a breach of this Agreement shall not be construed as a waiver of any other rights Covered Entity has in the Relationship, this Agreement or by operation of law or in equity.
- (c) **Obligations of Business Associate/QSO Upon Termination.**
 - (i) Upon termination of this Agreement for any reason, Business Associate/QSO shall return to Covered Entity or, at the Covered Entity's discretion and direction, destroy all protected health information received from Covered Entity, or created, maintained, or received by Business Associate/QSO on behalf of Covered Entity, that the Business Associate/QSO still maintains in any form. This provision shall apply to protected health information that is in the possession of the Business Associate/QSO or agents of

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the Business Associate/QSO. Business Associate/QSO shall retain no copies of the protected health information.

- (ii) Upon termination of this Agreement for any reason, Business Associate/QSO may retain certain protected health information for its own management and administration or to carry out its legal responsibilities at the discretion of the Covered Entity. With respect to such protected health information necessary for Business Associate/QSO's own management and administration or to carry out its legal responsibilities which was received from Covered Entity, or created, maintained, or received by Business Associate/QSO on behalf of Covered Entity, Business Associate/QSO shall:
- 1) Retain only that protected health information which is necessary for Business Associate/QSO to continue its proper management and administration or to carry out its legal responsibilities;
 - 2) Return to Covered Entity, or if agreed to by Covered Entity, destroy the remaining protected health information that the Business Associate/QSO still maintains in any form;
 - 3) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as Business Associate/QSO retains the protected health information;
 - 4) Not use or disclose the protected health information retained by Business Associate/QSO other than for the purposes for which such protected health information was retained and subject to the same conditions set out at paragraph (d) above under "Permitted Uses and Disclosures By Business Associate/QSO" which applied prior to termination; and
 - 5) Return to Covered Entity or, if agreed to by Covered Entity, destroy the protected health information retained by Business Associate/QSO when it is no longer needed by Business Associate/QSO for its proper management and administration or to carry out its legal responsibilities.

- (d) **Survival.** The obligations of Business Associate/QSO under this Section shall survive the termination of this Agreement.

Miscellaneous

- (a) **Regulatory References.** A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- (b) **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA, CFR 42 Part 2, HITECH, the Privacy Standards, Security Standards or Transactions Standards and any other applicable law.
- (c) **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules and CFR 42, Part 2.

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- (d) **Injunctive Relief.** Business Associate/QSO stipulates that its unauthorized use or disclosure of protected health information while performing services pursuant to this Agreement would cause irreparable harm to Covered Entity, and in such event, Covered Entity shall be entitled to institute proceedings in any court of competent jurisdiction to obtain damages and injunctive relief.
- (e) **Indemnification.** Business Associate/QSO shall indemnify and hold harmless Covered Entity and its officers, trustees, employees, and agents from any and all claims, penalties, fines, costs, liabilities or damages, including but not limited to reasonable attorney fees, incurred by Covered Entity arising from a violation by Business Associate/QSO of its obligations under this Agreement.
- (f) **Exclusion from Limitation of Liability.** To the extent that Business Associate/QSO has limited its liability under the terms of this Agreement, whether with a maximum recovery for direct damages or a disclaimer against any consequential, indirect or punitive damages, or other such limitations, all limitations shall exclude any damages to Covered Entity arising from Business Associate/QSO's breach of its obligations relating to the use and disclosure of protected health information.
- (g) **Owner of Protected Health Information.** Under no circumstances shall Business Associate/QSO be deemed in any respect to be the owner of any protected health information used or disclosed by or to Business Associate/QSO by Covered Entity.
- (h) **Third Party Rights.** The terms of this Agreement do not grant any rights to any parties other than Business Associate/QSO and Covered Entity.
- (i) **Independent Contractor Status.** For the purposed of this Agreement, Business Associate/QSO is an independent contractor of Covered Entity, and shall not be considered an agent of Covered Entity.

IN WITNESS WHEREOF, each Party hereby executes this Agreement as of the Effective Date.

Lisa Warner

Lake County Behavioral Health Services

By: _____

By: _____

Name: Lisa Warner, MBA

Name: Stephen Carter, Jr.

Title: Consultant

Title: Behavioral Health Services Director

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