

Google Apps HIPAA Business Associate Amendment

The parties have entered into a certain Google Apps for Business, Education, or Government Agreement (the "Agreement") pursuant to which Google Inc. provides Services to Customer.

This HIPAA Business Associate Amendment ("HIPAA BAA") is effective as of the date electronically accepted by Customer and amends the Agreement for the purpose of implementing the requirements of HIPAA (defined below) to support the parties' compliance requirements thereunder. Customer must have an existing Agreement in place for this HIPAA BAA to be valid and effective. Together with the Agreement, this HIPAA BAA will govern each party's respective obligations regarding Protected Health Information (defined below).

You represent and warrant that: (i) you have full legal authority to bind Customer to this HIPAA BAA, (ii) you have read and understand this HIPAA BAA, and (iii) you agree, on behalf of Customer, to the terms of this HIPAA BAA. If you do not have legal authority to bind Customer, or agree to these terms, please do not sign or accept the terms of this HIPAA BAA.

The parties agree as follows:

1. **Definitions.** For purposes of this HIPAA BAA, any capitalized terms not otherwise defined herein will have the meaning given to them in the Agreement and under HIPAA.

"Included Functionality" means Gmail, Google Calendar, Google Drive, and Google Apps Vault (if applicable) service functionality within the Services.

"Services" means the Apps Core Services as defined under the applicable Agreement.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the rules and the regulations thereunder, as amended (including with respect to the HITECH ACT).

"HITECH Act" means the Health Information Technology for Economic and Clinical Health Act enacted in the United States Congress, which is Title XIII of the American Recovery & Reinvestment Act, and the regulations thereunder, as amended.

"Protected Health Information" or "PHI" will have the meaning given to it under HIPAA to the extent provided to Google as Customer Data in connection with Customer's permitted use of Included Functionality.

"Security Rule" means 45 C.F.R., Part 164, Subpart C, under HIPAA.

2. **Applicability.** This HIPAA BAA applies to the extent Customer is acting as a Covered Entity or Business Associate, to transfer, transmit, store or create PHI via the Included Functionality and where Google, as a result, is deemed under HIPAA to be acting as a Business Associate of Customer. Customer acknowledges that this HIPAA BAA does not apply to, or govern, any other Google services not part of the Included Functionality.

3. **Permitted Use and Disclosure.**

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- a. **By Google.** Except as otherwise set forth in this HIPAA BAA, Google may use and disclose PHI only as specified in the Agreement and under HIPAA. Google may also use and disclose PHI for the proper management and administration of Google's business and to carry out the legal responsibilities of Google, provided that any disclosure of PHI for such purpose may only occur if: (1) required by applicable law; or (2) Google obtains written reasonable assurances from the person to whom PHI will be disclosed that it will be held in confidence, used only for the purpose for which it was disclosed, and that Google will be notified of any Breach.
 - b. **By Customer.** Customer will not request Google or the Services to use or disclose PHI in any manner that would not be permissible under HIPAA if done by a Covered Entity itself (unless otherwise expressly permitted under HIPAA for a Business Associate). In connection with Customer's management and administration of the Services to End Users, Customer is responsible for using the available controls within the Services to support its HIPAA compliance requirements. Customer will not use the Services to transfer, create, maintain or store PHI outside of the Included Functionality. If Customer uses Included Functionality in connection with PHI, Customer will use controls available within the Services to ensure: (i) all Non-Google Apps Products are disabled for all End Users who use Included Functionality in connection with PHI; (ii) the serving of Ads functionality is disabled; and (iii) it takes appropriate measures to limit its use of PHI in the Services to the minimum extent necessary for Customer to carry out its authorized use of such PHI.
4. **Appropriate Safeguards.** Google and Customer will use appropriate safeguards designed to prevent against unauthorized use or disclosure of PHI, consistent with this HIPAA BAA, and as otherwise required under the Security Rule, with respect to the Included Functionality.
5. **Reporting.** Google will promptly notify Customer following the discovery of a Breach resulting in the unauthorized use or disclosure of PHI in the most expedient time possible under the circumstances, consistent with the legitimate needs of applicable law enforcement and applicable laws, and after taking any measures necessary to determine the scope of the Breach and to restore the reasonable integrity of the Services system by using commercially reasonable efforts to mitigate any further harmful effects to the extent practicable. Google will send any applicable Breach notifications to the Notification Email Address (as such contact is designated in the Services by Customer) or via direct communication with the Customer. For clarity, Customer and not Google, is responsible for managing whether its End Users are authorized to share, disclose, create and use PHI with the Services and Google will have no obligations relating thereto. This Section 5 will be deemed as notice to Customer that Google periodically receives unsuccessful attempts for unauthorized access, use, disclosure, modification or destruction of information or interference with the general operation of Google's information systems and the Services and even if such events are defined as a Security Incident under HIPAA, Google will not provide any further notice regarding such unsuccessful attempts unless they result in a Breach.

6. **Agents and Subcontractors.** Google will take appropriate measures to ensure that any agents and subcontractors used by Google to perform its obligations under the Agreement that require access to PHI on behalf of Google are bound by written obligations that provide the same material level of protection for PHI as this HIPAA BAA. To the extent Google uses agents and subcontractors in its performance of obligations hereunder, Google will remain responsible for their performance as if performed by Google itself under the Agreement.
7. **Accounting Rights.** Google will make available to Customer the PHI via the Services so Customer may fulfill its obligation to give individuals their rights of access, amendment, and accounting in accordance with the requirements under HIPAA. Customer is responsible for managing its use of the Services to appropriately respond to such individual requests.
8. **Access to Records.** To the extent required by law, and subject to applicable attorney client privileges, Google will make its internal practices, books, and records concerning the use and disclosure of PHI received from Customer, or created or received by Google on behalf of Customer, available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for the purpose of the Secretary determining compliance with this HIPAA BAA.
9. **Return/Destruction of Information.** Google agrees that upon termination of the Agreement, Google will return or destroy all PHI received from Customer, or created or received by Google on behalf of Customer, which Google still maintains in accordance with the section titled "Effects of Termination" under the Agreement; provided, however, that if such return or destruction is not feasible, Google will extend the protections of this HIPAA BAA to the PHI not returned or destroyed and limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible. In the event this HIPAA BAA is terminated earlier than the underlying Agreement Customer may continue to use the Services in accordance with the Agreement, but must delete any PHI it maintains in the Services and cease to further create, maintain or transfer such PHI to Google.
10. **Breach/Cure.** Customer may immediately terminate this HIPAA BAA and the Agreement upon 10 days written notice to Google if Google has materially breached this HIPAA BAA and such breach is not reasonably capable of being cured.
11. **Term.** This HIPAA BAA will expire upon the earlier of: (i) June 1, 2015; (ii) the natural expiration or termination of the existing Agreement; or (iii) the execution of a new Agreement for the Services, or any updated version thereof, that the parties intend will supersede the existing Agreement.
12. **Confidentiality.** The terms of this HIPAA BAA are Confidential Information under the Agreement and Customer will not disclose or make public the terms of this HIPAA BAA to any third parties, except to the extent required to ensure compliance with applicable laws.
13. **Interpretation.** It is the parties' intent that any ambiguity under this HIPAA BAA be interpreted consistently with the intent to comply with applicable laws.

14. **Effect of Amendment.** To the extent of any conflict or inconsistency between the terms of this HIPAA BAA and the remainder of the Agreement, the terms of this HIPAA BAA will govern. Except as expressly modified or amended under this HIPAA BAA, the terms of the Agreement remain in full force and effect. By electronically accepting or signing the terms of this HIPAA BAA, Customer agrees that it constitutes a written agreement between the parties.

Google Apps Domain Name: dbtsandiego.com

Customer: Dialectical Behavior Therapy Center of San Diego
(Company / Institution / Organization)

By: Milton Brown
Milton Brown (Feb 14, 2015)

Name: Milton Brown

Title: clinic owner

Date: Feb 14, 2015

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