



**HIPAA Solutions in
Outsourcing: Working with
Medical Transcription
Services as Business
Associates**



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Business Associates - Defined



- ⌘ Perform Covered Entity functions but is not a member of the CE's workforce.
- ⌘ Business associates are not covered entities.
- ⌘ Business associates are indirectly covered through contracts with covered entities.
- ⌘ Business associates are expected to follow the same rules the covered entity would have to follow.

Business Associate Contracts

Points to include:



- ⌘ What information will be released to the business associate.
- ⌘ What specific uses are authorized.
- ⌘ What specific disclosures are not authorized.
- ⌘ How will the business associate protect the health information?

Business Associate Contracts, continued...

- ⌘ Specify the same requirements for confidentiality for all subcontractors used by the BA.
- ⌘ A clause that allows access of the BA's book, records, and internal practices by HHS or its agents.
- ⌘ Limit the storage of information by the BA to only what is deemed necessary.

Business Associate Contracts, continued...



- ⌘ Require BA to report any actual or suspected privacy violations.
- ⌘ Termination of the BA contract for cause for insufficient privacy practices or violation of contract.
- ⌘ Upon termination of contract, require the return or destruction of health information.

Business Associate Contracts, continued...



- ⌘ Indemnity.
- ⌘ Where is the work performed.
- ⌘ Policies for protection of health information can be reviewed by covered entity to assure compliance.
- ⌘ BA will incorporate any amendments or corrections when notified by covered entity.

Health Information Defined



- ⌘ Any information, whether oral or recorded in any form or medium, that
- ⌘ (1) is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse and

Health Information Defined, continued...




⌘ (2) relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

Individually Identifiable Health Information Defined



- ⌘ Health information (including demographic information collected from an individual) created by or received by a healthcare provider, health plan, employer, or healthcare clearinghouse
- ⌘ (1) that identifies the individual or
- ⌘ (2) there is a reasonable basis to believe that the information can be used to identify the individual.

Individually Identifiable Health Information



- ⌘ name
- ⌘ address
- ⌘ relatives
- ⌘ employer(s)
- ⌘ birth date
- ⌘ phone number
- ⌘ fax number
- ⌘ e-mail address
- ⌘ web address
- ⌘ SS #
- ⌘ medical record #
- ⌘ health plan #
- ⌘ account #
- ⌘ certificate/license #
- ⌘ vehicle serial #
- ⌘ voice prints
- ⌘ photographic images

Time for Action is Now!



- ⌘ Identify third parties who receive health information from your organization.
- ⌘ Review all outstanding contracts or agreements.
- ⌘ Include BA requirements in contracts.
- ⌘ For current unexpired contracts add an amendment to include BA requirements for HIPAA compliance.

Time for Action, continued...



- ⌘ Negotiate now. Do not wait to establish BA requirements within contracts in case a vendor change is needed.
- ⌘ Review BA's policies and procedures to assure that health information is being appropriately handled and that the privacy is being protected.
- ⌘ Internally de-identify data as much as possible for use by third parties.

Time for Action, continued...



- ⌘ Develop “chain-of-trust” BA agreements to insure that all business associates and their subcontractors are providing the same level of security protections.
- ⌘ Establish termination procedures.

Thank You!

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