



Referral Agreement Considerations

Participating partners may opt to establish a legal agreement to cover the sending of patient / client referrals and information between a clinical site and a community-based organization (CBO). This agreement can take the form of a Memorandum of Understanding (MOU), data-sharing privacy agreement, or Business Associates Agreement (BAA).

The examples here are not endorsed by, nor have they been reviewed by, the NACDD legal department and are not intended to be legal advice. NACDD makes no representations as to their legal sufficiency, nor does it make any representation as to their fitness for use by any Community e-Connect partners. The documents are simply provided as examples of agreements which previous e-referral users have put in place, and as such, may be used as a starting point for developing your referral agreement. NACDD strongly recommends that you seek legal advice to assist you in the drafting and execution of your referral agreement.

Frequently Asked Questions

- 1) The use of a Business Associate Agreement (BAA) does not seem appropriate because our CBOs do not provide a service to community health centers or other organization that is subject to HIPAA. Do we have to use a BAA?**

Not necessarily. Any agreement that protects the confidentiality and security of referral data is acceptable. This could be a Memorandum of Understanding (MOU) or other legal agreement instead of a BAA.

- 2) A CBO in my partnership is concerned about the data being “owned” by the covered entity. What can I do to address this concern?**

Some partners have included language in the agreement stating that the use of the data is limited only to Community e-Connect project-related purposes. For example, some have agreements have included language stating that “[t]he Business Associate shall use and disclose the limited data set received from the covered entity only in connection with the performance of NACDD’s Community e-Connect project.”

- 3) Some CBOs are concerned about their role as mandatory reporters of suspected abuse of children and elders. What can I do about this?**

Some partnerships have added language into their agreements that addresses the reporting suspected abuse and neglect. Examples of that language are included in some of the agreements accompanying this introduction.