TEXAS DENTAL SLEEP SERVICES

BUSINESS ASSOCIATE AGREEMENT

Document:	Business Associate Agreement	**Version:**	1.0
Effective Date:	_____	**Status:**	Provider Onboarding

1. Parties and Recitals

This Business Associate Agreement (the "**Agreement**") is entered into as of the Effective Date by and between **[Provider Practice Legal Name]** (the "**Covered Entity**" or "Provider"), and **Texas Dental Sleep Services, PLLC** (the "**Business Associate**" or "TDSS"). Covered Entity and Business Associate are each a "Party" and collectively the "Parties."

1.1 Recitals

The Parties have entered into the Associate Provider Agreement (the "Underlying Agreement") under which Business Associate provides billing, credentialing, administrative support, and other services to Covered Entity. In the course of performing those services, Business Associate creates, receives, maintains, or transmits Protected Health Information on behalf of Covered Entity. The Parties enter into this Agreement to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act ("HITECH"), and the regulations promulgated thereunder at 45 C.F.R. Parts 160 and 164 (collectively, the "HIPAA Rules").

1.2 Order of Precedence

In the event of a conflict between this Agreement and the Underlying Agreement with respect to the use, disclosure, or protection of Protected Health Information, this Agreement shall control. In the event of a conflict between this Agreement and the HIPAA Rules, the HIPAA Rules shall control.

2. Definitions

Capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in the HIPAA Rules. The following definitions apply:

- "Protected Health Information" or "PHI" means individually identifiable health information that is created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity, as defined at 45 C.F.R. § 160.103, limited to information involved in the services provided under the Underlying Agreement.
- "Electronic Protected Health Information" or "ePHI" means PHI that is transmitted by or maintained in electronic media, as defined at 45 C.F.R. § 160.103.
- "Breach" means the unauthorized acquisition, access, use, or disclosure of PHI which compromises the security or privacy of the PHI, as defined at 45 C.F.R. § 164.402.

- "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system, as defined at 45 C.F.R. § 164.304.
- "Subcontractor" means a person or entity to whom Business Associate delegates a function, activity, or service that involves the creation, receipt, maintenance, or transmission of PHI on behalf of Business Associate.

3. Permitted Uses and Disclosures of PHI

3.1 Permitted Uses

Business Associate may use or disclose PHI only as necessary to perform the services described in the Underlying Agreement, including but not limited to:

- Submission of claims and processing of billing and reimbursement on behalf of Covered Entity
- Credentialing and re-credentialing support
- Administrative support, reporting, and quality review related to the services
- De-identification of PHI in accordance with 45 C.F.R. § 164.514, provided the de-identified information is used only as permitted by the HIPAA Rules

3.2 Management and Administration

Business Associate may use PHI for the proper management and administration of Business Associate or to carry out its legal responsibilities, and may disclose PHI for such purposes only if the disclosure is required by law or if Business Associate obtains reasonable assurances from the recipient that the PHI will be held confidentially and used or disclosed only as required by law or for the purpose for which it was disclosed, and the recipient notifies Business Associate of any breach of confidentiality.

3.3 Minimum Necessary

Business Associate shall make reasonable efforts to use, disclose, and request only the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure, or request, in accordance with 45 C.F.R. § 164.502(b).

3.4 Prohibited Uses

Business Associate shall not use or disclose PHI in a manner that would violate the HIPAA Rules if done by Covered Entity, except as expressly permitted under Section 3.2. Business Associate shall not sell PHI or use or disclose PHI for marketing purposes except as permitted by the HIPAA Rules.

4. Obligations of Business Associate

Business Associate agrees to:

4.1 Safeguards

Implement and maintain reasonable and appropriate administrative, physical, and technical safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement, and to protect the

confidentiality, integrity, and availability of any ePHI it creates, receives, maintains, or transmits on behalf of Covered Entity, as required by 45 C.F.R. §§ 164.308, 164.310, 164.312, and 164.316.

4.2 Reporting of Improper Use or Disclosure

Report to Covered Entity any use or disclosure of PHI not provided for by this Agreement of which Business Associate becomes aware, including any Security Incident or Breach, in accordance with Section 5.

4.3 Subcontractors

Ensure that any Subcontractor that creates, receives, maintains, or transmits PHI on behalf of Business Associate agrees in writing to substantially the same restrictions, conditions, and requirements that apply to Business Associate under this Agreement, in accordance with 45 C.F.R. § 164.502(e)(1)(ii) and § 164.308(b)(2). Business Associate shall be responsible for ensuring its Subcontractors comply with their obligations.

4.4 Access to PHI

Within fifteen (15) business days of a written request from Covered Entity, make available PHI in a Designated Record Set as necessary for Covered Entity to respond to an individual's request for access under 45 C.F.R. § 164.524.

4.5 Amendment of PHI

Within fifteen (15) business days of a written request from Covered Entity, make any amendments to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526.

4.6 Accounting of Disclosures

Document and, within thirty (30) business days of a written request from Covered Entity, provide an accounting of disclosures of PHI made by Business Associate as required for Covered Entity to respond to a request for an accounting of disclosures under 45 C.F.R. § 164.528.

4.7 Access by the Secretary

Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining compliance with the HIPAA Rules.

4.8 Mitigation

Mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

5. Breach and Security Incident Notification

5.1 Notification Timeline

Business Associate shall notify Covered Entity of any Breach of Unsecured PHI **without unreasonable delay and in no case later than thirty (30) calendar days** after discovery of the Breach. This timeline is intended to provide Covered Entity sufficient time to meet its own sixty (60) day notification obligations under 45 C.F.R. § 164.404.

5.2 Content of Breach Notification

To the extent known, the notification shall include:

- A description of what happened, including the date of the Breach and the date of discovery
- A description of the types of Unsecured PHI involved
- The identification of each individual whose Unsecured PHI was or is reasonably believed to have been accessed, acquired, used, or disclosed
- Any steps Business Associate has taken or will take to investigate, mitigate, and prevent recurrence
- Any other information required to be included in a notification to the affected individuals under 45 C.F.R. § 164.404(c)

5.3 Security Incidents

Business Associate shall report to Covered Entity any Security Incident involving ePHI of which it becomes aware. The Parties acknowledge that unsuccessful attempts at unauthorized access (including pings, port scans, and similar routine occurrences) need not be individually reported and shall be deemed reported by this Section.

> **COOPERATION REQUIREMENT**
>
> Business Associate shall reasonably cooperate with Covered Entity's investigation of any reported Breach or Security Incident, including providing access to records and personnel as needed for Covered Entity to fulfill its notification and reporting obligations under the HIPAA Rules.

6. Obligations of Covered Entity

6.1 Notice of Privacy Practices

Covered Entity shall notify Business Associate of any limitation in its Notice of Privacy Practices that may affect Business Associate's use or disclosure of PHI.

6.2 Changes in Authorization or Restrictions

Covered Entity shall notify Business Associate of any changes in, or revocation of, an individual's authorization to use or disclose PHI, and of any restriction on the use or disclosure of PHI to which Covered Entity has agreed pursuant to 45 C.F.R. § 164.522, to the extent such changes affect Business Associate's use or disclosure of PHI.

6.3 Permissible Requests

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by Covered Entity, except as permitted under Section 3.2 of this Agreement.

6.4 Practice-Level Safeguards

Covered Entity is responsible for implementing and maintaining appropriate administrative, physical, and technical safeguards at the practice level to protect PHI prior to its transmission to Business Associate, including but not limited to secure storage, access controls, workforce training, and secure transmission methods.

7. Term and Termination

7.1 Term

This Agreement is effective as of the Effective Date and shall remain in effect until terminated as provided in this Section, or until the Underlying Agreement terminates and all PHI has been returned, destroyed, or protections continued in accordance with Section 7.4.

7.2 Termination for Breach

Either Party may terminate this Agreement upon thirty (30) days' written notice to the other Party if the non-terminating Party has materially breached this Agreement and has failed to cure the breach within the notice period. If cure is not feasible, the non-breaching Party may terminate this Agreement immediately upon written notice.

7.3 Termination for Cause

A Party may immediately terminate this Agreement, and the Underlying Agreement to the extent permitted by the HIPAA Rules, if the other Party has engaged in conduct that constitutes a violation of the HIPAA Rules and the violation cannot reasonably be cured.

7.4 Effect of Termination

Upon termination of this Agreement for any reason, Business Associate shall, with respect to PHI received from or created or received on behalf of Covered Entity:

- Return to Covered Entity or destroy all such PHI, including any copies in the possession or control of Business Associate or its Subcontractors, if feasible
- If return or destruction is not feasible, extend the protections of this Agreement to the PHI and limit further uses and disclosures to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains the PHI
- Notify Covered Entity in writing of the disposition of PHI within thirty (30) days of termination

8. Miscellaneous

8.1 Regulatory References

A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended from time to time.

8.2 Amendment

The Parties agree to take such action as is necessary to amend this Agreement from time to time as necessary for compliance with the HIPAA Rules and any other applicable law. No amendment shall be effective unless in writing and signed by both Parties.

8.3 Survival

The obligations of Business Associate under Section 7.4 (Effect of Termination) shall survive the termination of this Agreement.

8.4 Interpretation

Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits compliance with the HIPAA Rules.

8.5 No Third-Party Beneficiaries

Nothing in this Agreement shall confer upon any person other than the Parties and their respective successors or assigns any rights, remedies, obligations, or liabilities whatsoever.

8.6 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflict of laws principles, except to the extent preempted by federal law.

8.7 Counterparts and Electronic Signatures

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Electronic signatures (including those executed via DocuSign or similar platforms) shall have the same force and effect as original signatures.

9. Signatures

IN WITNESS WHEREOF, the Parties have executed this Business Associate Agreement as of the Effective Date.

BUSINESS ASSOCIATE	**COVERED ENTITY**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
Texas Dental Sleep Services, PLLC customerservice@tx-dss.com	**Provider Practice Entity** *(Legal name as registered)*