

**Memorandum of
Agreement Between the
County of
Monterey and
Montage Health**

This Memorandum of Agreement (AGREEMENT) is between the County of Monterey, a political subdivision of the State of California (hereinafter “County”) and Montage Health and/or its affiliated entities, Community Hospital of the Monterey Peninsula and MoGo Urgent Care (hereinafter “MONTAGE”).

1.0 Background:

This Agreement will establish the basic terms and conditions for the reporting, protection, use, and disclosure of certain health-related data for public health surveillance and response activities. These data are intended to assist in the possible detection, confirmation, situation awareness, monitoring of, and response to public health threats.

Early detection of disease trends and health seeking behaviors supports greater public health situational awareness, emergency response management, and outbreak recognition and characterization than afforded by traditional surveillance. This form of earlier detection is called syndromic surveillance and occurs before a physician or laboratory confirmed diagnosis has taken place. The additional time gained by syndromic surveillance may be paramount in controlling and responding to public health events. Situational awareness incorporates many different aspects of public health surveillance including timely reporting; communicating with all involved agencies, organizations, and individuals; and ensuring interoperable systems are available to enhance communications and reporting capabilities.

To this end, the Centers for Disease Control and Prevention (CDC) designed a program called BioSense to analyze data from a variety of sources including hospital emergency departments. This cloud-based program is maintained at no cost and will require no new equipment purchases on the part of the County or MONTAGE. Data analyzed by BioSense are de-identified and as such are not considered “protected health information” for the purposes of the HIPAA privacy rule. Public health authorities are authorized under HIPAA to use and disclose de-identified data for the purpose of public health surveillance and disease control. This is commonly referred to as the public health exemption (see 45 CFR 164.512[b] for more information).

2.0 Plan/Objective: Data will be collected by MONTAGE via its existing electronic medical records system. Data will be transmitted electronically by MONTAGE through a secure communications channel maintained by County Information Technology (IT) staff. Data will then be transmitted to and analyzed by BioSense. Results will be used for surveillance and situational awareness purposes. MONTAGE will be given access to view MONTAGE-specific and aggregate data in BioSense. This data can be used for quality improvement, patient and staff safety, research, and forecasting staffing demands based on disease levels.

3.0 Authority: California Code of Regulations authorizes the County to conduct surveillance and investigations into any disease outbreaks or suspected outbreaks. County is also authorized to request any data or reports that it deems necessary for the prevention or control of disease.

4.0 Responsibilities:

In consideration of the mutual covenants and conditions set forth in this Agreement, the Parties agree as follows:

4.1 MONTAGE Responsibilities:

- A. Transmit a Health Level Seven (HL7) message at least once every 6 hours with all core data elements. Messages will conform to the most current version of HL7 Standard guidelines and the PHIN Messaging Guide for Syndromic Surveillance.
- B. Provide as needed maintenance support to resolve or improve data quality.
- C. Designate a contact person with whom the County's Epidemiology and Surveillance Unit can consult in the event of aberrant event detections.

4.2 County Responsibilities:

- A. Grant MONTAGE access to its own analyzed data and a County-wide aggregate in BioSense.
- B. Limit analysis of data to Fire/Smoke-Related, Animal Bites, Substance use, Suicide Prevention, and Accident (as developed by MCHD staff) and the 10 CDC priority syndromes: Botulism-like, Hemorrhagic illness, Lymphadenitis, Localized cutaneous lesion, Gastrointestinal, Respiratory, Neurological, Rash, Fever, and Severe illness potentially due to infectious disease. Exceptions to this can be communicated by email from County's Analyst to MONTAGE's IP Coordinator during events threatening public health. i.e. pandemics, bioterrorism events and natural disasters.
- C. Host the secure communications channel.
- D. Offer MONTAGE the opportunity to participate in publications resulting from use of MONTAGE data. No MONTAGE data will be published without written consent from MONTAGE.
- E. Securely transmit data on behalf of MONTAGE to the California Department of Public Health to meet California Health and Safety Code Section 131360-131380 requirements.

5.0 Mutual Indemnification:

County hereby agrees to indemnify, defend, and save harmless **MONTAGE** and its officers, agents, and employees, to the extent permitted by applicable law, from and against any and all claims and/or losses whatsoever accruing or resulting to any person, firm or corporation for damages, injury, or death incurred by reason of any act or failure to act by County or County's officers, agents, and employees in connections with the performance of this Agreement.

MONTAGE hereby agrees to indemnify, defend, and save harmless County and its officers, agents, and employees, to the extent permitted by applicable law, from and against

any and all claims and/or losses whatsoever accruing or resulting to any person, firm or corporation for damages, injury, or death incurred by reason of any act or failure to act by **MONTAGE** or **MONTAGE'S** officers, agents, and employees in connections with the performance of this Agreement.

6.0 Insurance Requirements:

Both parties are responsible for providing proof of insurance or self-insurance for: (a) commercial general liability insurance or a program of self-insurance, including but not limited to premises, personal injuries, products, and completed operations, with a combined single limit of not less than \$1,000,000 per occurrence and (b) workers' compensation insurance in accordance with California Labor Code section 3700 or an authorized program of self-insurance, with a minimum of \$1,000,000 per occurrence for employer's liability. Both parties shall list the other as the certificate holder as follows:

County of Monterey 1270
Natividad Road
Salinas, CA 93906

Montage Health
23625 Holman Highway
Monterey, CA 93940

7.0 Protected Health Information:

The parties will comply with the applicable provisions of HIPAA Act. Since exchange of protected health information ("PHI") is anticipated, the Parties shall enter into a business associate agreement (BAA). The BAA will be the controlling document as it relates to use, disclosure, confidentiality, and notifications relating to PHI.

8.0 Fiscal Provisions: There is no exchange of funds between parties associated with this AGREEMENT.

9.0 Effect on Procedures and Laws:

The Parties agree to comply with all applicable federal, state, and local laws and regulations in the performance of this Agreement.

10.0 Term: This AGREEMENT will become effective upon execution to June 30, 2030.

This AGREEMENT may be amended in writing by both parties. Either party may terminate this AGREEMENT with a thirty (30) day advance written notice.

11.0 Notices: Notices to the parties in connection with this AGREEMENT shall be given by email as follows:

County of Monterey Health Department
Edward Moreno, MD, MPH, Health
Officer and Director of Public Health
Telephone: (831) 755-4585
Email: morenoel@countyofmonterey.gov

Montage Health
Steven Cabrales, MD, FACS, CPE, Vice
President, Chief Medical Officer
Telephone: 831 625-4504
Email: steven.cabrales@montagehealth.org

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by the authority as follows.

COUNTY OF MONTEREY

By: _____
Contracts/Purchasing Officer

Date: _____

By: _____
Department Head (if applicable)

Date: _____

Approved as to Form
Office of County Counsel
Susan K. Blicht, County Counsel

By:  _____
County Counsel

Date: 4/9/2025 | 4:20 PM PDT

Approved as to Fiscal Provisions

By:  _____
Auditor/Controller

Date: 4/10/2025 | 7:21 AM PDT

Approved as to Liability Provisions
Office of the County Counsel-Risk Management

By: _____
David Bolton, Risk Manager

Date: _____

MONTAGE HEALTH

Montage Health
Contractor/Business Name*

By:  _____
(Signature of Chair, President, or Vice President)

Steven Cabrales, Chief Executive Officer
Name and Title

Date: 3/31/2025

By:  _____
(Signature of Chair, President, or Vice President)

Matt Morgan, Chief Financial Officer
Name and Title

Date: 3/31/25

County Board of Supervisors' Agreement No. _____ approved on _____

***INSTRUCTIONS:** If CONTRACTOR is a corporation, including non-profits corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute the Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

¹Approval by County Counsel is required

²Approval by Auditor-Controller is required

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is entered into by and between County of Monterey, a corporation, (“**Business Associate**”) and **Montage Health & Affiliated Entities**, a non-profit, public benefit corporation (“**Covered Entity**”), which is a covered entity under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). This Agreement is effective as of the last date signed by the parties below (the “Agreement Effective Date”).

The parties are entering into this agreement to assist the Covered Entity in complying with HIPAA, and to set forth Business Associate’s obligations under the Health Information Technology for Economic and Clinical Health Act of 2009 (the “HITECH Act”), and 45 CFR Parts 160 and 164, Subpart C (the “Security Rule”), Subpart D (the “Data Breach Notification Rule”), and Subpart E (the “Privacy Rule”) (collectively, the “HIPAA Regulations”). Terms used in this Agreement have the meanings given them in the HIPAA Regulations. This agreement applies to any Protected Health Information Business Associate receives from Covered Entity, or creates, receives or maintains on behalf of Covered Entity, under its agreements with Covered Entity (the “Principal Agreement(s)”), whether before or after the Agreement Effective Date.

AGREEMENT

- 1) Business Associate may use and disclose Covered Entity’s Protected Health Information to provide Covered Entity with the goods and services contemplated by the Principal Agreement(s). Except as expressly provided below, this agreement does not authorize Business Associate to make any use or disclosure of Protected Health Information that Covered Entity would not be permitted to make.
- 2) Business Associate will:
 - a) Not use or further disclose Covered Entity’s Protected Health Information except as permitted by the Principal Agreement(s) or this Agreement or as required by law;
 - b) Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information to prevent use or disclosure of Covered Entity’s Protected Health Information other than as provided for by the Principal Agreement(s) or this Agreement;
 - c) Report to Covered Entity, within 72 hours of discovery, any use or disclosure of Covered Entity’s Protected Health Information not provided for by the Principal Agreement(s) or this Agreement of which it becomes aware, including breaches of unsecured protected health information as required by the Data Breach Notification Rule (45 CFR § 164.410), and any security incident of which Business Associate becomes aware;
 - d) Mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of protected health information by Business Associate in violation of this Agreement or the HIPAA Regulations;
 - e) Ensure that any of Business Associate’s subcontractors or agents that create, receive, maintain, or transmit protected health information on behalf of the Business Associate agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such information, including compliance with the HIPAA Security Rule with respect to electronic protected health information;
 - f) Within five (5) days of request, make any Protected Health Information in a designated record set available to Covered Entity to enable Covered Entity to meet its obligation to provide access to the information in accordance with 45 CFR § 164.524;
 - g) Within ten (10) days of request, make any Protected Health Information in a designated record set available for amendment and incorporate any amendments to Protected Health Information as directed by Covered Entity pursuant to 45 CFR § 164.526;
 - h) Within fifteen (15) days of request, make available to Covered Entity the information concerning disclosures that Business Associate makes of Covered Entity’s Protected Health Information required to enable Covered Entity to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
 - i) To the extent that Business Associate carries out Covered Entity’s obligations under the Privacy Rule, comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations;
 - j) Make Business Associate’s internal practices, books, and records relating to Business Associate’s use and disclosure of Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary of the United States Department of Health and Human Services for purposes of determining Covered Entity’s compliance with the HIPAA Regulations, and to the Covered Entity for purposes of determining Business Associate’s compliance with this Agreement;

k) Limit its requests for and uses and disclosures of Covered Entity's Protected Health Information to the minimum necessary, and comply with any minimum necessary policies and procedures that covered entity provides to Business Associate;

l) Not store or transmit Protected Health Information outside the United States of America, or permit any contractor of Business Associate to do so;

m) Upon termination of the Principal Agreement(s) or this Agreement, return or (at Covered Entity's option) destroy all Covered Entity's Protected Health Information that Business Associate still maintains in any form and retain no copies of such information or, if return or destruction is not feasible, extend the protections of this agreement to that information and limit further use and disclosure to those purposes that make the return or destruction of the information infeasible.

3) Business Associate may use Covered Entity's Protected Health Information for the management and administration of Business Associate's company and to carry out Business Associate's own legal responsibilities, and Business Associate may disclose the information for these purposes if Business Associate is required to do so by law, or if Business Associate obtains reasonable assurances from the recipient of the information that: (1) it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the recipient; and (2) the recipient will notify Business Associate of any instances of which the recipient is aware in which the confidentiality of the information is breached.

4) Business Associate may use Covered Entity's Protected Health Information for data aggregation, as permitted by the Privacy Rule and agreed to in advance by Covered Entity.

5) To the extent permitted by law, Business Associate shall indemnify, defend and hold harmless Covered Entity from any and all liability, claim, lawsuit, injury, loss, expense or damage resulting from or relating to the acts or omissions of Business Associate in connection with the representations, duties and obligations of Business Associate under this Business Associate Agreement, including reasonable attorneys' fees and costs of investigation, notification and mitigation resulting from any security incident or breach of unsecured Protected Health Information caused by Business Associate or its contractors or agents, or affecting Protected Health Information in the custody or control of Business Associate or its contractors or agents. To the extent permitted by law, Covered Entity shall indemnify, defend and hold harmless Business Associate from any and all liability, claim, lawsuit, injury, loss, expense or damage **(including security incidents or PHI breaches caused by Covered Entity)** resulting from or relating to the acts or omissions of Covered Entity in connection with the representations, duties and obligations of Covered Entity under this Business Associate Agreement. Any limitation of liability contained in any contract between the parties shall not apply to the indemnification requirement of this provision. This provision shall survive the termination of the Business Associate Agreement.

6) If Covered Entity determines that Business Associate has violated a material term of this agreement, Covered Entity may immediately terminate the Principal Agreement(s). This Agreement shall remain in effect as long as Business Associate maintains or has access to Covered Entity's Protected Health Information regardless of the termination of the Principal Agreements.

7) This agreement is to be interpreted in accordance with HIPAA, the HITECH Act, and the regulations promulgated thereunder, as amended from time to time.


8) Business Associate acknowledges that Business Associate has no ownership rights with respect to Protected Health Information provided by Covered Entity to Business Associate or created or received by Business Associate on Covered Entity's behalf, or any data derived therefrom (including de-identified data).

9) Both parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment or replacement of this Agreement may be required to ensure compliance with such developments. Failure of Business Associate to promptly enter into and efficiently conclude negotiations to amend or replace this Agreement when requested by Covered Entity pursuant to this Section is a material breach parties shall work in good faith for 60 days to amend the agreement in response to legal changes.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Agreement Effective Date.

COVERED ENTITY

BUSINESS ASSOCIATE

 3/31/2025
Signature Date
STEVEN X. CABRALES MD / CMO
Printed Name/Title

Signature Date
Elsa Mendoza Jimenez, Director of Health Services
Printed Name/Title