

Co-Responder Program
MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made and entered this 23rd day of August, 2021, by and between Western Mental Health Center, referred to as "WMHC" and the City of Marshall, referred to as "COM" and the Lyon County Sherriff Office, referred to as "LCSO"

WITNESSETH:

WHEREAS the WMHC Co-Responder is a program coordinated by Western Mental Health Center and the City of Marshall and Lyon County Sherriff Office, for implementation in the Marshall community and Lyon County; and,

WHEREAS the WMHC Co-Responder has partnered with a network of qualified agencies and treatment providers to offer high quality services and referrals for individuals who have called 911 or local law enforcement for a behavioral health related concern; and,

WHEREAS the WMHC Co-Responder commits to maintaining confidentiality and providing ongoing general service updates to partners and referral providers ongoing and as needed; and,

WHEREAS the WMHC Co-Responder will require ongoing collaboration between the signing members. This collaboration can be terminated by either party upon thirty days written notice to the other party.

WITH A VIEW TOWARD REACHING THE COMMON GOAL OF PROVIDING QUALITY MENTAL HEALTH SERVICES IN CONJUNCTION WITH LAW ENFORCEMENT, IT IS AGREED AS FOLLOWS:

1. **WMHC's Team.** WMHC shall staff a qualified Co-Responder to work in conjunction with the COM and LCSO to provide field based mental health services within the Marshall and Lyon County areas.
2. **COM AND LCSO Coordination.** COM and LCSO's shall staff a qualified sworn officer to work in conjunction with WMHC Co-Responder to assist in providing field based mental health services within the Marshall and Lyon County areas.
3. **Vetting of Team Members.** COM and LCSO shall provide an in-depth vetting process of all members of the Co-Responder Team, to the same extent as the vetting of civilian police employees, prior to any member's activities or engagement on the Co-Responder team. The COM AND LCSO retains the right to deny any applicant based on information learned in the background check that may make them not suitable for access to the police department and or police department records.
4. **Access to COM and LCSO Facilities and Equipment.** Upon completion of a police background check and fingerprinting, WMHC Member(s) shall be given access to COM and LCSO facilities, including a workspace at Department headquarters, and possibly the use of police radios/body cams for direct communication to Co-Responder and other officers.
5. **Access to Shared Information and Records.** WMHC and COM and LCSO agree that any information shared between them relating to health care or law enforcement data shall be held in confidence and subject to all data protections relevant to each agency including but not limited to HIPAA, the Minnesota Health Records Act, and the Government Data Practices Act, except as otherwise required by law. COM and LCSO shall execute a Business Associate Agreement, as described in the HIPAA Privacy Rule, in acknowledgement of the responsibilities of the Privacy Rule. COM and LCSO shall only be given access to protected health information as allowed by state and federal law for law enforcement purposes. Co-Responder Team members shall be given access to certain medical or police records pertaining to behavioral health related instances necessary to perform the outreach services. All requests for

information pursuant to the Government Data Practices Act will be initially reviewed by COM AND LCSO staff and then disseminated to and processed by the agency that is the holder of the data being requested.

6. Hold Harmless. WMHC and COM and LCSO each agree to indemnify, defend, and hold harmless the other party from and against any and all liability, expense (including court costs and attorney fees) and claims for damage of any nature whatsoever which either party may incur, suffer, become liable for as a result of the acts, errors or omissions of other party.

NOW THEREFORE the signee(s) of this Memorandum of Understanding agree to:

1. Participate as an active partner in any necessary meetings or commit to sending an agency representative when meeting conflicts arise.
2. Information sharing follows the regulations related to giving minimum necessary to assist in an emergency. Common agencies used as referral sources will have a signed Business Associate Agreement in place where applicable. They are encouraged to also obtain a general release of information from clients.
3. Collaborate with WMHC Co-Responder staff to ensure accurate collection of data. Both entities will collect data.
4. The City of Marshall and Lyon County Sheriff Office and the WMHC Co-Responder will communicate any changes in capacity, services or contact information.

This agreement may be modified and/or terminated between and among partner agencies upon thirty (30) days written notice to relevant parties.

Dated: 8-23-21

Western Mental Health Center



By_ Sarah Ackerman _____
Its_ Executive Director _____

Dated: _____

City of Marshall

By _____
Its _____

Dated: _____

Lyon County Sheriff Office

By _____
Its _____

BUSINESS ASSOCIATE AGREEMENT

EFFECTIVE DATE: 8-23-21

PARTIES: Western Mental Health Center ("Covered Entity")
1212 East College Drive
Marshall, MN 56258

City of Marshall ("Business Associate")
611 E Main Street
PO Box 28
Marshall, MN 56258

RECITALS:

- A. Covered Entity and Business Associate have entered into one or more agreements (collectively, the "Agreement") in which Business Associate agrees to provide certain services to Covered Entity, which services may involve Business Associate's receipt, use, disclosure, transmission, maintenance, or creation of protected health information on behalf of Covered Entity.
- B. The parties desire to enter into this Business Associate Agreement (the "BAA") to reflect their understanding and obligations with regard to Protected Health Information and their compliance with HIPPA rules.

NOW, THEREFORE, in consideration of the mutual covenants and promises made by and between the parties, the receipt and adequacy of which is acknowledged, the parties agree as follow:

AGREEMENTS:

ARTICLE 1. DEFINITIONS

- 1.1) Catch-all Definition. Terms used, but not otherwise defined, in this BAA shall have the same meaning as those terms in the HIPPA rules, including the following terms: Breach, Data Aggregation, Designated Record Set, disclosure, health Care Operation, Minimum Necessary, Notice of Privacy Practices, Required By Lay, Secretary, Security Incident, subcontractor, Unsecured Protected Health Information, and Use.
- 1.2) Specific Definitions.
 - A. Electronic Protected Health Information. "Electronic Protected Health Information" shall mean protected health information that is transmitted by or maintained in electronic media.
 - B. HIPPA Rules. "HIPPA Rules" shall mean the Privacy, Security, Breach notification and Enforcement rules set forth and 45 CFR part 160 and part 164, Subparts A,D and E.
 - C. Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR & 163.502 (g).
 - D. Privacy Rule. "Privacy Rule" shall mean the Standard for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, Subparts A,D and E and 42 CFR, Part 2.
 - E. Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 160.103, limited to the information created, received, transmitted, or maintained by Business Associate on behalf of the Covered Entity.

F. Security Rule. "Security Rule" shall mean the Security Standards at 45 CFR Part 160 and 164, subparts A and C.

ARTICLE 2.
OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

- 2.1) Regulatory Compliance. Business Associate agrees that it shall comply with the provisions of the HIPPA rules to the extent such regulations apply directly to Business Associate.
- 2.2) General. Business Associate agrees not to Use or Disclose Protected Health Information other than as permitted or required by this BAA or as required by law.
- 2.3) Safeguards. Business Associate agrees to implement and use appropriate administrative, physical, and technical safeguards to prevent Use or Disclosure of Protected Health Information other than as permitted or required by this BAA and to comply with the applicable provisions of 45 CFR Part 164, Subpart C and 42 CFR, Part 2, with respect to Electronic Protected Health Information.
- 2.4) Mitigation. Business Associate agrees to Mitigate, to the extent practicable, any harmful effect that is known to Business associate of the use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this BAA including any Breach.
- 2.5) Reporting Disclosures and Breaches. Business Associate agrees to report to covered Entity:
- (a) Any improper Use or any Disclosure of Protected Health Information within 10 days of discovery of such improper Use or Disclosure, even if improper Use or Disclosure is not a Breach
 - (b) any security incident of which it becomes aware, within 5 days of discovery; and Breach, within two day of becoming aware of Breach. Business Associate may make the initial report orally, but shall provide in full written report to Covered Entity within five days of providing oral notice. Each report (oral or written) shall includes, to the extent available at the time of the report, a description of the breach, the Protected health Information disclosed (including names and contact information), and a description of any remedial actions(s) taken by Business Associate.
- 2.6) Agents and Subcontractors. Business Associate agrees to ensure that any agent, including a subcontractor, that creates, received, and maintains, or transmits Covered Entity's Protected Health Information on behalf of Business Associate agrees to the same restrictions and conditions that apply to Business Associate with respect to such information, including, without limitation, restrictions, conditions, and requirements regarding implementation of reasonable and appropriate safeguards to protect Electronic Protected Health Information, and to notify Business Associate of Breaches and other improper Uses or Disclosures of Protected Health Information. In no event shall Business Associate, without covered Entity's prior written approval, provide Protected Health Information received from, or created, received, maintained, or transmitted by , Business Associate on behalf of Covered Entity to any employee or agent, including a subcontractor, if such employee agent or subcontractor receives, processes, or otherwise has access to the Protected Health Information outside the United States.
- 2.7) Access to Protected Health information. In the event Business Associate maintains Protected Health Information in the Designated Record Set, Business Associate agrees to provide access, within 10 days of Covered Entity's request to Protected Health Information in a Designated Record Set to covered entity in order to meet the requirements under 45 CFR & 164.524. In the event that an individual makes a request for access directly to Business Associate, Business Associate shall notify Covered Entity or such request within three days.
- 2.8) Amendment of Protected Health Information. In the event Business Associate maintain Protected Health Information in a Designated Record Set, Business associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the covered Entity directs or agrees to pursuant to 45 CFR & 164.526 at the request of Covered Entity or an individual, within 20 days of Covered Entity's request for such amendment. In the even a request for amendment is made directly to Business Associate by an Individual, Business Associate shall notify Covered Entity or such request within three days.
- 2.9) Access and Inspection. Business Associate agrees to make internal practices, books, and records, including policies and procedures relating to the use and Disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of , Covered, Entity available to Covered Entity, or to the Secretary, for purposes of the Secretary determining compliance with HIPPA rules.

2.10) Accounting of Disclosures. Business Associate agrees to document such Disclosures of Protected Health Information and information related to such disclosure as required for Covered Entity to respond to a request by an individual for an accounting of disclosures in accordance with 45 CFR & 164.528 and 42 CFR, part 2. Business Associate agrees to provide to Covered Entity to respond to a request by an individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR & 164.528 and 42CFR, Part 2.

2.11) Performance of Covered Entity Obligations. To the extent business Associate is carrying out Covered Entity's obligation under Subpart E of 45 CFR part 164, Business Associate shall comply with the requirement of Subpart E that apply to covered Entity in the performance of such obligations(s).

ARTICLE 4. OBLIGATIONS OF COVERED ENTITY

4.1) Notification to Business Associate. Covered Entity shall notify Business Associate of: (i) any limitations(s) in its notice of privacy practices in accordance with 45 CFR & 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of Protected Health Information; (ii) any changes in, or revocation of, permission by individual to Use or Disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or Disclosure of Protected Health Information that Covered entity has agreed to in accordance with 45 CFR & a64.522, to the extent that such restriction may affect Business Associate's use or Disclosure of Protected Health Information.

4.2) Requests. Covered Entity shall not request Business Associate to Use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

ARTICLE 5. TERM AND TERMINATION

5.1) Term. This BAA shall be effective as of the Effective Date, and shall terminate when all of the Protected Health information provided by Covered Entity is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provision in this Article 5.

5.2) Termination for Cause. Upon Covered Entity knowledge of a violation of a material term of this BAA by Business Associate, covered Entity shall either:

- (a) Provide an opportunity for Business Associate to cure the violation and terminate the Agreement if Business Associate does not cure the breach or end the violation within the time specified by covered Entity;
- (b) Immediately terminate the Agreement if business Associate has violated a material term of this BAA and cure is not possible; or
- (c) If neither termination nor cure is feasible, report the violation to the Secretary.

5.3) Effect of Termination.

(a) Except as provided in paragraph (b) of this section, upon termination of this BAA, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of covered Entity that the Business Associate still maintains in any form. This provision shall apply to Protected Health information that is in the possession of subcontractors or agents of business Associate. Business Associate shall retain no copies of Protected Health information.

(b) in the event that Business Associate determines that returning or destroying that Protected Health Information is infeasible because Business Associate must maintain the Protected Health Information for its own proper management or administration, or to carry out legal responsibilities, all as set forth in Sections 3.2 and 3.3, Business Associate shall provide Covered Entity notification of the conditions that make return or destruction infeasible. In such cases, Business Associate shall: (i) retain only the Protected Health Information that is necessary to continue its proper management and administration or to carry out its legal responsibilities; (ii) destroy or return to Covered Entity the remaining Protected Health Information that is still maintained in any form; (iii) continued to use appropriate safeguards to comply with the HIPPA rules for as long as Business Associate maintain the Protected Health Information; (iv) not Use or Disclose the Protected Health Information that is retained other than for purposes for which Protected Health Information was retained, and subject to the same conditions set out in Sections 3.2 and 3.3; and (v) destroy or return to Covered Entity the Protected Health Information by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

ARTICLE 6.
INDEMNIFICATION; INJECTIVE RELIEF

6.1) Indemnification. Business Associate agrees to indemnify, defend and hold harmless Covered Entity and its directors, officers, agents, shareholders and employees from and against any and all claims, demands, losses, expenses, costs (including reasonable attorneys' fees), damages and causes of action arising from or relating to Business Associate's breach of this BAA. In the event of a breach by Business Associate, its agents, employees, or subcontractors, Business Associate will reimburse and indemnify Covered Entity's expenses and costs, including attorney's fees, that are reasonably incurred due to the Breach, including costs associated with the notification of individuals and the media, as well as credit monitoring and other mitigating actions if determined necessary by Covered Entity.

6.2) Injunctive Relief. The parties acknowledge that the remedy at law for any breach of the terms of this BAA are inadequate and that the damages resulting from such breach are not readily susceptible to being measured in monetary terms. Accordingly, in the event of a breach or threatened breach by Business Associate or any of its subcontractors of the terms of this BAA, Covered Entity shall be entitled to immediate injunctive relief and may obtain a temporary order restraining any threatened or further breach.

ARTICLE 7.
MISCELLANEOUS

7.1) Regulatory References. A reference in the BAA to a section in the HIPAA Rules means that section as in effect or as amended.

7.2) Amendment. The Parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for Covered Entity to comply with the requirements of the HIPAA rules.

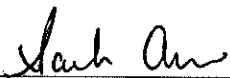
7.3) Survival. Sections 5.3, 6.1, and 6.2 of this BAA shall survive termination of the Agreement.

7.4) Interpretation. Any ambiguity in this BAA shall be resolved to permit Covered Entity to comply with the HIPAA Rules.

IN WITNESS WHEREOF, the parties hereto have executed this BSS in this manner appropriate to each.

WESTERN MENTAL HEALTH CENTER
1212 East College Drive
Marshall, MN 56268

CITY OF MARSHALL
611 E Main Street, PO Box 28
Marshall, MN 565258

By: 

By: _____

Print Name: Sarah Ackerman

Print Name: _____

Title: Executive Director

Title: _____