I. SUBJECT

HIPAA Business Associate Agreement Policy

II. POLICY STATEMENT

HIPAA-covered entities and covered components of the Department of Health and Human Services (the Department) will enter into a business associate agreement (BAA) as appropriate, in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information for Technology for Economic and Clinical Health Act (HITECH). We will allow our business associates to use, create, receive, maintain, or transmit protected health information (PHI) or electronic PHI (ePHI) on behalf of the Department only if we obtain satisfactory written assurances that the business associate, and any subcontractor that the business associate engages to perform a function with the Department’s PHI or ePHI, will appropriately maintain the privacy and security of such data and fulfill its HIPAA/HITECH business associate obligations.

III. RATIONALE

This policy is created to ensure compliance with the BAA provisions of HIPAA and HITECH, and to ensure that any vendor meet the same consumer confidentiality standards and protections as the Department.

IV. PROCEDURE STATEMENT

A. HIPAA-covered entities or components of the Department will not permit vendor access to PHI or ePHI until a valid BAA is properly executed where required. The Department’s BAA template, located on the Department’s Division of Contract Management (DCM) webpage. The BAA template establishes the permitted and required uses, disclosures and obligations regarding our consumers’ PHI contained in any format. A decision tree/checklist intended to help users determine whether the BAA is required is also located on the DCM webpage. BAAs will be maintained, and monitored for renewal, by DCM, with the assistance of the General Counsel where requested.
V. **DEFINITIONS:**

*Business Associates* are those individuals or entities (other than our workforce) that provide services using, creating, accessing, maintaining and/or disclosing PHI or ePHI on behalf of the HIPAA-covered entities and HIPAA covered-components of the Department.

*Protected Health Information* is information about a patient, including demographic information that may identify a patient, which relates to the patient’s past, present or future physical or mental health or condition, related health care services or payment for health care services.

VI. **DISTRIBUTION**

All Staff via e-mail and posting on the DHHS Intranet.

December 14, 2018  
Date

Bethany Hamm  
Acting Commissioner