

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 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 the 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. Sentara Hospitals, a Virginia nonstock corporation, on behalf of each of the ten (10) covered entity hospitals under its common ownership or control set forth in Appendix A, attached hereto and incorporated by reference, individually as covered entities defined by 45 C.F.R. § 160.103, and collectively as designated part of the single Affiliated Covered Entity pursuant to 45 C.F.R. § 164.105(b) (hereinafter collectively referred to as “Sentara Hospitals”).

HHS and Sentara Hospitals shall together be referred to herein as the “Parties.”

2. **Factual Background and Covered Conduct.** On April 17, 2017, a Privacy Rule complaint was filed with HHS against Sentara Hospitals. The complaint alleged that Sentara Hospitals sent a bill to the complainant with another patient’s protected health information (PHI) enclosed. The investigation revealed that the billing statements for 577 patients were merged with 16,342 different guarantor’s mailing labels, resulting in the disclosure of the PHI of 577 individuals. After conducting a risk assessment, Sentara Hospitals notified HHS of the breach of PHI affecting eight (8) of the individuals.

Further, the investigation revealed that Sentara Hospitals provides services involving the receipt, maintenance, disclosure of PHI for its member covered entities but Sentara Hospitals did not enter into any business associate agreement(s) with their business associate until October 17, 2018.

HHS’ investigation indicated the following alleged covered conduct occurred (“Covered Conduct”):

(a) Sentara Hospitals allowed their parent corporation and business associate, Sentara Healthcare, to create, receive, maintain, or transmit PHI on their behalf and to

provide services involving the disclosure of PHI without obtaining satisfactory assurances.
See 45 C.F.R. § 164.504(e)(2).

(b) Sentara Hospitals failed to notify the Secretary of a breach of unsecured PHI.
See 45 C.F.R. § 164.408.

3. **No Admission.** This Agreement is not an admission of the facts alleged or of liability by Sentara Hospitals.

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

Intention of Parties to Effect Resolution. This Agreement is intended to resolve OCR Transaction Number: 17-267958 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 further investigation and formal proceedings, the Parties agree to resolve this matter according to the Terms and Conditions below.

II. Terms and Conditions

5. **Payment.** HHS has agreed to accept, and Sentara Hospitals have agreed to pay HHS, the amount of \$2,175,000.00 ("Resolution Amount"). Sentara Hospitals agree to pay the Resolution Amount on the Effective Date of this Agreement as defined in paragraph II.14 by automated clearing house transaction pursuant to written instructions to be provided by HHS.

6. **Corrective Action Plan.** Sentara Hospitals have entered into and agrees to comply with the Corrective Action Plan ("CAP"), attached as Appendix B, which is incorporated into this Agreement by reference. If Sentara Hospitals breach the CAP, and fail to cure the breach as set forth in the CAP, then Sentara Hospitals will be in breach of this Agreement and HHS will not be subject to the Release set forth in paragraph II.7 of this Agreement.

7. **Release by HHS.** In consideration of and conditioned upon Sentara Hospitals' performance of their obligations under this Agreement, HHS releases Sentara Hospitals from any actions it may have against Sentara Hospitals under the HIPAA Rules and Civil Monetary Penalties arising out of or related to the Covered Conduct identified in paragraph I.2 of this Agreement. HHS does not release Sentara Hospitals 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 U.S.C. § 1320d-6.

8. **Agreement by Released Parties.** Sentara Hospitals shall not contest the validity of their obligation to pay, nor the amount of, the Resolution Amount or any other obligations agreed to under this Agreement. Sentara Hospitals waive 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.

9. **Binding on Successors.** This Agreement is binding on Sentara Hospitals and their successors, heirs, transferees, and assigns.

10. **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.

11. **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.

12. **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.

13. **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).

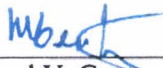
14. **Tolling of Statute of Limitations.** Pursuant to 42 U.S.C. § 1320a-7a(c)(1), a civil money penalty ("CMP") must be imposed within six years from the date of the occurrence of the violation. To ensure that this six-year period does not expire during the term of this Agreement, Sentara Hospitals agree that the time between the Effective Date of this Agreement and the date the Agreement may be terminated by reason of Sentara Hospitals' 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. Sentara Hospitals waive 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.

15. **Disclosure.** HHS places no restriction on the publication of the Agreement. In addition, HHS may be required to disclose material related to this Agreement to any person upon request consistent with the applicable provisions of the Freedom of Information Act, 5 U.S.C. § 552, and its implementing regulations, 45 C.F.R. Part 5.

16. **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.

17. **Authorizations.** The individual(s) signing this Agreement on behalf of Sentara Hospitals represent and warrant that they are authorized by Sentara Hospitals to execute this Agreement. The individual(s) signing this Agreement on behalf of HHS represent and warrant that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.


For Sentara Hospitals



Michael V. Gentry
President
Sentara Hospitals

11/18/2019
Date of Signature

For the United States Department of Health and Human Services



Susan M. Pezzullo Rhodes
Regional Manager, New England Region
Office for Civil Rights

11/18/2019
Date of Signature

Appendix A

The following ten (10) Covered Entities designated as part of the Sentara Affiliated Covered Entity, collectively referred to herein as "Sentara Hospitals":

1. Sentara Norfolk General Hospital
2. Sentara Leigh Hospital
3. Sentara Careplex Hospital
4. Sentara Williamsburg Regional Medical Center
5. Sentara Virginia Beach General Hospital
6. Sentara Obici Hospital
7. Sentara Northern Virginia Medical Center
8. Sentara Martha Jefferson Hospital
9. Sentara RMH Medical Center
10. Sentara Princess Anne Hospital

Appendix B
CORRECTIVE ACTION PLAN
BETWEEN THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
SENTARA HOSPITALS

I. Preamble

Sentara Hospitals, on behalf of each of the covered entities under its common ownership or control set forth in Appendix A, attached hereto and incorporated by reference, (hereinafter known as "Sentara Hospitals") 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, Sentara Hospitals are entering into a Resolution Agreement ("Agreement") with HHS, and this CAP is incorporated by reference into the Resolution Agreement as Appendix B. Sentara Hospitals enter into this CAP as part of consideration for the release set forth in paragraph II.7 of the Agreement.

II. Contact Persons and Submissions

A. Contact Persons

Sentara Hospitals have identified the following individual as its authorized representative and contact person regarding the implementation of this CAP and for receipt and submission of notifications and reports:

Kotrina O'Neal
Interim Privacy Officer
Sentara Hospitals
6015 Poplar Hall Drive
Suite 306
Norfolk, VA 23502
kmoneal@sentara.com

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

Ms. Susan M. Pezzullo Rhodes, Regional Manager
Office for Civil Rights, New England Region

Department of Health and Human Services
JFK Federal Building, Room 1875
Boston, MA 02203
Susan.Rhodes@hhs.gov
Telephone: 617-565-1347
Facsimile: 617-565-3809

Sentara Hospitals and HHS agree to promptly notify each other of any changes in the contact persons 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, 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.13 of the Agreement (“Effective Date”). The period for compliance (“Compliance Term”) with the obligations assumed by Sentara Hospitals 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 Sentara Hospitals under section VIII hereof of its determination that Sentara Hospitals 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 Sentara Hospitals that it has determined that the breach has been cured. After the Compliance Term ends, Sentara Hospitals shall still be obligated to submit the final Annual Report as required by section VI and comply with the document retention requirement in section VII.

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

Sentara Hospitals agree to the following:

A. Policies and Procedures

1. Sentara Hospitals shall develop, maintain, and revise, as necessary, their written policies and procedures to comply with the Federal standards that govern the for notification in the 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”).

2. Sentara Hospitals shall provide such policies and procedures, consistent with paragraph A.1. above, to HHS within ninety (90) days of the Effective Date for review and approval. Upon receiving any recommended changes to such policies and procedures from HHS, Sentara Hospitals shall have forty-five (45) days to revise such policies and procedures accordingly and provide the revised policies and procedures to HHS for review and approval.

3. Sentara Hospitals shall implement such policies and procedures within sixty (60) days of receipt of HHS' approval.

B. Distribution and Updating of Policies and Procedures

1. Sentara Hospitals shall distribute the policies and procedures identified in section V.A. to all members of its workforce within sixty (60) days of HHS approval of such policies and to new members of its workforce within thirty (30) days of their beginning of service.

2. Sentara Hospitals shall require, at the time of distribution of such policies and procedures, a signed written or electronic initial compliance certification from substantially all members of its workforce, stating that its workforce members have read, understand, and shall abide by such policies and procedures.

3. Sentara Hospitals shall assess, update, and revise, as necessary, the policies and procedures at least annually (and more frequently if appropriate). Sentara Hospitals shall provide such revised policies and procedures to HHS for review and approval. Within sixty (60) days of the effective date of any approved substantive revisions, Sentara Hospitals shall distribute such revised policies and procedures to all members of its workforce, and shall require new compliance certifications.

C. Reportable Events.

1. During the Compliance Term, Sentara Hospitals, upon receiving information that an unauthorized acquisition, access, use or disclosure of PHI may have occurred, shall promptly evaluate the incident to determine if the incident constitutes a breach, as defined by 45 C.F.R. § 164.402. If Sentara Hospitals conclude that the incident does not constitute a breach with respect to some or all of the PHI involved, Sentara Hospitals shall notify HHS in writing within fifteen (15) days of its determination and in no case sixty (60) days from when Sentara Hospitals learned of the potential breach. Such incidents shall be known as Reportable Events. The report to HHS shall include the following information:

- a. A complete description of the incident, including the relevant facts and the persons involved;
- b. A copy of any breach risk assessment Sentara Hospitals conducted to evaluate the incident; and
- c. A description of the actions taken and any further steps Sentara Hospitals plan to take to address the matter.

2. If OCR disagrees with Sentara Hospitals' breach risk assessment, Sentara Hospitals shall revise the assessment based on technical assistance provided by OCR and provide appropriate breach notification. See 45 C.F.R. §§ 164.400 – 414.

3. The reporting of any event pursuant to this section does not relieve Sentara Hospitals of any obligation to notify the Secretary under 45 C.F.R. § 164.408.

VI. Implementation Report and Annual Reports

A. **Implementation Report**. Within 120 days after the receipt of HHS' approval of the policies and procedures required by paragraph V.A.1., Sentara Hospitals 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 Sentara Hospitals attesting that the policies and procedures required by section V.A. are being implemented, have been distributed to all appropriate members of its workforce, and that Sentara Hospitals has obtained all of the compliance certifications required by paragraphs V.B.2. and V.B.3.;

2. An attestation signed by an owner or officer of Sentara Hospitals listing all Sentara Hospitals locations (including locations and mailing addresses), the corresponding name under which each location is doing business, the corresponding phone numbers and fax numbers, and attesting that each such location has complied with the obligations of this CAP; and

3. An attestation signed by an owner or officer of Sentara Hospitals 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-year period beginning on the Effective Date and each subsequent one-year period during the course of the period of compliance obligations shall be referred to as "the Reporting Periods." Sentara Hospitals also shall submit to HHS Annual Reports with respect to the status of and findings regarding Sentara Hospitals' compliance with this CAP for each of the two (2) Reporting Periods. Sentara Hospitals shall submit each Annual Report to HHS no later than sixty (60) days after the end of each corresponding Reporting Period. The Annual Report shall include:

1. An attestation signed by an owner or officer of Sentara Hospitals attesting that it has revised its Breach Notification training materials;

2. A summary of Reportable Events (defined in section V.C.) identified during the Reporting Period and the status of any corrective and preventative action relating to all such Reportable Events;

3. An attestation signed by an owner or officer of Sentara Hospitals 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

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

VIII. Breach Provisions

Sentara Hospitals are expected to fully and timely comply with all provisions contained in this CAP.

A. Timely Written Requests for Extensions

Sentara Hospitals 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.

B. Notice of Breach of this CAP and Intent to Impose Civil Monetary Penalty. The Parties agree that a breach of this CAP by Sentara Hospitals constitutes a breach of the Agreement. Upon a determination by HHS that Sentara Hospitals has breached this CAP, HHS may notify Sentara Hospitals of: (1) Sentara Hospitals' breach; and (2) HHS' intent to impose a civil money penalty ("CMP") pursuant to 45 C.F.R. Part 160, or other remedies 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").

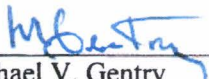
C. Sentara Hospitals' Response. Sentara Hospitals shall have thirty (30) days from the date of receipt of the Notice of Breach and Intent to Impose CMP to demonstrate to HHS' satisfaction that:

1. Sentara Hospitals are 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:
(a) Sentara Hospitals have begun to take action to cure the breach; (b) Sentara Hospitals are pursuing such action with due diligence; and (c) Sentara Hospitals have provided to HHS a reasonable timetable for curing the breach.

D. Imposition of CMP. If at the conclusion of the thirty (30) day period, Sentara Hospitals fail to meet the requirements of section VIII.C. of this CAP to HHS' satisfaction,

HHS may proceed with the imposition of a CMP against Sentara Hospitals pursuant to 45 C.F.R. Part 160 for any violations of 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 Sentara Hospitals in writing of its determination to proceed with the imposition of a CMP.


For Sentara Hospitals



Michael V. Gentry
President

11/18/2019
Date of Signature

For the United States Department of Health and Human Services



Susan M. Pezzullo Rhodes
Regional Manager, New England Region
Office for Civil Rights

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Date of Signature