

## ACCEL

MEMORANDUM OF UNDERSTANDING  
Regarding  
PARTICIPATION IN CARE PATHWAYS PROGRAM

THIS MEMORANDUM OF UNDERSTANDING (the “MOU”) between BARTON HEALTHCARE SYSTEM, a California nonprofit public benefit corporation (“Barton”), and the Participant identified on the Signature Page (the “Contracting Participant”) contains the terms and conditions upon which the Contracting Participant shall provide and/or receive clinical and related information through the Care Pathways Services (as defined below) to be coordinated by ACCEL.

1. Program and Services.

1.1 Description of Program. ACCEL is a collaborative organization that coordinates a program (the “Program”) promoting the electronic exchange of health information, including without limitation the Care Pathways Services, all as described on Exhibit 1 (Description of ACCEL, the Program and Care Pathways Services), which is incorporated herein by reference. ACCEL shall be governed by an executive Steering Committee comprised of representatives from select health organizations participating in the collaborative.

1.2 Availability of Services. Pursuant to an agreement with the County of El Dorado (#566-PHD0207), Barton has agreed to acquire and host certain technology used to provide the Care Pathways Services. Barton will allow those parties selected by ACCEL (each, a “Participant”) who enter into written agreements (“Participation MOUs”) to access the technology hosted by Barton in accordance with the terms and conditions of their respective Participation MOUs. This MOU is a Participation MOU and Contracting Participant therefore is a Participant in the Program.

1.3 Participation. Contracting Participant shall participate in the Program and use the Care Pathways Services to provide and/or retrieve patient health, demographic and/or financial information (“Clinical Information”) in accordance with the terms of this MOU, including without limitation all the obligations given to a Participant described in Section 3.

2. Program Manual. ACCEL may adopt a manual (the “Program Manual”) approved by its Steering Committee that describes the Program and the Care Pathways Services, and the procedures, policies and rules that shall govern Participants’ use of the Care Pathways Services and the transmittal, maintenance or use of Clinical Information exchanged through the Program. Contracting Participant agrees to comply with all such procedures, policies and rules set forth in the Program Manual, and agrees that such compliance is a condition of Participant’s use of the Care Pathways Services and the Clinical Information exchanged through the technology hosted by Barton.

3. Uniform Terms for Participants. To assure Participants that uniform terms and conditions shall apply to all uses of the Care Pathways Services and Clinical Information, all

Participants shall be required to enter into Participation MOUs that contain terms and conditions consistent with Sections 2, 3, 5, 6, 8 and 10 (Uniform Terms for Participants).

3.1 Authorized Users Only. Only Participants and their Authorized Users may use the Care Pathways Services and provide and/or retrieve Clinical Information through the Care Pathways Services. “Authorized Users” shall be either: (a) a Participant who is an individual licensed physician or other health care provider; or (b) an individual who is authorized by a Participant, consistent with the scope of that individual’s licensure and practice and his or her responsibilities to the Participant, to use the Care Pathways Services and provide and/or retrieve Clinical Information through the Care Pathways Services on behalf of that Participant.

3.2 Insurance. Each Participant shall maintain insurance coverage for the Participant and all its Authorized Users, and periodically provide evidence of such coverage to ACCEL, as described in the Program Manual.

3.3 Compliance with Laws and Regulations, MOU and Program Manual. The Program Manual shall upon its adoption be incorporated by reference into every Participation MOU. Participants and their Authorized Users shall use the Care Pathways Services and transmit, maintain and use Clinical Information only in a manner that complies and is consistent with all applicable professional and ethical standards and requirements, local, state, and national laws and regulations, their respective Participation MOUs and the Program Manual. Such laws and regulations include without limitation the California Confidentiality of Medical Information Act (California Civil Code §§ 56 – 56.37), the Lanterman-Petris-Short Act (California Welfare and Institutions Code §§ 5328 – 5328.9), the Standards for Privacy and Security of Individually Identifiable Health Information at 45 CFR Parts 160, 162 and 164 (“HIPAA”), and the regulations of the U.S. Public Health Service, Department of Health and Human Services pertaining to the confidentiality of alcohol and drug abuse patient records (42 CFR Part 2).

3.4 Provider-Patient Relationship. Participants and their Authorized Users may use the Care Pathways Services and provide or retrieve Clinical Information only pursuant to an established provider-patient relationship and in connection with the treatment of their respective patients, and for purposes related to Participants’ treatment, payment and other health care operations.

3.5 Responsibility; Mutual Indemnification. Each Participant shall be solely responsible for the conduct of that Participant’s Authorized Users in their use of the Care Pathways Services and the Clinical Information they provide and/or retrieve through the Care Pathways Services, and for all clinical decision-making and other matters arising out of the Participant’s provider-patient relationships. Each Participant (for the purposes hereof, the “Indemnifying Participant”) shall indemnify, defend and hold harmless ACCEL, Barton and each of ACCEL’s other members, and each other Participant, and their respective officers, directors, employees, agents, licensors, suppliers and affiliates, from and against all losses, liability, expenses, damages and costs, including reasonable attorney’s fees and expert witness fees, not covered by insurance and arising from (a) any breach by the Indemnifying Participant of the its Participation MOU, (b) the Indemnifying Participant’s or its Authorized Users’ provider-patient or other relationship with a patient, (c) or any negligent or wrongful action or omission, by the Indemnifying Participant or its Authorized Users related to (i) the Indemnifying

Participant's or its Authorized Users' use of the Care Pathways Services or (ii) the Indemnifying Participant's or its Authorized Users' provision, retrieval, use or subsequent disclosure of Clinical Information.

3.6 Patient Authorization; Use of Information. With each and every use of the Care Pathways Services and each provision or retrieving of Clinical Information through the Care Pathways Services by a Participant and/or an Authorized User of that Participant, the Participant shall represent and warrant as follows: (a) that, prior to any provision of Clinical Information through the Care Pathways Services by the Participant or any of its Authorized Users, the Participant shall have provided notice to the patient as required by the Program Manual, and obtained a currently-effective authorization from the patient if and to the extent required by applicable law and the Program Manual; and (b) that any retrieval of a patient's Clinical Information through the Care Pathways Services is for treatment, payment, or health care operations with respect to that patient.

3.7 Appropriate Safeguards; Training. Each Participant shall be responsible for developing and maintaining procedures, as described in the Program Manual, to assure the privacy, security and integrity of Clinical Information maintained under their control, including all Clinical Information they may receive through use of the Care Pathways Services. Each Participant shall use appropriate administrative, physical and technical safeguards to assure that only the Participant and its Authorized Users have access to the Care Pathways Services technology, and that they only retrieve Clinical Information that the Participant and its Authorized Users are legally authorized to retrieve and use. Participants shall provide training for all their Authorized Users in the use of the Care Pathways Services and compliance with the terms and conditions of their Participation MOUs and the Program Manual.

3.8 Privacy Policy. Participants and their Authorized Users shall comply with ACCEL's Privacy Policy, which shall be set forth in the Program Manual.

3.9 Alterations to Clinical Information. No alterations shall be made to the content of the Clinical Information submitted by a Participant, except as described in the Program Manual.

3.10 Changes to Participation MOUs and the Program Manual. Participation MOUs and the Program Manual may be amended, modified, updated or otherwise revised from time to time in accordance with the procedures described in the Program Manual.

3.11 Disputes; Meet and Confer. In the event any dispute arises between any Participant and either ACCEL, Barton, any other member of ACCEL, or any other Participant, in connection with this MOU, each party to that dispute shall meet and confer with the other parties in a good faith effort to resolve that dispute prior to the commencement of any judicial process or other proceeding in connection with the dispute.

3.12 No Third Party Beneficiaries. ACCEL, Barton, each other member of ACCEL and each other Participant shall be an intended third party beneficiary of the Uniform Terms for Participants. Except as expressly stated in this Section 3.12, there shall be no third party beneficiaries of a Participation MOU.

3.13 Governing Law. Participation MOUs shall be governed by and construed in accordance with the laws of the State of California without giving effect to any choice of law rules that may give a contrary result.

4. Costs. Contracting Participant shall be solely responsible for all costs incurred by Contracting Participant to connect to and use the Care Pathways Services and to provide or retrieving Clinical Information, including but not limited to obtaining and maintaining all telecommunications, computer and other equipment necessary to do so.

5. Suspension of Services. Subject to the other terms and conditions of this MOU, ACCEL reserves complete and sole discretion with respect to the operation of the Care Pathways Services. ACCEL may among other things withdraw, suspend or discontinue any functionality or feature of the Care Pathways Services, in accordance with the procedures described in the Program Manual.

6. Maintenance of Data. ACCEL shall adopt operating procedures for the handling and maintenance of data in the operation of the Care Pathways Services. Neither ACCEL nor Barton nor any of ACCEL's members or Participants shall be responsible for transmission errors or corruption or compromise of data carried over local or interchange telecommunication carriers.

7. Provision of Clinical Information. Contracting Participant shall make Clinical Information (including but not limited to the following: pediatric mental health consult reports, and pediatric immunizations) available electronically through the Care Pathways Services as soon as practicable following its availability.

8. Duration of MOU. The term of his MOU shall commence upon the effective date set forth below and shall continue unless terminated either by Contracting Participant or by Barton, acting in collaboration with ACCEL. Either Contracting Participant or Barton, acting in collaboration with ACCEL, may terminate this MOU at any time, with or without cause, upon notice given in accordance with Section 9 (Notices). The terms and conditions of this MOU shall continue to apply to the use and disclosure of all Clinical Information provided or retrieved through the Care Pathways Services prior to that termination.

9. Notices. ACCEL or Barton may deliver notice to Contracting Participant by means of written communication delivered by first class U. S. mail or express courier to the address for Contracting Participant on record in Barton's account information. Contracting Participant may give notice to Barton at any time by letter delivered by first class postage prepaid U. S. mail or overnight courier to the following address:

Barton HealthCare System  
2170 South Avenue  
P.O. Box 9578  
South Lake Tahoe, CA 96158  
Attention: Chief Executive Officer

10. Disclaimer; Limitation of Liability. EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEITHER ACCEL NOR BARTON NOR ANY OTHER MEMBER OF ACCEL MAKES ANY

WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THIS PARTICIPATION MOU, THE PROGRAM MANUAL, THE CARE PATHWAYS SERVICES OR CLINICAL INFORMATION, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEITHER ACCEL NOR BARTON NOR ANY OTHER MEMBER OF ACCEL SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS) ARISING OUT OF OR IN CONNECTION WITH THIS PARTICIPATION MOU, THE PROGRAM MANUAL, THE CARE PATHWAYS SERVICES OR CLINICAL INFORMATION, REGARDLESS OF WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED ON CONTRACT, WARRANTY, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

11. Severability. The provisions of this MOU are severable, and in the event any provision hereof is determined to be invalid or unenforceable, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof. If any provision of this MOU is held to be invalid or unenforceable, such provision shall be reformed, if reasonably possible, while remaining consistent with the other provisions of this MOU, only to the extent necessary to make it enforceable.

12. Entire Agreement. This MOU, together with the Program Manual as it is developed and approved by the Steering Committee, including any modifications, amendments or updates made in accordance with the terms of the Program Manual, represents the complete agreement between Contracting Participant and Barton concerning the subject matter hereof, and it replaces all prior oral or written communications concerning such subject matter.

13. Assignment. Neither Contracting Participant nor Barton may assign, transfer or delegate this MOU or any part of it without the other's prior written consent. Notwithstanding the foregoing, this MOU shall be binding upon and inure to the benefit of the heirs, successors and permitted assignees of the parties.

14. Waiver. Failure to exercise or delay in exercising any right hereunder, or failure to insist upon or enforce strict performance of any provision of this MOU, shall not be considered waiver thereof, which can only be made by signed writing. No single waiver shall be considered a continuing or permanent waiver.

15. Contract Administrator for El Dorado County. The County Officer or employee with responsibility for administering this MOU is Gayle Erbe-Hamlin, Director of Public Health, or successor.

Signature Page Follows

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Signature Page for El Dorado County

EL DORADO COUNTY DEPARTMENT HEAD CONCURRENCE:

By: \_\_\_\_\_  
John Bachman, PhD., Director  
Mental Health Department

By: \_\_\_\_\_  
Gayle Erbe-Hamlin, Director  
Public Health Department

IN WITNESS WHEREOF, the parties have executed this MOU on the dates indicated below, the latest of which shall be deemed to be the effective date of this MOU.

“Barton”

“Contracting Participant”

BARTON HEALTHCARE SYSTEM, a  
California nonprofit public benefit corporation

County of El Dorado, a political subdivision of  
the State of California,

\_\_\_\_\_  
John Williams  
CEO

\_\_\_\_\_  
Helen Baumann, Chairman  
El Dorado County Board of Supervisors

ATTEST:  
Cindy Keck, Clerk  
of the Board of Supervisors

\_\_\_\_\_  
Deputy Clerk

Date: \_\_\_\_\_

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Exhibit 1

Description of ACCEL, the Program and Care Pathways Services

ACCEL is a county-wide health collaborative dedicated to improving El Dorado County residents access to and quality of health care, in part by building transparent patient program linkages cross agencies.

The Program. Care Pathways is a cross-agency case management program to ensure that a residents needs are attended to throughout many encounters in the health access and delivery process. Each pathway defines the problem to be addressed, the desired positive outcome, and the key intervention steps required to achieve the outcome. The program provides a standardized accountable structure to shift the focus towards defined, outcomes. It is a patient-centric process that addresses one health care issue at a time. As work steps are completed, they are defined by a measurable outcome.

Pathways can address administrative access or clinical issues. To date, five Care Pathways have been implemented: Securing Health Care Coverage, (Newborns) Securing Health Care Coverage, Obtaining a Medical Home, (Newborns) Utilizing a Medical Home Appropriately and Pediatric Mental Health Consult. Community Health Workers (CHW) assists and monitor the person/patient progress through a Pathway. Care Pathways were developed as a paper process to enable clear cross-agency patient referrals with 'transparent' interactive work process definition. Automation of the paper processes was always envisioned to increase efficiencies, accurate timely communication and improved patient outcomes. ACCEL Participants automation of the paper processes will occur over time. Therefore it is expected that Care Pathway paper process for one ACCEL Participant will continue for the foreseeable future.

Although the Care Pathways electronic solution (iREACH) will be accessible by Participant users at different sites and organizations, it is a stand alone product that does not exchange information with any other systems. The implementation of a county wide Master Patient Identifier (EMPI) used with the Care Pathways electronic solution will support Participants exchange and update of demographic patient information and provide a match on patients at the different Participant delivery stations.

Descriptions of the five Care Pathways are described in the Program Manual.