

RESOLUTION AGREEMENT

I. Recitals

1. **Parties.** The Parties to this Resolution Agreement (“Agreement”) are:

A. The United States Department of Health and Human Services, Office for Civil Rights (“HHS”), which enforces the Federal standards that govern the privacy of individually identifiable health information (45 Code of Federal Regulations (“C.F.R.”) Part 160 and Subparts A and E of Part 164, the “Privacy Rule”), the Federal standards that govern the security of electronic individually identifiable health information (45 C.F.R. Part 160 and Subparts A and C of Part 164, the “Security Rule”), and the Federal standards for notification in case of breach of unsecured protected health information (45 C.F.R. Part 160 and Subparts A and D of 45 C.F.R. Part 164, the “Breach Notification Rule”). HHS has the authority to conduct compliance reviews and investigations of complaints alleging violations of the Privacy, Security, and Breach Notification Rules (the “HIPAA Rules”) by covered entities and business associates, and covered entities and business associates must cooperate with HHS compliance reviews and investigations. *See* 45 C.F.R. §§ 160.306(c), 160.308, and 160.310(b).

B. Renown Health, PC (“Renown”) meets the definition of “covered entity” under 45 C.F.R. § 160.103 and therefore is required to comply with the HIPAA Rules.

C. HHS and Renown shall together be referred to herein as the “Parties.”

2. **Factual Background and Covered Conduct.**

In January 2019, a Renown patient executed a third party access request, under the HITECH Act, for all protected health information (“PHI”) in the patient’s designated record set (“DRS”), including billing records, by directing Renown to transmit an electronic copy of the PHI (maintained in an electronic health record (“EHR”)) to the patient’s attorney (“Complainant”). Renown failed to provide access to all the requested documents in the patient’s DRS until December 27, 2019, several months after the requests were made. HHS’s investigation indicated the following conduct occurred (“Covered Conduct”):

- a. Renown failed to provide timely access to protected health information. *See* 45 C.F.R. § 164.524.

3. **No Admission.** This Agreement is not an admission of liability by Renown.

4. **No Concession.** This Agreement is not a concession by HHS that Renown is not in violation of the HIPAA Rules and not liable for civil money penalties.

5. **Intention of Parties to Effect Resolution.** This Agreement is intended to resolve HHS Transaction Number: 19-334013 and any violations of the HIPAA Rules related to the Covered Conduct specified in Paragraph I.2 of this Agreement. In consideration of the Parties’ interest in avoiding the uncertainty, burden, and expense of formal proceedings, the Parties agree to resolve this matter according to the Terms and Conditions below.

II. Terms and Conditions

6. **Payment.** HHS has agreed to accept, and Renown has agreed to pay HHS, the amount of \$75,000 (“Resolution Amount”). Renown agrees to pay the Resolution Amount on the Effective Date of this Agreement as defined in Paragraph II.14. pursuant to written instructions to be provided by HHS.
7. **Corrective Action Plan.** Renown has entered into and agrees to comply with the Corrective Action Plan (“CAP”), attached as Appendix A, which is incorporated into this Agreement by reference. If Renown breaches the CAP, and fails to cure the breach as set forth in the CAP, then Renown will be in breach of this Agreement and HHS will not be subject to the Release set forth in Paragraph II.8. of this Agreement.
8. **Release by HHS.** In consideration of and conditioned upon Renown’s performance of its obligations under this Agreement, HHS releases Renown from any actions it may have against Renown under the HIPAA Rules arising out of or related to the Covered Conduct identified in Paragraph I.2. of this Agreement. HHS does not release Renown from, nor waive any rights, obligations, or causes of action other than those arising out of or related to the Covered Conduct and referred to in this paragraph. This release does not extend to actions that may be brought under section 1177 of the Social Security Act, 42 United States Code (U.S.C.) § 1320d-6.
9. **Agreement by Released Parties.** Renown shall not contest the validity of its obligation to pay, nor the amount of, the Resolution Amount or any other obligations agreed to under this Agreement. Renown waives all procedural rights granted under Section 1128A of the Social Security Act (42 U.S.C. § 1320a- 7a) and 45 C.F.R. Part 160 Subpart E, and HHS claims collection regulations at 45 C.F.R. Part 30, including, but not limited to, notice, hearing, and appeal with respect to the Resolution Amount.
10. **Binding on Successors.** This Agreement is binding on Renown and its successors, heirs, transferees, and assigns.
11. **Costs.** Each Party to this Agreement shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.
12. **No Additional Releases.** This Agreement is intended to be for the benefit of the Parties only and by this instrument the Parties do not release any claims against or by any other person or entity.
13. **Effect of Agreement.** This Agreement constitutes the complete agreement between the Parties. All material representations, understandings, and promises of the Parties are contained in this Agreement. Any modifications to this Agreement shall be set forth in writing and signed by all Parties.
14. **Execution of Agreement and Effective Date.** The Agreement shall become effective (*i.e.*, final and binding) upon the date of signing of this Agreement and the CAP by the last signatory (“Effective Date”).

15. **Tolling of Statute of Limitations.** Pursuant to 42 U.S.C. § 1320a-7a(c)(1), a civil money penalty (“CMP”) must be imposed within six years from the date of the occurrence of the violation. To ensure that this six-year period does not expire during the term of this Agreement, Renown agrees that the time between the Effective Date of this Agreement and the date the Agreement may be terminated by reason of Renown’s breach, plus one-year thereafter, will not be included in calculating the six (6) year statute of limitations applicable to the violations which are the subject of this Agreement. Renown waives and will not plead any statute of limitations, laches, or similar defenses to any administrative action relating to the Covered Conduct identified in Paragraph I.2. that is filed by HHS within the time period set forth above, except to the extent that such defenses would have been available had an administrative action been filed on the Effective Date of this Agreement.

16. **Disclosure.** HHS places no restriction on the publication of the Agreement.

17. **Execution in Counterparts.** This Agreement may be executed in counterparts, each of which constitutes an original, and all of which shall constitute one and the same agreement.

18. **Authorizations.** The individual(s) signing this Agreement on behalf of Renown represents and warrants that they are authorized to execute this Agreement and bind Renown, as set forth in Paragraph I.1.B. The individual(s) signing this Agreement on behalf of HHS represents and warrants that they are signing this Agreement in their official capacity and that they are authorized to execute this Agreement.

For Renown Health, PC

/s/ _____	02/01/2021 _____
Anthony D. Slonim, MD, DrPH, FACHE President and CEO	Date

For the United States Department of Health and Human Services

/s/ _____	02/02/2021 _____
Andrea Oliver Regional Manager, Rocky Mountain Region Office for Civil Rights	Date

Appendix A
CORRECTIVE ACTION PLAN
BETWEEN THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
RENOWN HEALTH, PC

I. Preamble

Renown Health, PC (“Renown”) hereby enters into this Corrective Action Plan (“CAP”) with the United States Department of Health and Human Services, Office for Civil Rights (“HHS”). Contemporaneously with this CAP, Renown is entering into the Agreement with HHS, and this CAP is incorporated by reference into the Agreement as Appendix A. Renown enters into this CAP as part of consideration for the release set forth in Paragraph II.8. of the Agreement. Capitalized terms without definition in this CAP shall have the same meaning assigned to them under the Agreement.

II. Contact Persons and Submissions

A. Contact Persons

The contact person for Renown regarding the implementation of this CAP and for receipt and submission of notifications and reports (“Renown Contact”) is:

Melinda Mendoza
Chief Compliance Officer
50 W. Liberty, 11th Floor
Reno, Nevada 89501
P: 775-982-5596
melinda.mendoza@renown.org

HHS has identified the following individual as its authorized representative and contact person with whom Renown is to report information regarding the implementation of this CAP:

Andrea Oliver, Regional Manager
Office for Civil Rights, Rocky Mountain Region
Department of Health and Human Services
1961 Stout Street, Room 08.148
Denver, Colorado 80294
Andrea.Oliver@hhs.gov
Telephone: (303) 844-7915

Facsimile: (303) 844-2025

Renown and HHS agree to promptly notify each other of any changes in the contact person or the other information provided above.

B. Proof of Submissions

Unless otherwise specified, all notifications and reports required by this CAP may be made by any means, including certified mail, overnight mail, electronic mail, or hand delivery, provided that there is proof that such notification was received. For purposes of this requirement, internal facsimile confirmation sheets do not constitute proof of receipt.

III. Effective Date and Term of CAP

The Effective Date for this CAP shall be calculated in accordance with Paragraph II.14. of the Agreement (“Effective Date”). The period for compliance (“Compliance Term”) with the obligations assumed by Renown under this CAP shall begin on the Effective Date of this CAP and end two (2) years from the Effective Date, unless HHS has notified Renown under Section VIII hereof of its determination that Renown breached this CAP. In the event of such a notification by HHS under Section VIII hereof, the Compliance Term shall not end until HHS notifies Renown that it has determined that the breach has been cured. After the Compliance Term ends, Renown shall still be obligated to: (a) submit the Final Report as required by Section VI; and (b) comply with the document retention requirement in Section VII. Nothing in this CAP is intended to eliminate or modify Renown’s obligation to comply with the document retention requirements in 45 C.F.R. §§ 164.316(b) and 164.530(j).

IV. Time

In computing any period of time prescribed or allowed by this CAP, all days referred to shall be calendar days. The day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days.

V. Corrective Action Obligations

Renown agrees to the following:

A. Policies and Procedures

1. Renown shall develop, maintain, and/or revise, as necessary, its written access policies and procedures to comply with the Federal standards that govern the privacy of individually identifiable health information (45 C.F.R. Part 160 and Subparts A and E of Part 164, the “Privacy Rule”). Renown’s policies and procedures shall address the Covered Conduct specified in Paragraph I.2. of the Agreement.

2. Renown shall provide such policies and procedures, consistent with paragraph (1) above, to HHS within sixty (60) days of the Effective Date for review and approval. Upon receiving any recommended changes to such policies and procedures from HHS, Renown shall have thirty (30) days to revise such policies and procedures accordingly and provide the revised policies and procedures to HHS for review and approval. This process shall continue until HHS approves the policies and procedures.

3. Renown shall implement such policies and procedures within thirty (30) days of receipt of HHS's approval.

B. Distribution and Updating of Policies and Procedures

1. Renown shall distribute the policies and procedures identified in Section V.A. to all workforce members within thirty (30) days of HHS approval of such policies and to new workforce members within thirty (30) days of their beginning of service.

2. Renown shall provide proof of such distribution to HHS.

3. Renown shall assess, update, and revise, as necessary, the policies and procedures at least annually or as needed. Within thirty (30) days of the effective date of any approved substantive revisions, Renown shall distribute such revised policies and procedures to all workforce members and shall provide proof of such distribution to HHS.

C. Minimum Content of Policies and Procedures

At a minimum, the Policies and Procedures shall be reviewed and updated, as necessary, to address the following Privacy Rule provisions:

1. Right of Access (45 C.F.R. § 164.524), including procedures to ensure comprehensive and timely responses to access requests to PHI.

2. Training (45 C.F.R. § 164.530(b)(1)), including protocols for training all Renown workforce members that are involved in receiving or fulfilling access requests as necessary and appropriate to ensure compliance with the policies and procedures provided for in Section V.A. above.

3. Sanctions (45 C.F.R. § 164.530(e))

D. Training

1. Renown shall provide HHS with workforce member training materials including those related to the Policies and Procedures under Section V.C. above regarding timely access to protected health information consistent with the requirements of 45 C.F.R. § 164.524, within sixty (60) days of HHS approval of its policies and procedures per Section V.A.

2. Upon receiving notice from HHS specifying any required changes, Renown shall make the required changes and provide revised training materials to HHS within thirty (30) days.

3. Upon receiving approval from HHS, Renown shall provide training for all workforce members whose job duties relate to receiving, reviewing, processing, or fulfilling individual requests for access to records within sixty (60) days of HHS approval and at least every twelve (12) months thereafter. These workforce members may include: all managers and supervisors, all Health Information Management staff, all compliance department staff, all legal department staff, and all risk management department staff. Renown shall also provide such training to each new workforce member within thirty (30) days of their beginning of service.

4. Each workforce member who is required to attend training shall certify, in electronic or written form, that he or she has received the training. The training certification shall specify the date training was received. All course materials shall be retained in compliance with Section VII.

5. Renown shall review the training at least annually, and, where appropriate, update the training to reflect changes in Federal law or any issues discovered during audits or reviews, and any other relevant developments.

E. Notice of Privacy Practices

Renown will revise its Notice of Privacy Practice to accurately reflect and convey to the public the steps that individuals must take when requesting access to protected health information, including billing records.

F. Reportable Events

During the Compliance Term, Renown shall, upon receiving information that a workforce member may have failed to comply with its access policies and procedures promptly investigate this matter. If Renown determines, after review and investigation, that a workforce member has failed to comply with these policies and procedures Renown shall notify HHS in writing within thirty (30) days. Such violations shall be known as Reportable Events. The report to shall include the following information:

1. A complete description of the event, including the relevant facts, the persons involved, and the provision(s) of the policies and procedures implicated; and

2. A description of the actions taken and any further steps Renown plans to take to address the matter to mitigate any harm, and to prevent it from recurring, including application of appropriate sanctions against workforce members who failed to comply with its Privacy Rule policies and procedures.

VI. Implementation Report and Annual Reports

A. Implementation Report

Within 120 calendar days after the receipt of HHS's approval of the policies and procedures required by Section V.A. and V.C., Renown shall submit a written report to HHS summarizing the status of its implementation of the requirements of this CAP. This report, known as the "Implementation Report," shall include:

1. An attestation signed by an owner or officer of Renown attesting that the policies and procedures are being implemented and have been distributed to all workforce members pursuant to Section V.B.2.;
2. A copy of all training materials used for the training required by this CAP, a description of the training, including a summary of the topics covered, the length of the session(s) and a schedule of when the training session(s) were held;
3. An attestation signed by an owner or officer of Renown attesting that all workforce members have completed the initial training required by this CAP and have executed the training certifications required by Section V.D.4.; and
4. An attestation signed by an owner or officer of Renown stating that he or she has reviewed the Implementation Report, has made a reasonable inquiry regarding its content and believes that, upon such inquiry, the information is accurate and truthful.

B. Annual Reports

The one (1) year period after the Effective Date and each subsequent one (1) year period during the course of the Compliance Term shall be known as a "Reporting Period." Within sixty (60) calendar days after the close of each corresponding Reporting Period, Renown shall submit a report to HHS regarding Renown's compliance with this CAP for each corresponding Reporting Period ("Annual Report"). The Annual Report shall include:

1. A copy of the schedule, topic outline, and training materials for the training programs provided during the Reporting Period that is the subject of the Annual Report;
2. An attestation signed by an owner or officer of Renown attesting that it is obtaining and maintaining written or electronic training certifications from all persons who are required to attend training under this CAP;
3. An attestation signed by an owner or officer of Renown attesting that any revision(s) to the policies and procedures required by Section V were finalized and adopted within thirty (30) days of HHS's approval of the revision(s), which shall include a statement affirming that Renown distributed the revised policies and procedures to all Renown workforce members within sixty (60) days of HHS's approval of the revision(s);
4. A summary of Reportable Events (defined in Section V.F.), if any, the status of any corrective and preventative action(s) relating to all such Reportable Events, or an attestation signed by an officer or director of Renown stating that no Reportable Events occurred during the Compliance Term;

5. An attestation signed by an owner or officer of Renown attesting that it revised its Notice of Privacy Practices, as necessary under Section V.E., and that its revised Notice of Privacy Practices accurately reflects and conveys to the public the steps that individuals must take when requesting access to protected health information, including billing records; and

6. An attestation signed by an owner or officer of Renown attesting that he or she has reviewed the Annual Report, has made a reasonable inquiry regarding its content and believes that, upon such inquiry, the information is accurate and truthful.

VII. Document Retention

Renown shall maintain for inspection and copying, and shall provide to HHS, upon request, all documents and records relating to compliance with this CAP for six (6) years from the Effective Date.

VIII. Breach Provisions

Renown is expected to fully and timely comply with all provisions contained in this CAP.

A. Timely Written Requests for Extensions

Renown may, in advance of any due date set forth in this CAP, submit a timely written request for an extension of time to perform any act required by this CAP. A “timely written request” is defined as a request in writing received by HHS at least five (5) days prior to the date such an act is required or due to be performed. This requirement may be waived by HHS only.

B. Notice of Breach of This CAP and Intent to Impose CMP

The Parties agree that a breach of this CAP by Renown constitutes a breach of the Agreement. Upon a determination by HHS that Renown has breached this CAP, HHS may notify Renown’s Contact of: (1) Renown’s breach; and (2) HHS’s intent to impose a CMP pursuant to 45 C.F.R. Part 160, for the Covered Conduct set forth in Paragraph I.2. of the Agreement and any other conduct that constitutes a violation of the HIPAA Privacy, Security, or Breach Notification Rules (“Notice of Breach and Intent to Impose CMP”).

C. Renown’s Response

If Renown is named in a Notice of Breach and Intent to Impose CMP, Renown shall have thirty (30) days from the date of receipt of the Notice of Breach and Intent to Impose CMP to demonstrate to HHS’s satisfaction that:

1. Renown is in compliance with the obligations of the CAP that HHS cited as the basis for the breach;
2. The alleged breach has been cured; or

3. The alleged breach cannot be cured within the thirty (30) day period, but that Renown: (a) has begun to take action to cure the breach; (b) is pursuing such action with due diligence; and (c) has provided to HHS a reasonable timetable for curing the breach.

D. Imposition of CMP

If at the conclusion of the thirty (30) day period, Renown fails to meet the requirements of Section VIII.C. of this CAP to HHS's satisfaction, HHS may proceed with the imposition of a CMP against Renown pursuant to the rights and obligations set forth in 45 C.F.R. Part 160 for any violations of the HIPAA Rules applicable to the Covered Conduct set forth in Paragraph I.2. of the Agreement and for any other act or failure to act that constitutes a violation of the HIPAA Rules. HHS shall notify Renown Contact in writing of its determination to proceed with the imposition of a CMP pursuant to 45 C.F.R. §§ 160.312(a).

For Renown Health, PC

/s/

02/01/2021

Anthony D. Slonim, MD, DrPH, FACHE
President and CEO

Date

For United States Department of Health and Human Services

/s/

02/02/2021

Andrea Oliver
Regional Manager, Rocky Mountain Region
Office for Civil Rights

Date