



The following is an educational Powerpoint presentation on the HIPAA rules and regulations.

Before completing this module, you need to complete either the Basic, Health Professional or Research module.

To navigate through this module, use the arrows or click “Slide Show” at bottom right, or click on the titles in the table of contents on the left.





University of Michigan
Health System

BUSINESS ASSOCIATE AGREEMENTS FOR HIPAA PRIVACY REGULATIONS COMPLIANCE

**UNIVERSITY OF MICHIGAN HEALTH SYSTEM
2003**

Version 6.0

Approved by HIPAA Implementation Team

April 14, 2003



A Business Associate (BA) is a:

- Person or organization (vendor) that is not a member of the University's workforce **AND**
- Performs or assists in the performance of University's operations or activities involving Protected Health Information (PHI) **AND** is a
- Vendor that contracts with the University for provision of services that are typically done by the provider (e.g. UMHS, University Health Service) or a plan like MCARE

A Business Associate Agreement is:

- An agreement that the privacy regulations require all covered entities have with their vendors that provide a service for them involving PHI

The deadline to have all BA Agreements in place is:

- For all contracts with vendors that are BA's signed or amended after October 16th, 2002, by April 14, 2003
- All other contracts with vendors that are BA's (including those that renew automatically) at the time of revision or by April 14, 2004 (whichever is sooner)

These are examples of vendors that *are* BA's :

- Technical vendors who have access to computer systems or databases containing PHI
- Accreditation organizations (JCAHO, NCQA, or ACGME etc.)
- Temporary agencies who place personnel in areas where they may have access to PHI
- Records storage facilities
- Lawyers, accountants, consultants
- Other covered entities, not providing treatment

These are examples of Vendors that *are not* BA's :

- Vendors who only have incidental access to University PHI (e.g. janitorial companies, landlords)
- Other Covered Entities who receive University PHI but only for treatment purposes (other hospitals, labs)
- Manufacturers or distributors who require PHI, but only for FDA reporting purposes (adverse event reporting)
- Vendors who receive only de-identified information

The University must:

- Do basic due diligence on a vendor that is a BA to be certain it has necessary safeguards in place before it contracts with the vendor
- Provide our BA's with a copy of our Notice of Privacy Practice (NPP) and of our applicable policies and procedures
- Have a BA Agreement that has specific terms that protects Protected Health Information (PHI) created or received by BAs on our behalf

The University must notify the BA:

- If it has to comply with any consents or authorization required under HIPAA
- Of any limitation(s) in our NPP that may affect BA's use or disclosure of our PHI
- Of any change in, or revocations of, permission by an individual to use or disclose PHI, that we have agreed to, if the changes affect BA's use and disclosure of PHI
- Of restriction(s) on the use or disclosure of PHI that we have agreed to, if they may affect the BA's use or disclosure of PHI

The University may request a BA:

- To only use or disclose PHI that is permissible under the Privacy Rule
- Inform the University of any misuse of disclosures of PHI in violation of the Privacy rule and to take any action necessary to mitigate the disclosure

The BA must:

- Report any use or disclosure of the PHI not allowed under the Agreement
- Ensure that any of the BA's agents, subcontractors, etc. agree to the same restrictions and conditions contained in our Agreement
- Make available to Health and Human Services internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by them on our behalf

The BA Must Also:

- Provide access to PHI in a designated record set maintained by the BA at the University's request and in the time and manner designated by the University
- Document disclosures made without an authorization (*e.g., for research, law enforcement purposes, certain public health purposes*)
- Provide an accounting to the University or to the individual, in a time and manner designated by the University to permit us to respond to a request by an individual for an accounting of disclosures of PHI

BA's may *use* PHI for the following (except if stated otherwise in the contract):

- Perform functions, activities, or services for, or on our behalf
- Report violations of law to appropriate Federal and State authorities
- Use PHI in its possession for its proper management and administration and to fulfill any legal responsibilities of BA

BA's may *disclose* PHI for the following (except if stated otherwise in the contract):

- to a third party for the purpose of its proper management and administration
- to fulfill any of its legal responsibilities only if (i) it is required by law or (ii) before the disclosure is made, the BA has received from the third party written assurances that:
 - The information will be held confidentially;
 - Used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and
 - The third party will notify BA of any instances of which it becomes aware in which the confidentiality of the information has been breached.

Business Associate: When the University is the BA

The University can be a BA if:

- We are a vendor to another health plan or provider
- We are a consultant or a third-party administrator to a health plan or health care provider.

Business Associates: Frequently Asked Questions

Question: Where Can I obtain a copy of the Standard BA Agreement?

Answer: The Purchasing website:

<http://www.umich.edu/%7Epurch/Forms/index.html#Purch>

The HIPAA Website:

<http://www.med.umich.edu/u/hipaa>

Question: How do I find out if a vendor has signed a BA?

Answer: Contact your Purchasing representative who will be able to check the vendor database and/or pull the contract to determine if BA language exists.

Business Associates: Frequently Asked Questions

Question: What if my vendor refuses to sign our Standard BA Agreement?

Answer: Refer the contract to purchasing or DRDA.

Question: If our Standard BA Agreement changes, do I need to get the vendor to sign the updated one?

Answer: Possibly. Refer your question to purchasing or DRDA.



For information regarding your Business Associates

- **Central Campus**
 - Contact your purchasing agent/buyer
- **Health System**
 - Contact Nina Cohan, 8-9669
- **MCIT**
 - Contract John Ellison, 6-5677





The following slides may assist you in determining whether a vendor is a Business Associate with the University of Michigan.



Are They a BA or Not?

Basic Questions to Ask

- Are they using or disclosing PHI concerning our employees, our patients, or our health plan members?
 - **NO:** They are not a BA.
 - Examples:
 - Equipment vendors who do not see PHI
 - Janitorial and similar services where any contact with PHI would be incidental.
 - Courier services
 - **YES:** They may be a BA. Continue to the next question.



Are They a BA or Not?

- Are they a health care provider, providing treatment services?
 - **NO:** They may be a BA.
Continue to the next question.
 - **YES:** They are not a BA.
 - Examples:
 - Medical testing laboratories
 - Hospitals to which we refer patients for specialized procedures





Are they performing business services for us?

- **NO:** They are not a BA.
 - Examples:
 - Outside researchers collaborating on a study
- **YES:** They may be a BA. Continue to the next question.
 - Examples:
 - Accounting firms
 - Software contractors
 - Claims processors
 - Survey vendors who assist us in performing studies using our PHI



Are they part of the University of Michigan?

– **NO:** They are *probably* a BA.

- Check with Purchasing or DRDA to be sure and to find out whether they have already executed a BA agreement.

– **YES:** They are *not* a BA.

- However, you still may have to execute a Memorandum of Understanding with them. Consult with Purchasing or DRDA.



- ◆ Please contact Compliance-group@med.umich.edu if you have any questions about the Privacy Rule.
- ◆ For more information about the Privacy Rule, please visit these websites:
 - ◆ <http://www.med.umich.edu/u/hipaa>
 - ◆ <http://www.hhs.gov/ocr/hipaa> and
 - ◆ <http://www.cms.hhs.gov/hipaa>

