



Monterey County Board of Supervisors

168 W. Alisal Street, 1st Floor
Salinas, CA 93901
831.755.5066

www.co.monterey.ca.us

Board Order

Agreement No. A-14304

A motion was made by Supervisor Chris Lopez, seconded by Supervisor Jane Parker, to:

- a. Authorize the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute a Unified Participation Agreement with the American Heart Association, Inc. for program participation and stroke center accreditation, for an amount not to exceed \$4,837 for an initial one year term effective on May 14, 2019 which auto-renews annually unless either party provides a sixty (60) day written notice to terminate.
- b. Approve the NMC Chief Executive Officer's recommendation to accept non-standard indemnification, insurance, limitations on liability, and payment provisions within the agreement.

PASSED AND ADOPTED on this 14th day of May 2019, by the following vote, to wit:

AYES: Supervisors Alejo, Lopez, Adams, Parker and Phillips
NOES: None
ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting May 14, 2019.

Dated: May 14, 2019
Legistar File ID No. A 19-115
Agenda Item No. 18

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

Valerie Ralph, Clerk of the Board

U N I F I E D P A R T I C I P A T I O N A G R E E M E N T

This Unified Participation Agreement (the "Agreement") is made by and between the American Heart Association, Inc., a New York not-for-profit corporation, having its principal offices at 7272 Greenville Avenue, Dallas, Texas 75231 ("AHA"), and County of Monterey on behalf of Natividad Medical Center having its principal offices at 1441 Constitution Blvd., Salinas, California 93906 Program Participant").

WHEREAS, AHA is a not-for-profit health organization with volunteers throughout the United States who are dedicated to being a relentless force for a world of longer, healthier lives, through scientific research, advocacy and the development of programs that improve patient access to high-quality health care;

WHEREAS, AHA has developed scientific statements and guidelines specific to the treatment and management of a variety of cardiovascular and stroke conditions;

WHEREAS, AHA owns and operates a variety of comprehensive quality improvement and accreditation programs, that include inpatient and outpatient data collection and reporting on standardized, clinical cardiovascular processes, outcomes, procedures, and patient level variables (each a "Program", and collectively referred to as "AHA Quality Improvement Programs");

WHEREAS, each Program includes a Program Registry managed by an AHA approved third party technology vendor ("AHA Third Party Vendor") responsible for data collection, management, and reporting in accordance with all applicable federal and state privacy laws; and

WHEREAS, Program Participant desires to enroll in AHA Quality Improvement Program, and access the Program Registry, and have AHA and AHA Third Party Vendor perform services to map and analyze Program Participant data for quality improvement and Research, Public Health or Health Care Operations purposes ("Service(s)"); and

NOW THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between AHA and Program Participant as follows:

I. DEFINITIONS

- **Aggregate Data** – means the Program Participant-level De-Identified Data extracted from Program Registry and aggregated by AHA Third Party Vendor.
- **AHA Linking Policy** – means the AHA policy with respect to linkage to and from AHA websites, and published at http://www.heart.org/HEARTORG/General/American-Heart-Association-and-American-Stroke-Association-LinkingPolicy_UCM_303551_Article.jsp
- **AHA Privacy Policy** – means the AHA policy as it relates to the organization's collection, protection, and use of information, published at http://www.heart.org/HEARTORG/General/Privacy-Policy-Standards_UCM_479586_Article.jsp#.WqhPR62ouUk

- **AHA Third Party Vendor** – means an AHA approved and designated technology vendor, under a separate agreement with AHA and a separate agreement with Program Participant, to provide the data collection, warehousing and/or analysis for the Program Registry pursuant to all applicable data privacy and security regulatory requirements.
- **AHA Quality Improvement Programs** (or individually “**Program**”) – means the suite of quality improvement programs that include inpatient and outpatient data collection and reporting on standardized, clinical cardiovascular and stroke processes, outcomes, procedures, and patient level variables, and including but not limited to, the Program Registry, Program Data, and Program Materials, and scientific research and publications, and any other program components identified in Exhibit A.
- **Business Associate and Data Use Agreement** (“**BAA/DUA**”) – means the agreement entered into by Program Participant and AHA, which includes terms consistent with those required for a Business Associate Agreement, as defined in the HIPAA Regulations, and terms consistent with those required for a Data Use Agreement, as provided for in 45 C.F.R. § 164.514 (e)(4), and whose terms will apply as applicable depending upon Program Participant’s disclosure of either Limited Data Sets or PHI through participation in the Program.
- **C.F.R.** – means the Code of Federal Regulations of the United States of America.
- **Data** – means all information, including patient data, submitted by Program Participant to AHA, through the AHA Third Party Vendor, to the Program Registry including De-identified Data, Limited Data Sets, and individually identifiable data in the form of Protected Health Information.
- **De-identified Data** – means as defined in 45 C.F.R. § 164.514.
- **Extraction** – means the process of Data transfer, and any associated processing by the AHA Third Party Vendor.
- **Health Care Operations** – means as defined at 45 C.F.R. § 164.501.
- **HIPAA** – means the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act (“**HITECH**”), and the regulations promulgated thereunder, including but not limited to the Privacy Rule and Security Rule, as set forth in federal regulations at 45 C.F.R. Parts 160 and 164 (“**HIPAA**” or the “**HIPAA Regulations**”).
- **Individually Identifiable Health Information** – means as defined at 45 C.F.R. § 160.103.
- **Limited Data Set** (“**LDS**”) – means the data elements as defined at 45 C.F.R. § 164.514(e)(2).
- **Program Data** – means all data, Aggregate Data, statistical analyses, reports and publications produced utilizing Data obtained from Program Participants, and other sources, generated by AHA, or the AHA Third Party Vendor from Program Registry
- **Program Materials** – means all materials developed for a Program including, without limitation, the Program Registry specifications, measures, training materials, reference materials, Program Participant reports, report templates, software, data, documentation and other materials created or provided by AHA and/or the AHA Third Party Vendor for Program. Program Materials shall also refer to operational, financial, business, customer, or vendor information.

- **Program Participant** – means any hospital, healthcare professional or group of professionals, healthcare provider, outpatient or ambulatory clinics, health system, emergency medical services provider agencies or regional regulatory agencies, public safety departments, hospital-based scientific research organizations, fire departments, local, state or federal regulatory agencies, and public health departments that have entered into a Unified Participation Agreement with AHA.
- **Program Registry** – means the Data storage database and associated online access portal maintained by the AHA Third Party Vendor.
- **Protected Health Information (“PHI”)** – means as defined at 45 C.F.R. § 160.103.
- **Public Health** – means as defined at 45 C.F.R. § 164.512(2).
- **Research** – means as defined at 45 C.F.R. § 164.501.

Capitalized terms used in this Agreement but not otherwise defined will have the meaning ascribed to them in the HIPAA Regulations.

II. PROGRAM PARTICIPATION

1. **Participation in Programs.** Program Participant shall participate in AHA Quality Improvement Programs, which shall include participation in the Program Registry, in compliance with the terms and conditions set forth herein. Program Participant acknowledges that the AHA Third Party Vendor has contracted (including a subcontractor BAA/DUA) with AHA to provide certain services in relation to the Program Registry.
2. **Financial.** Fees and schedules of services are set forth Exhibit A. Program Participant shall pay the fees set forth in this Agreement. Payment is due within 30 days from Program Participant’s receipt of an invoice from AHA for such fees. Unless otherwise stated, AHA’s fees do not include any local, state, federal or foreign taxes, levies or duties of any nature (“Taxes”). Program Participant is responsible for paying all Taxes, excluding only taxes based on AHA’s income. If AHA has the legal obligation to pay or collect Taxes for which Program Participant is responsible under this section, the appropriate amount shall be invoiced to and paid by Program Participant unless, and to the extent that Program Participant qualifies for exemption of some or all of the Taxes, and Program Participant provides AHA with a valid tax exemption certificate authorized by each appropriate taxing authority.

III. DATA RIGHTS AND RESPONSIBILITIES

1. **Data and Compliance.** The parties shall comply with HIPAA and all applicable state and federal laws related to the privacy and security of Data. The parties shall have the right to Use and Disclose Data in accordance with this Agreement, and the terms and conditions set forth in the BAA/DUA entered into between Program Participant and AHA, which is attached hereto and incorporated herein as Exhibit C.
2. **AHA Third Party Vendor Data Requirements.** AHA shall ensure that the AHA Third Party Vendor complies with HIPAA and all applicable state and federal laws related to the privacy of Data.

3. **Program Participant Data.** Program Participant agrees to disclose to AHA, through the AHA Third Party Vendor, certain Data, including Limited Data Sets and, if applicable, PHI. Program Participant shall be solely responsible for creating, managing, editing, reviewing, deleting, and otherwise controlling the content of information in connection with the Data. AHA has no obligation, and undertakes no responsibility, to determine whether any such content may give rise to liability to third parties.

4. **Ownership and Rights in Data.**

- a. Rights of Program Participant in Data. All Individually Identifiable Health Information, PHI and Limited Data Sets included in the Data submitted by a Program Participant, shall be the exclusive property of Program Participant, subject to the rights granted to the AHA Third Party Vendor and AHA in this Agreement and the BAA/DUA.
- b. Rights of AHA in Data. Program Participant hereby grants AHA a non-exclusive, perpetual, irrevocable, sub-licensable and royalty-free license (“Data License”) to (1) Use and Disclose the Data in accordance with this Agreement, (including but not limited to uses in connection with providing the Program and Services), HIPAA, and the terms and conditions set forth in the BAA/DUA; (2) use the Data to produce De-identified Data and Aggregate Data, in and with respect to comparative data products and related services provided by AHA to Program Participants and other customers, including but not limited to the services provided as part of a Program; an (3) compile and distribute the Program Data (including, but not limited to, De-Identified Data and Aggregate Data) derived from the Data, to the extent permitted by HIPAA and applicable state law; (4) where applicable, use PHI to match patient level data across multiple GWTG data registries, including Get With the Guidelines® (“GWTG”) GWTG-Coronary Artery Disease, GWTG-Heart Failure, GWTG-Stroke, GWTG-AFIB and/or GWTG-Resuscitation, for the purposes of longitudinal patient care analysis; and (5) where applicable, use PHI to match patient level data thereby decreasing the manual data abstraction burden and to broaden engagement with EMS agencies; The use and disclosure of De-identified Data and Aggregate Data shall not be subject to the terms and conditions of the BAA/DUA. The terms and provisions of this section shall survive the expiration of termination of this Agreement for any reason.

IV. PROGRAM PARTICIPANT RESPONSIBILITIES

1. **Obligations of Program Participant.** Program Participant represents, warrants and agrees that: (a) it shall submit Data that conforms to the Program Registry’s specific data elements and definitions, as defined by AHA, or the AHA Third Party Vendor, as applicable; (b) Program Participant shall not copy, publish or distribute content in connection participation in AHA Quality Improvement Programs that infringes any trademark, copyright, patent, trade secret, publicity, privacy or other personal or proprietary right of any third party, including AHA; (c) Program Participant (including any subsidiaries or affiliates) shall participate in AHA Quality Improvement Programs in compliance with all federal, state, and local laws; (d) Program Participant is responsible for installation, maintenance and performance of any equipment, software, and electronic communication capabilities, necessary for access to the Program Registry, and shall take all reasonable and customary security precautions and measures to ensure proper safeguarding of Data created, used, maintained and transmitted in connection with the participation in AHA Quality

Improvement Programs; (e) Program Participant possesses all rights in and to the Data necessary to grant the Data License to AHA; and (f) if Program Participant is utilizing another vendor authorized by the AHA ("Authorized Vendor") to submit and/or upload Data, Program Participant must have a fully executed contract with the Authorized Vendor. See enclosed link for a full list of Authorized Vendors:

https://www.heart.org/idc/groups/heart-public/@wcm/@hcm/@gwtg/documents/downloadable/ucm_495618.pdf

2. **Access to the Program Registry.** Access to the Program Registry from the remote equipment of Program Participant will be by identification number(s) and password(s), which will be assigned and validated by the AHA Third Party Vendor prior to participation in AHA Quality Improvement Programs. Once assigned and validated, the use and confidentiality of such number(s) and password(s) are the sole responsibility of Program Participant. AHA will endeavor to make access to the Program Registry provided through AHA Third Party Vendor available to Program Participant 24 hours per day, 7 days per week, except for regularly scheduled downtime or maintenance periods. However, AHA does not warrant that the AHA Third Party Vendor Service will be uninterrupted, reliable or suitable for a particular purpose.
3. **Communication.** In Exhibit B of this Agreement, Program Participant will provide contact information for use by AHA and the AHA Third Party Vendor in administration of Program, which may also include information related to other AHA programs, products and services. Program Participant will designate an email address for use by AHA and the AHA Third Party Vendor, which e-mail address will be accessible only by the Program Participant's assigned Program contacts. Program Participant also agrees to designate a single point of contact and up to two (2) alternates to interact with the AHA Third-Party Vendor. Program Participant can assign more than one e-mail contact, to receive e-mails for different aspects of Program. The Program Participant will notify AHA within ten (10) business days of any changes in the main contacts for Program. AHA will communicate to Program Participants and/or the AHA Third Party Vendor about any new Program updates and versioning that may affect the Extraction and reporting components of Program Registry.
4. **Compatibility Testing.** Program Participant will cooperate with the AHA Third Party Vendor to validate the mapping of the Data to be collected based on Program Registry specified inclusion criteria provided, and as amended from time to time, by AHA. For Programs requiring electronic data abstraction or data mapping, AHA and/or the AHA Third Party Vendor will provide additional processes, specifications, and information regarding such compatibility testing.
5. **Program Modifications.** Program Participant acknowledges that Program(s) may be subject to modification or adjustment by AHA at any time. Program Participant agrees that AHA may alter or amend the provisions of this Agreement related to the manner in which Program(s) operate(s), so long as the modifications or amendments are generally applied to all Program Participants, and do not otherwise substantially change the Agreement. AHA will provide Program Participant sixty (60) days' notice of such modifications or amendments, and such modifications or amendments shall be automatically incorporated into this Agreement.

V. AHA RESPONSIBILITIES

1. **Updates.** AHA will produce, disseminate and may periodically revise Data elements for each Program, definitions, formats, and inclusion criteria for consistency with AHA scientific statements and guidelines.
2. **Training.** Program Participant training and reference materials will be made available by AHA and/or the AHA Third Party Vendor. Training materials will also be available on the AHA Quality Improvement Programs website.
3. **Support.** AHA shall ensure that AHA Third Party Vendor provides assistance and support to Program Participant by phone, or e-mail.
4. **Quality Improvement Reports.** AHA will provide, or will cause AHA Third Party Vendor to provide, reports that compare the Program Participant's level of adherence to guidelines, data comparisons to national and regional benchmarks and other standard data points, where feasible depending on the Data submitted. Program Participant may access such reports through the online Program Registry access portal provided by the AHA Third Party Vendor.
5. **Program Auditing.** AHA shall have the right to audit Program Participant's submitted Data for compliance with Program requirements. In the event Program Participant undergoes an audit by AHA, at AHA's sole expense, Program Participant understands that auditing may include, but is not limited to, a review of patient medical records and supporting documentation of the Data submitted into the Program Registry. Program Participant agrees to reasonably cooperate in making any reasonably requested documentation available to AHA. Audits may be conducted onsite or via remote monitoring. AHA will notify the Program Participant at the completion of an audit process of the results of the audit. AHA shall also notify Program Participant of any corrective actions needed as a result of audit findings, which can include, but are not limited to, additional onsite training, conferences with AHA staff, revocation of current or past recognition awards, disqualification from earning current or future awards, or, if all remedial actions have been fully exhausted, termination from a Program. Program Participant will have an opportunity to correct auditor findings and infractions in Data submission.

VI. PUBLICATION AND INTELLECTUAL PROPERTY

1. **Intellectual Property Ownership.** All right, title, interest, ownership rights, and intellectual property rights in and to Program, Program Data (excluding Individually Identifiable Health Information, PHI and Limited Data Sets, as provided for in Section III(4)(a)), and Program Materials, including without limitation all trademarks, copyrights, patents, trade secrets, inventions and goodwill related to the foregoing as well as all derivative works, compilations, and collective works thereof and all related technical know-how (collectively, the "AHA IP"), are and shall remain the exclusive property of AHA and/or its licensors. Program Participant acknowledges that any modifications, enhancements or improvements to any of the AHA IP are derivative works of the AHA IP, and all rights in or to any such derivative works are, and shall remain, the exclusive property of AHA or its licensors, including but not limited to, AHA Third Party Vendor. If any suggestions, modifications, enhancements or improvements made by Program Participant to AHA or the

AHA Third Party Vendor are incorporated into any of the AHA IP, including any subsequent versions of Program, Program Data or Program Materials, Program Participant hereby assigns to AHA all rights Program Participant may have in and to any such suggestions, modifications, enhancements or improvements concerning the AHA IP. Program Participant acknowledges that the Program, Program Data and Program Materials in source code form remains a confidential trade secret of AHA. Program Participant shall not take any action to jeopardize, limit or interfere in any manner with AHA's ownership of, or rights with respect to, any of the AHA IP. Program Participant warrants, represents and agrees that Program Participant, its employees, agents, and/or subcontractors shall not: (1) modify or create derivative works of any of the AHA IP (other than in connection with treating or advising Program Participant's patients, or for other internal business purposes allowed under this Agreement), or (2) reverse engineer, decompile, reverse translate, or in any way derive source code or trade secrets from any of the AHA IP. AHA grants Program Participant a limited, non-exclusive, non-licensable revocable right to access and use the Program, Program Data and Program Materials during the term solely in connection with the Program Participant's internal business purposes and treatment of patients. Program Participant acknowledges AHA's ownership of all AHA IP, and agrees that it and shall do nothing to interfere with such rights. Except for the rights expressly granted to Program Participant hereunder, AHA reserves for itself all other rights in and to the AHA IP. Resale of the Program, Program Data and Program Materials, or any associated services made available through the Program, Program Data and Program Materials, by Program Participant to other individuals or organizations is prohibited.

2. **Confidentiality of Program Materials.** The Program Participant acknowledges AHA IP is owned by AHA and agrees not to allow third parties to use, disclose, duplicate, or otherwise reproduce, directly or indirectly, the AHA IP in whole or in part, or any materials relating thereto, except as specifically authorized in this Agreement or as required by law. In addition, the Program Participant agrees to take reasonable steps to ensure that no unauthorized persons have access to the AHA IP and that all authorized persons having access to the AHA IP shall refrain from any such disclosure, duplication, or reproduction except as authorized in this Agreement or as required by law.
3. **Publication.** If a Program Participant desires to publish or otherwise distribute or use, in whole or in part, any Program Materials or Program Data, with the exception of strictly internal use with the Program Participant for quality assurance and improvement, the Program Participant must first obtain the prior express written consent of AHA, which may be granted or withheld at the sole discretion of AHA. To the extent that the Program Participant wishes to publish Program Data, such Program Data and any related information published must be reviewed and approved by AHA prior to publication.
4. **Trademark Rights.** Each party acknowledges the ownership of the other party's names, logos and slogans ("Marks"). AHA does not grant Program Participant any license to use AHA Program Materials or AHA Marks except as provided by AHA for the specific purpose of participating in the Program. Any and all other uses of AHA Marks, including the Program Name, require AHA's advance written approval. AHA may only use Program Participant's Marks with Program Participant's advance written approval. Use of Marks in any fashion other than that expressly set out in this Agreement is expressly prohibited. No title to, or ownership of, Marks, or any part thereof, is transferred to the other party. All uses of Marks

shall inure to the benefit of the Marks' owner. Upon termination of this Agreement, all permitted uses of Marks shall immediately cease.

5. **Program Participant Recognition.** In conjunction with the Quality Improvement Programs Permission Form ("Permission Form," enclosed as Exhibit D), AHA may offer a recognition program(s) for those Program Participants that meet an identified threshold established by AHA's Quality Improvement Program, criteria, workgroups and leadership. Program Participant will have the right to publicize the recognition received, in accordance with the terms of this Agreement and any additional requirements established by AHA. AHA may also disclose Program Participant's name to authorized representatives of AHA for the purposes of project management of AHA Quality Improvement Program(s) and similar AHA initiatives.
6. **Publicity and Approvals.** All Program Participant-created marketing and promotional materials that include Program name must be submitted for review and written approval by AHA before the materials are distributed. All Program media, marketing and promotional materials that include Program Participant Marks must be reviewed and approved by Program Participant before the materials are distributed. The parties agree to provide such review within ten (10) business days of receipt of the materials for review. In the event a party does not respond or grant approval within this time period, approval will be deemed to be denied. All links to and from Program website must receive prior written approval from AHA and must comply with AHA's Linking Policy and Privacy Policy (a link to which is provided in Section I), both of which are subject to change without notice to Program Participant.

VII. REPRESENTATIONS AND WARRANTIES

1. **Representations and Warranties of Program Participant.** Program Participant represents and warrants that: (a) Program Participant is duly organized, validly existing and in good standing under the laws of its state of organization with full organizational power adequate for executing, delivering, and performing its obligations under this Agreement; (b) this Agreement has been duly executed and delivered by Program Participant and is a legal, valid, and binding obligation of Program Participant, enforceable against Program Participant in accordance with its terms; (c) the execution, delivery, and performance of this Agreement does not and will not conflict with or contravene any provision of the charter documents or by-laws of Program Participant or any agreement, documents, instrument, indenture, or other obligation of Program Participant; (d) Program Participant will comply with all applicable federal and state laws and regulations related to Program Participant's services, products and/or collection or disclosure of PHI; and (e) Program Participant warrants that it is not currently owned (5% or more) by a tobacco company, nor does Program Participant currently own a substantial portion (5% or more) of a tobacco company, nor is Program Participant currently a tobacco company or a parent or subsidiary of a tobacco company.
2. **Representations and Warranties of AHA.** AHA represents and warrants that: (a) AHA is a not-for-profit corporation duly organized, validly existing, and in good standing under the laws of the State of New York with full corporate power adequate for executing, delivering, and performing its obligations under this Agreement; (b) the execution, delivery, and performance of this Agreement have been duly authorized by all necessary corporate

action on the part of AHA; (c) this Agreement has been duly executed and delivered by AHA and is a legal, valid, and binding obligation of AHA, enforceable against AHA in accordance with its terms; (d) the execution, delivery and performance of this Agreement does not and will not conflict with or contravene any provision of the charter documents or by-laws of AHA or any agreement, documents, instrument, indenture, or other obligation of AHA; and (e) AHA will comply with all applicable federal and state laws and regulations applicable to Program

VIII. INDEMNIFICATION, INSURANCE AND LIMITATION ON LIABILITY

1. Indemnification.

- a. By Program Participant. To the extent permissible by applicable law, Program Participant shall indemnify and hold harmless AHA, its affiliates, its contractors and licensors, their officers, directors, members, employees and agents, against all liabilities, losses or expenses (including reasonable attorney's fees) to the extent directly caused by: (1) Program Participant's material breach of this Agreement or the BAA/DUA, (2) Program Participant's or its agents' patient care activities (including physicians and healthcare professionals), (3) Program Participant's negligence or willful misconduct, (4) Program Participant's failure to obtain required consents to disclose Data to AHA under the HIPAA regulations and/or applicable data and security privacy laws, (5) any errors or inaccuracies contained in the Data as delivered by Program Participant to AHA, (6) any actual or alleged infringement arising from AHA's authorized use or disclosure of the Data in accordance with the Data License, or (7) any violation by AHA of laws or regulations applicable to Program Participants participation in the Programs.
- b. By AHA. Subject to Section VIII.3. (Limitation of Liability), and to the extent permissible by applicable law, AHA shall indemnify and hold harmless the Program Participant, its affiliates, its contractors and licensors, their officers, directors, members, employees and agents, against any third-party claims, liabilities, losses or expenses (including reasonable attorney's fees) to the extent directly caused by: (1) AHA's material breach of this Agreement or the BAA/DUA, (2) AHA's negligence or willful misconduct, (3) any actual or alleged infringement arising from AHA's unauthorized use of the Data.
- c. Breach Notification of Limited Data Set or PHI. Program Participant will reimburse AHA for any reasonable expenses AHA or other Program Participants incur in notifying Individuals of an impermissible Use or Disclosure of a Limited Data Set or PHI caused by Program Participant which violates the terms of this Agreement, the BAA/DUA or applicable law, and for reasonable expenses AHA or other Program Participants incur in mitigating harm to effected Individuals. AHA will reimburse Program Participant for any reasonable expenses Program Participant incurs in notifying Individuals of an impermissible Use or Disclosure of a Limited Data Set or PHI, as determined by AHA, and to the extent caused by AHA which violates the terms of this Agreement, the BAA/DUA or applicable law, and for reasonable expenses Program Participant

incurs in mitigating harm to effected Individuals. Unless otherwise agreed upon by the parties, if AHA notifies Program Participant of a Breach of Unsecured PHI, Program Participant shall be responsible for providing notification to comply with the Breach Notification requirements set forth in the HIPAA Regulations. Such notification shall be provided in a form mutually agreed upon by AHA and Program Participant.

2. **Insurance.** Each party will maintain commercially reasonable types and levels of insurance coverage and provide the other party with a certificate of insurance upon request. Any additional or varying coverage requirements specific to the individual AHA Quality Improvement Program shall be set forth in each Program.
3. **Limitation of Liability.** AHA is providing the Programs and Program Registry for quality improvement and educational purposes, and as a public service. Except as specifically provided in this Agreement and BAA/DUA, AHA will not be responsible for any loss or damage arising from Program Participant's participation in Program and use of the Program Materials, Program Data or Program Registry. AHA does not guarantee the reliability or accuracy of Data provided by Program Participants. AHA makes no representation or warranty concerning the reliability of data comparison and analysis or the conclusions that may be drawn from any reports generated from Data provided by Program Participant. Program Participant understands that the use of the Program, Program Data, or Program Materials for any purpose related to patient care cannot be controlled by AHA and must not be substituted for the professional skill and judgment of a licensed healthcare provider. Further, Program Participant understands that AHA is in no way responsible for any pharmacological, medical, legal or similar information contained in, entered into, or used in connection with Program. Program Participant acknowledges that AHA is not liable for any errors or interruption of Program Registry. Under no circumstances shall Program Participant hold AHA responsible for any form of damages or loss suffered from, but not limited to errors, delays, loss of information, or interruptions of Program Registry. Program Participant understands that Program Registry may be temporarily unavailable for scheduled or unscheduled maintenance. AHA does not warrant that Program will be error-free nor does AHA make any warranty as to the results to be obtained from the use of Program. **PROGRAM AND ITS COMPONENTS, INCLUDING PROGRAM DATA, PROGRAM REGISTRY AND ALL PROGRAM MATERIALS, ARE PROVIDED AND DISTRIBUTED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR NON- INFRINGEMENT. AHA SHALL NOT BE LIABLE FOR ANY DIRECT (OTHER THAN THE INDEMNIFICATION OBLIGATIONS PROVIDED ABOVE IN SECTION VIII(1)), INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF PARTICIPATION IN THE PROGRAMS OR INABILITY TO USE THE PROGRAM REGISTRY, ACCESS THE PROGRAM ELEMENTS, OR SOFTWARE OR OUT OF ANY BREACH OF ANY WARRANTY INCLUDING, WITHOUT LIMITATION, DAMAGES RESULTING FROM LOSS OF BUSINESS, LOSS OF DATA, AND ACTS OF GOD.**
4. **Sole and Exclusive Remedies.** The remedies set forth throughout this Agreement and the BAA/DUA constitute Program Participant's sole and exclusive remedies as well as outline AHA's entire liability in the event of a breach or any other cause of action arising out of, or in connection with, this Agreement.

IX. TERM AND TERMINATION

1. **Term.** The effective date of this Agreement is [Click here to enter a date](#) **MAY 14, 2019** ("Effective Date"). It shall continue in effect for one year, and automatically renew for one-year terms, unless terminated earlier by either party pursuant to applicable provisions of this Agreement.
2. **Termination.** Either party may terminate this Agreement for any reason upon sixty (60) days written notice to the other party. Either party may terminate this Agreement if the other party materially breaches any term or condition of this Agreement and fails to cure such breach within ten (10) business days after receipt of written notice of such default by the non-defaulting party. Delay in providing notice of a breach does not waive these termination rights or constitute approval of the breach. Prepaid fees are not refundable. Upon termination or expiration of this Agreement, all of Program Participant's rights to access and use of any of the Services, Program, Program Data or Program Materials shall immediately cease, and Program Participant agrees to promptly destroy or return to AHA all copies of any AHA IP in Program Participant's possession.
3. **Effect of Expiration or Termination.** The data privacy and security terms and provisions of this Agreement shall survive expiration or termination of this Agreement, and the Program Participant contributed Data shall thereafter only be used or disclosed for authorized purposes outlined in the Agreement. Program Participant understands and agrees that in accordance with the Data License, the Data submitted hereunder may be aggregated with other Program Participant Data and will not be returned to Program Participant upon termination or expiration of this Agreement.

X. MISCELLANEOUS

1. **Force Majeure.** No party shall be in default under this Agreement, if such results, whether directly or indirectly, from fire, explosion, strike, freight embargo, act of God, or of the public enemy, war, acts of war, terrorism, acts of terrorism, civil disturbance, act of any government, de jure or de facto, or agency or official thereof, labor shortage, transportation contingencies, unusually severe weather, default of manufacturer or a supplier, quarantine restrictions, epidemic, or catastrophe. Whenever possible, any schedule or time for performance set out in this Agreement shall be extended as necessary to overcome the effects of such force majeure.
2. **Relationship of Parties.** The parties are separate business entities and are neither partners nor joint venture parties, and neither party has the power to obligate or bind the other party in any manner whatsoever.
3. **Assignment.** The parties acknowledge and agree that the rights and obligations hereunder are personal to Program Participant and AHA, and shall not be assigned, mortgaged, sublicensed or otherwise transferred or encumbered by Program Participant or AHA, or by operation of law. Each party shall provide notification to the other party at least thirty (30) days prior to a proposed assignment. Any such assignment in contravention of the foregoing shall be null and void and of no force and effect.

- 4. Counterparts; Entire Agreement; Waiver or Modification.** This Agreement may be executed in one or more counterparts, including facsimiles, PDF and other electronic copies, each of which will be deemed an original and all of which taken together will constitute one and the same instrument. Such electronic image execution and delivery will have the same force and effect as delivery of an original document with original signatures. This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and supersedes all prior written or oral agreements or communications between the parties. If the terms of this Agreement conflict with the terms of any of its attachments, except the BAA/DUA, the terms of this Agreement shall prevail. The terms of this Agreement cannot be waived or modified except by an agreement in writing. There are no representations, warranties or covenants other than those set forth in this Agreement, which sets forth the entire understanding between the parties.
- 5. No Third Party Beneficiaries.** Except as may be otherwise specifically provided in this Agreement, no individual or firm, corporation, partnership, or other entity shall be a third-party beneficiary of the representations, warranties, covenants, and agreements made by any party to this Agreement. Nothing in this Agreement, whether express or implied, is intended to confer upon any person, other than the parties identified herein (and their respective heirs, representatives, successors, and permitted assigns), any rights or remedies under, or by reason of, this Agreement. Nothing in this Agreement is intended to relieve or discharge any liability of any party hereto or any third party. No provision in this Agreement shall give any entity any right of subrogation or action against any party hereto.
- 6. Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, then such provision shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.
- 7. Applicable Law and Venue.** This Agreement and all adversarial proceedings arising out of this Agreement, shall be governed by the substantive laws of the State of Texas, without reference to its conflict of laws provisions. However, if Program Participant is a governmental entity or state institution, this Agreement shall be interpreted and construed under the substantive laws of the state in which the Institution resides without respect to its conflict of law principles.
- 8. Subject Headings.** Subject headings of the sections of this Agreement are for convenience only and shall not in any way affect the interpretation of any section of this Agreement or the Agreement itself.
- 9. Notices.** All notices shall be sent to the intended party at the addresses set forth above (unless notification of a change of address is given in writing). Notices shall be sent in writing via one of the following methods and will be effective: (i) on the date of delivery, if delivered in person; (ii) on the date of receipt, if sent by email or other electronic transmission (with delivery confirmed); or (iii) on the date of receipt, if sent by private express courier or by first class certified mail, return receipt requested (or its equivalent).

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the Effective Date.

AMERICAN HEART ASSOCIATION

By: Michele M. Bolles

Name: Michele M. Bolles

Title: VP, Quality and Health IT

Date: Click or tap here to enter text.
10/02/2019

[PROGRAM PARTICIPANT]

By: [Signature]

Name: Gary R. Gray, DO

Title: Chief Executive Officer

Date: Click or tap here to enter text.
8/23/19

APPROVED AS TO FORM
[Signature]
COUNTY COUNSEL
COUNTY OF MONTEREY

Reviewed as to fiscal provisions
[Signature]
Auditor-Controller
County of Monterey 8/26/19

EXHIBIT A

PROGRAM LIST

Please check the box for **each** AHA Quality Improvement Program(s) in which Program Participant seeks enrollment.

For more information, please click on the Program name. You will be redirected to the AHA website for each individual Program.

1. [Get With The Guidelines®-AFIB](#)
2. [Get With The Guidelines®-Resuscitation](#)
3. [Get With The Guidelines®-Stroke](#)
4. [Get With The Guidelines®-Heart Failure](#)
5. [Get With The Guidelines®-Coronary Artery Disease](#)



2019 GET WITH THE GUIDELINES® PROGRAM PRICING SUMMARY

Get With The Guidelines	Description	Fee
<p>Get With The Guidelines Annual Subscription Fee For Stroke, Heart Failure, AFib, Resuscitation.</p> <p><i>Hospital Systems may be eligible for a discounted rate.</i></p>	<p>Includes all AHA/ASA Get With The Guidelines measures (standard or limited form for stroke and heart failure):</p> <p>1st Module 2nd Module 3rd / 4th Module</p> <p>Critical Access Hospitals (no multi-module discount)</p>	<p>\$3,250 \$3,088 \$3,023 each \$1,625 each</p>
Get With The Guidelines-Stroke with STK measures	Includes all AHA/ASA Get With The Guidelines measures <i>PLUS</i> the complete STK measure set required for PSC reporting to TJC. Additional fee for measure submission to TJC applies. (see below)	\$5,399
Get With The Guidelines-Stroke with CSTK measures	Includes all AHA/ASA Get With The Guidelines measures <i>PLUS</i> the CSTK measure set. This option is available to hospitals wishing to collect the CSTK measure set.	\$5,399
Get With The Guidelines-Stroke with CSTK & STK measures	Includes all AHA/ASA Get With The Guidelines measures <i>PLUS</i> the CSTK and STK measure sets. This option is available to hospitals wishing to collect both the CSTK and STK measure sets. Additional fee for measure submission to TJC applies (see below).	\$7,534
Get With The Guidelines for Advanced Certification in Heart Failure	Includes all AHA/ASA Get With The Guidelines measures <i>PLUS</i> the Advanced Certification in Heart Failure (ACHF) measure set.	\$4,285

ADDITIONAL REPORT & SUBMISSION OPTIONS

Option	Description	Additional Fee
Report Writer	Allows user to create customized reports	\$938
Outpatient Stroke Core Measure	Includes collection and submission of OP-23 measure to CMS.	\$890
Submission of STK Measure Data to TJC	Includes submission of STK measure data to TJC.	\$1,556

2019 GET WITH THE GUIDELINES PRICING BREAKDOWN

Get With The Guidelines	Description	Selection	Fee
Get With The Guidelines Annual Subscription Fee for Stroke, Heart Failure, AFib, & Resuscitation modules. <i>Hospital Systems may be eligible for a discounted rate</i>	Includes all AHA/ASA Get With The Guidelines (GWTG) measures	<input checked="" type="checkbox"/>	\$3,250
	1 st module	<input type="checkbox"/>	\$3,088 each
	2 nd module	<input type="checkbox"/>	\$3,023 each
	3 rd / 4 th modules	<input type="checkbox"/>	\$1,625 each
	Critical Access Hospitals (no multi-module discount)	<input type="checkbox"/>	\$1,625 each

*Note: There is no difference in price between Get With The Guidelines Stroke or Heart Failure Limited and Standard

ADDITIONAL OPTIONS

Description	Select	Fee
STK Measure Set	<input checked="" type="checkbox"/>	\$2,149
Submission of STK Measure Data to TJC	<input type="checkbox"/>	\$1,556
CSTK Measure Set	<input type="checkbox"/>	\$2,149
Advanced Certification in Heart Failure (ACHF) Measure Set	<input type="checkbox"/>	\$1,035
Report Writer	<input type="checkbox"/>	\$938
Outpatient Stroke Core Measure	<input type="checkbox"/>	\$890
Coverdell Layer	<input type="checkbox"/>	\$1,057*
NY State Reporting Fee	<input type="checkbox"/>	\$890
NJ DOH Data Transmission Fee	<input type="checkbox"/>	\$1,310
MA PSS Module	<input type="checkbox"/>	\$603 (MA PSS only) \$329 (in addition to Stroke module)

*Coverdell Layer Fee only applies to hospitals that are in states not funded by PCNASR

Total \$
5399.00

Glossary:

Primary Stroke Center (PSC) | The Joint Commission (TJC) | Comprehensive Stroke Center (CSC) | Centers for Medicare & Medicaid Services (CMS)

interactive assessment and reporting system, powered by IQVIA in Cambridge,
Massachusetts.

Get With The Guidelines® - Coronary Artery Disease

2019 Pricing Information

OPTION 1

OPTION 2

OPTION 3

- Authorized Vendor Data Submission
- 1:1 AHA Staff Support
- Mission: Lifeline® Recognition Eligibility
- Static Quarterly Reports (PDF)
- Data Included in Super User Account



Join us in this important mission!

January 2019



American Heart Association
life is why™



GET WITH THE GUIDELINES
CORONARY ARTERY DISEASE

EXHIBIT B

PROGRAM PARTICIPANT CONTACT INFORMATION

Complete this section for the individual who will be the program contact and act as liaison between Program Participant and AHA, and AHA Third Party Vendor. If there is a different Contact Person for one or more of the AHA Programs in which Program Participant seeks enrollment, please list that individual and his or her information herein.

PROGRAM NAME: GWTG-Stroke
NAME OF CONTACT PERSON: Aleatha Pardi
TITLE OF CONTACT PERSON: Interim Stroke Coordinator
PHONE NO: (831)783-7533
EMAIL ADDRESS: PardiAA@natividad.com
PHYSICAL ADDRESS: 1441 Constitution Blvd, Salinas, CA 93906

If additional Program Name and Contact Person fields are needed, please copy and paste the fields above.

PROGRAM PARTICIPANT CONTACT INFORMATION FOR BILLING PURPOSES

Complete this section if the individual who handles billing differs from the individual listed above. If there is a different Contact Person for one or more of the AHA Programs in which Program Participant seeks enrollment, please list that individual and his or her information herein.

PROGRAM NAME: Click or tap here to enter text.
NAME OF CONTACT PERSON: Click or tap here to enter text.
TITLE OF CONTACT PERSON: Click or tap here to enter text.
PHONE NO: Click or tap here to enter text.
EMAIL ADDRESS: Click or tap here to enter text.
PHYSICAL ADDRESS: Click or tap here to enter text.

If additional Program Name and Contact Person fields are needed, please copy and paste the fields above.

EXHIBIT C

BUSINESS ASSOCIATE AGREEMENT AND DATA USE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT AND DATA USE AGREEMENT (this "BAA/DUA") is entered into by and between American Heart Association, Inc. a New York not-for-profit corporation ("AHA"); and County of Monterey on behalf of Natividad Medical Center ("Program Participant") and made effective as of the effective date ("Effective Date") of the Unified Participation Agreement, defined below. AHA and Program Participant are each a "Party" to this BAA/DUA and are referred to collectively as the "Parties."

RECITALS:

A. Program Participant has entered into a Unified Participation Agreement ("the Agreement") with AHA pursuant to which it will enroll and participate in one or more AHA quality improvement and accreditation programs;

B. AHA provides certain services to Program Participant as part of the AHA program pursuant to the terms and conditions of the Agreement "Services").

C. The Agreement may from time to time require the receipt, Use, and/or Disclosure of Protected Health Information ("PHI") in conjunction with participation in certain programs;

D. The Agreement may from time to time require the Use and/or Disclosure of PHI in the form of a Limited Data Set ("LDS Information"), to be created and maintained by Program Participant, in conjunction with participation in certain programs and for certain Research, Public Health or Health Care Operations purposes; and

E. The Parties desire to allocate responsibility for the Use and Disclosure of PHI, and LDS Information, and to comply with applicable requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder by the United States Department of Health and Human Services ("HHS") codified at 45 CFR Parts 160 and 164 (commonly known as the Privacy and Security Rules), as amended by the Privacy and Security provisions set forth in Section 13400 of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act", and HIPAA, the HITECH Act, and all regulations promulgated thereunder collectively referred to herein as the "HIPAA Regulations"), as they pertain to Business Associates and Limited Data Sets.

THEREFORE, in consideration of the mutual promises and conditions contained herein, and for other good and valuable consideration, the Parties agree to the provisions of this BAA/DUA in order to address the requirements of the HIPAA Regulations and to protect the interests of both Parties.

1. DEFINITIONS

Unless otherwise defined in this BAA/DUA, all capitalized terms used in this BAA/DUA will have the same meaning as provided under the HIPAA Regulations. PHI means PHI that is received from Program Participant, or created, maintained or transmitted on behalf of Program Participant by AHA.

2. BUSINESS ASSOCIATE AGREEMENT OBLIGATIONS

To the extent that AHA Uses or Discloses PHI, other than LDS Information, the obligations set forth in this Section 2 shall apply.

a. Permitted Uses and Disclosures By AHA

- i. **Performance of Services.** AHA will Use or Disclose PHI, only for those purposes necessary: (i) to perform Services under the Agreement; (ii) as otherwise expressly permitted in this BAA/DUA or (iii) as Required by Law; and will not further Use or Disclose such PHI.
- ii. **Subcontractors.** AHA agrees that, to the extent that it contracts with any subcontractors who will create, receive, maintain or transmit PHI on behalf of AHA, AHA will enter into an agreement with such subcontractors that contains substantially the same restrictions and conditions that apply through this BAA/DUA to AHA with respect to such information.
- iii. **AHA Management, Administration and Legal Responsibilities.** AHA may Use PHI for AHA's management and administration, or to carry out AHA's legal responsibilities. AHA may Disclose PHI to a third party for such purposes only if: (1) the Disclosure is Required by Law; or (2) AHA secures written assurance from the receiving party that the receiving party will: (i) hold the PHI confidentially; (ii) Use or Disclose the PHI only as Required by Law or for the purposes for which it was Disclosed to the recipient; and (iii) notify AHA of any other Use or Disclosure of PHI.
- iv. **Data Aggregation and De-Identification.** AHA may Use PHI to perform data aggregation services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B). AHA may also de-identify PHI in accordance with 45 C.F.R. § 164.514.
- v. **Limited Data Set.** AHA may Use PHI to create Limited Data Sets in accordance with 45 C.F.R. § 164.514(e), for the purposes of Research, Public Health, or Health Care Operations, and may disclose such Limited Data Set to subcontractors who will receive, maintain or transmit the Limited Data Set only if AHA has entered into an agreement with the subcontractors that contains restrictions and conditions consistent with the requirements for a data use agreement at 45 C.F.R. § 164.514(e)(4).
- vi. **Program Participant Responsibilities.** To the extent AHA is to carry out Program Participant's obligations under the Privacy Rule, AHA will comply with the requirements of the Privacy Rule that apply to Program Participant's compliance with such obligations.

b. Safeguards for PHI

- i. **Adequate Safeguards.** AHA will prevent any Use or Disclosure of PHI for purposes other than those permitted by this BAA/DUA, including administrative, physical and technical safeguards to protect the confidentiality, integrity, and

availability of any electronic protected health information (“ePHI”), if any, that AHA creates, receives, maintains, and transmits on behalf of Program Participant.

- ii. **Compliance with HIPAA Security Rule.** AHA will comply with the applicable requirements of the HIPAA Security Rule.

c. Reports of Improper Use or Disclosure of Phi, Security Incidents and Breaches

- i. **Report of Improper Use or Disclosure of PHI.** AHA agrees to report to the Program Participant any use or disclosure of PHI other than as permitted in this BAA/DUA within twenty (20) days of AHA learning of such Use or Disclosure. AHA agrees to mitigate, to the extent practicable, any material adverse effect that is known to AHA resulting from a use or disclosure of PHI by AHA in violation of the requirements of this BAA/DUA.
- ii. **Security Incidents.** AHA will report in writing to Program Participant any Security Incident of which AHA becomes aware. Specifically, AHA will report to Program Participant any successful unauthorized access, Use, Disclosure, modification, or destruction of ePHI or interference with system operations in an information system containing ePHI of which AHA becomes aware within twenty (20) days of AHA learning of such Security Incident. The Parties agree that this Subsection 4(c) constitutes notice by AHA to Program Participant of the ongoing existence and occurrence or attempts of Unsuccessful Security Incidents for which no additional notice to Program Participant shall be required. “Unsuccessful Security Incidents” means, without limitation, pings and other broadcast attacks on AHA’s firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.
- iii. **Breaches of Unsecured PHI.** AHA will report in writing to Program Participant any Breach of Unsecured Protected Health Information, as defined in the Breach Notification Rule, within twenty (20) days of the date AHA learns of the incident giving rise to the Breach. AHA will provide such information to Program Participant as required in the Breach Notification Rule.

d. Obligations of AHA

- i. **Accounting of Disclosure of PHI.** AHA agrees to document and make available to Program Participant the information required for the Program Participant to provide an accounting of Disclosures as set forth in the Privacy Rule at 45 C.F.R. § 164.528. Such records and accounting shall be provided to Program Participant within ten (10) days of a written request from Program Participant. If an Individual request an accounting of Disclosures directly from AHA, AHA will forward the request and its record of Disclosures to Program Participant within ten (10) business days of AHA’s receipt of the Individual’s request. AHA will not provide an accounting of its Disclosures directly to any Individual, unless directed by Program Participant to do so. AHA will maintain information necessary to provide an accounting for a period of six (6) years from the date of the disclosure.

- ii. **Access to PHI.** To the extent AHA maintains PHI in a Designated Record Set, AHA agrees to make PHI regarding a specific Individual available to Program Participant or, as directed by Program Participant, to that Individual within ten (10) business days of receiving a request by Program Participant. Within ten (10) business days of a request from an Individual for such access, AHA shall forward such request to Program Participant. Any denials of access to the PHI shall be the responsibility of Program Participant.
- iii. **Amendment to PHI.** To the extent AHA maintains PHI is a Designated Record Set, AHA agrees to incorporate any amendments into PHI provided by an Individual as set forth in the Privacy Rule codified at 45 C.F.R. 164.526 within ten (10) business days of receiving such a request from Program Participant. AHA shall provide Program Participant with written notice of an Individual's request for an amendment within ten (10) business days of receipt of such a request. Any approvals or denials of amendment to the PHI shall be the responsibility of Program Participant.
- iv. **Access to Books and Records.** AHA agrees to make its internal practices, books and records relating to the use and disclosure of PHI, including policies and procedures relating to PHI, received from, or created or received on behalf of the Program Participant, available to the Program Participant and the Secretary for the sole purpose of compliance determinations as set forth in the Privacy Rules.

e. Obligations of Program Participant

- i. **Notice of Privacy Practices.** Program Participant represents and warrants that it has developed and makes available to all patients a Notice of Privacy Practices that complies with 45 CFR 164.520 and any other applicable provisions of the HIPAA Regulations. Program Participant will provide AHA with a copy of its Notice of Privacy Practices upon request, and any updates if they are made.
- ii. **Limitations on Disclosures.** Program Participant represents and warrants that all Disclosures of PHI made to AHA are permissible under the HIPAA Regulations and are not subject to restrictions that would make the Disclosure of an Individual's PHI to AHA impermissible or a violation of any law. Program Participant will notify AHA of any specific or general restrictions on the Use or Disclosure of PHI submitted to AHA that Program Participant has agreed to in accordance with 45 CFR 164.522.
- iii. **Permissible Requests by Program Participant.** Program Participant will not ask AHA to Use or Disclose PHI in any manner that would not be permissible under the HIPAA Regulations if undertaken by Program Participant.

3. DATA USE AGREEMENT OBLIGATIONS

To the extent AHA Uses or Discloses LDS Information, the obligations set forth in this Section 3 shall apply

- a. **Use of Limited Data Sets.** AHA may, consistent with this BAA/DUA, Use or Disclose PHI that consists solely of certain LDS Information for Research, Public Health, or Health Care Operations in accordance with the provisions of the HIPAA Regulations concerning

Limited Data Sets, provided that such Use or Disclosure is (i) limited to the minimum information necessary to facilitate Program Participant's participation in the associated program or for AHA's Research purposes; (ii) is consistent with the Agreement; and (iii) would not violate the HIPAA Regulations if done by Program Participant; or as Required by Law. The term Health Care Operations as used herein includes Data Aggregation.

- b. Safeguards to prevent Unauthorized LDS Use or Disclosure.** AHA agrees to use appropriate administrative, physical and technical safeguards to prevent Use or Disclosure of the LDS Information other than as permitted by this BAA/DUA. Without limiting the generality of the foregoing, AHA further agrees to:
- i. ensure that any Subcontractor to whom it provides such LDS Information agrees to implement reasonable and appropriate safeguards to protect such information; and
 - ii. report promptly, but in no case later than twenty (20) days after discovery, to the Program Participant any Security Incident or Breach of Unsecured PHI of which AHA becomes aware.
- c. Reporting of Unauthorized Uses or Disclosures of LDS.** AHA will report promptly, but in no case later than twenty (20) days, to Program Participant any Use or Disclosure of the LDS Information not permitted by this BAA/DUA of which AHA becomes aware.
- d. Identification of Information.** AHA will not attempt to identify the Individuals to whom the LDS Information pertains, or attempt to contact such Individuals, provided that this restriction will not be interpreted to prevent AHA from conducting such activities under the Agreement or, if applicable, in a subcontractor agreement with an AHA approved technology vendor ("AHA Third Party Vendor").
- e. Agreements of Subcontractors Regarding LDS.** AHA agrees to require that a Subcontractor to whom it, directly or indirectly, provides LDS Information, will agree in writing to comply with the same restrictions and conditions that apply through this BAA/DUA to AHA in relation to the LDS Information.
- f. Agreements of Third Parties Regarding LDS.** AHA agrees to enter into a written agreement with each third party, to which it Discloses LDS Information, if such third party would qualify as a Business Associate of Program Participant were Program Participant to make such a Disclosure (excluding for instance a Public Health Authority or Health Oversight Agency), that includes the terms and provisions required by the HIPAA Regulations for such Disclosures.
- g. Notice of Request for Data.** AHA shall notify Program Participant within five (5) business days of AHA's receipt of any request for production or subpoena of the LDS Information in connection with any governmental investigation or governmental or civil proceeding. If Program Participant decides to challenge the validity of or assume responsibility for responding to such request or subpoena, AHA shall cooperate fully with Program Participant in connection therewith.

4. TERM AND TERMINATION

- a. **Term.** This BAA/DUA will commence as of the Effective Date and will be coterminous with the Agreement, unless (i) this BAA/DUA is terminated sooner in accordance with either Subsection (b) or (c) of this Section 4.
- b. **Termination.** Either Party may terminate this BAA/DUA if the other Party materially breaches any term or condition of this BAA/DUA and fails to cure such breach within ten (10) business days after receipt of written notice of such default by the non-defaulting Party. Delay in providing notice of a breach does not waive these termination rights or constitute approval of the breach. In the event such material breach is not cured, in the non-breaching Party's sole discretion, the non-breaching Party may terminate this BAA/DUA and the Agreement immediately upon the expiration of the notice period. In the event it is not possible to cure such material breach, the non-breaching Party may terminate this BAA/DUA immediately and without any notice. A breach of this BAA/DUA which is not, or cannot be, cured shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement, any provision of the Agreement to the contrary notwithstanding.
- c. **Termination Permitted Due to Change in Law.** The Parties are required to comply with federal and state laws. If this BAA/DUA must be amended to secure such compliance, the Parties will meet in good faith to agree upon such amendments. If the Parties cannot agree upon such amendments, then either Party may terminate this BAA/DUA upon thirty (30) days' written notice to the other Party.
- d. **Return or Destruction of Data.** Within thirty (30) days of termination of this BAA/DUA, AHA will return to Program Participant all PHI and LDS Information that AHA or its Subcontractors maintain in any form or format. Alternatively, AHA may, upon Program Participant's consent, destroy all such PHI and LDS Information and provide Program Participant with written documentation of such destruction.
- e. **Retention of Data if Return or Destruction is Infeasible:** If AHA believes that returning or destroying PHI or LDS Information at the termination of this BAA/DUA is infeasible, it will provide written notice to Program Participant within thirty (30) days of the effective date of termination of this BAA/DUA. Such notice will set forth the circumstances that AHA believes makes the return or destruction of PHI or LDS Information infeasible and the measures that AHA will take for assuring the continued confidentiality and security of the PHI or LDS Information. AHA will extend all protections, limitations and restrictions of this BAA/DUA to AHA's Use or Disclosure of the PHI or LDS Information retained after termination of this BAA/DUA and will limit further Uses or Disclosures of such PHI or LDS Information to those purposes that make the return or destruction of the PHI or LDS Information infeasible. The obligations of this Subsection 4(e) will survive any expiration or termination of this BAA/DUA.

5. MISCELLANEOUS

- a. **Regulatory References.** A reference in this BAA/DUA to a section in the HIPAA Regulations means the section as in effect or as amended from time to time and for which compliance is required.

- b. **Amendment.** This BAA/DUA may not be amended except by the mutual written agreement of the Parties.
- c. **Interpretation.** Any ambiguity in this BAA/DUA will be resolved in favor of a meaning that permits Program Participant and AHA to comply with the HIPAA Regulations. Where provisions of this BAA/DUA are different from those mandated in the HIPAA Regulations, but are nonetheless permitted by the HIPAA Regulations, the provisions of this BAA/DUA will control.
- d. **Third Party Beneficiaries.** AHA and Program Participant agree that Individuals whose PHI is Used or Disclosed to AHA or its Subcontractors under this BAA/DUA are not third-party beneficiaries of this BAA/DUA.
- e. **Waiver.** No provision of this BAA/DUA may be waived except by an agreement in writing signed by the waiving Party. A waiver of any term or provision shall not be construed as a waiver of any other term or provision.
- f. **Notice.** The Parties will send any notices required under this BAA/DUA to the addresses set forth in the notice provision of the Agreement.
- g. **Governing Law.** This BAA/DUA and all adversarial proceedings arising out of this Agreement, shall be governed by the substantive laws of the State of Texas, without reference to its conflict of laws provisions. However, if Program Participant is a governmental entity or state institution, this Agreement shall be interpreted and construed under the substantive laws of the state in which the Institution resides without respect to its conflict of law principles.
- h. **Entire Agreement.** This BAA/DUA constitutes the entire agreement between the parties with regard to the Privacy Rule, the Security Rule and the Breach Notification Rule, there are no understandings or agreements relating to this BAA/DUA that are not fully expressed in this BAA/DUA and no change, waiver or discharge of obligations arising under this BAA/DUA will be valid unless in writing and executed by the party against whom BAA/DUA change, waiver or discharge is sought to be enforced.
- i. **Written Agreement.** This BAA/DUA will be considered an attachment to the Agreement between the Parties and is incorporated as though fully set forth within the underlying agreement or arrangement. This BAA/DUA will govern in the event of conflict or inconsistency with any provision of the underlying agreement or arrangement.
- j. **Counterparts and Signature.** This BAA/DUA may be executed in two or more counterparts, each of which shall be deemed an original and when taken together shall constitute one agreement. Facsimile and electronic signatures shall be deemed to be original signatures for all purposes of this BAA/DUA.

IN WITNESS WHEREOF, the Parties hereto have affixed their hands and seals on the day and date first above written.

AMERICAN HEART ASSOCIATION, INC.

By: Michele M. Bolles

Name: Michele M. Bolles

Title: VP, Quality and Health IT

Date: Click or tap here to enter text.

10/02/2019

[PROGRAM PARTICIPANT]

By: [Signature]

Name: Gary R. Gray, DO

Title: Chief Executive Officer

Date: Click or tap here to enter text.

Reviewed as to fiscal provisions

[Signature]
Auditor-Controller
County of Monterey

8/26/19

EXHIBIT D



**American
Heart
Association.**

Quality Improvement Programs Permission Form

Hospital Name: Natividad Medical Center

Hospital Address: 1441 Constitution Blvd., Salinas California 93906

My hospital wishes to be recognized as: Natividad Medical Center

(Print or type the hospital name as it should appear in any recognition/promotional opportunity)

This section must be completed

WE AGREE

**WE DO NOT
AGREE**

To give American Heart Association/American Stroke Association (AHA/ASA) permission to use our name for:

- Recognition Events
- Ads (may include: AHA's Circulation; ASA's Stroke; US News & World Report)
- Conference banners/signage
- AHA website, digital media, mobile apps
- The Joint Commission and other regulatory agency

I have authority to sign on behalf of my hospital

Program Participant Representative Signature

Program Participant Representative Name Gary R. Gray, DO

Title Chief Executive Officer

Date 8/23/19 Date

EXHIBIT E

Comparison Group Placement Questionnaire

Please answer the following questions, if applicable to your chosen program. If you are completing a corporate agreement, be sure to answer the questionnaire for each participating hospital. Your answers will allow us to place you in appropriate benchmarking groups for aggregate comparison reporting purposes, once you are enrolled in the applicable program(s).

General Questions	Answers
What state is your hospital located in? <i>(Please write out state name)</i>	CA
Total number of beds in your hospital?	172 <input checked="" type="checkbox"/> Actual <input type="checkbox"/> Estimated
Is your hospital an Academic hospital? <i>(i.e., Are residents involved in patient care?)</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If your facility is NOT a hospital, it is a... (choose appropriate response)	Choose an item.
AFIB Patient Management Tool® Questions	Answers
Does your hospital have a Board Certified Electrophysiologist on staff?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does your hospital perform atrial fibrillation ablation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Resuscitation Patient Management Tool® Questions	Answers
Is your hospital a Pediatric Only hospital?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Please indicate the level of your Newborn/Neonate Nursery.	<input type="checkbox"/> No Newborn or Neonate Nursery <input type="checkbox"/> No Neonatal ICU or Level I <input type="checkbox"/> Level II or Level IIIa <input type="checkbox"/> Level IIIb or Level IIIc
Stroke Patient Management Tool Questions	Answers
How many Ischemic Stroke discharges does your hospital have per year?	122 <input checked="" type="checkbox"/> Actual <input type="checkbox"/> Estimated

Heart Failure Patient Management Tool Questions	Answers
How many HF discharges does your hospital have per year?	<input type="text" value="Enter number"/> <input type="checkbox"/> Actual <input type="checkbox"/> Estimated
Are heart transplants performed at your hospital?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are PTCA and Cardiac Surgery performed at your hospital?	<input type="checkbox"/> Yes <input type="checkbox"/> No

GWTG-CAD Patient Management Tool Questions	Answers
How many Acute Myocardial Infarctions does your hospital have per year?	<input type="text" value="Enter number"/> <input type="checkbox"/> Actual <input type="checkbox"/> Estimated
What is the status/type of Catheterization Laboratory?	
<p>Participation on Mission: Lifeline Regional Reports</p> <p>Participation in regional reports allows for a group of 3 or more hospitals to be included in a comparison group. Requirements for inclusion of regional reports are available in the Mission: Lifeline Program Summary.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>Please check one or both. Hospitals may participate in more than one regional report.</p> <p>Mission: Lifeline Blinded Regional Report</p> <p>Mission: Lifeline Un-Blinded Regional Reports</p> <p><i>(Checking this box will allow this hospital's participation in a Mission: Lifeline Regional report with the hospital's name being identified among the regional participants. ALL participating hospitals in the region must agree to participating in an un-blinded report for the data to be un-blinded.)</i></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>Authorized Vendor</p> <p>If your hospital is choosing to use an Authorized Vendor, please list the name of the Authorized Vendor herein.</p>	<p>(List name in this box)</p> <p><input type="text" value="Click or tap here to enter text."/></p>

