

Sample Business Associate Decision Tools

The sample business associate decision-making tools included were developed to assist hospitals and other organizations in determining whether a true business associate relationship under HIPAA exists with the organization's various vendors and other business partners. The tools were developed by member hospitals serving as part of the AHA's HIPAA Advisory Group. Hospitals may find these business associate decision tools helpful in making their own determinations of which of their relationships will indeed qualify as a business associate relationship under the HIPAA privacy regulation and, therefore, require the incorporation of business associate provisions into existing or future contracts and agreements. The sample decision tools can be modified as appropriate for each hospital's decision-making needs.

Questions to Assist Hospitals in Determining Whether Vendors are Business Associates under HIPAA

(Provided by Northwestern Memorial Hospital)

Answer each question to determine whether the vendor is a Business Associate.

- Does the vendor perform a function, service, or activity that uses/discloses Protected Health Information of the hospital's patients?
 - If yes, proceed to the next question
 - If no, this is not a Business Associate

- Are the individuals, employees, volunteers, or trainees (and therefore under the direct control of the hospital)?
 - If yes, they are not Business Associates
 - If no, proceed to the next question

- Is the vendor a physician or person with medical staff privileges who performs services to or for patients of the hospital?
 - If yes, the vendor is not a Business Associate
 - If no, proceed to the next question

- Is the vendor a health plan where Protected Health Information is disclosed to or for enrollees of the health plan?
 - If yes, they are not Business Associates
 - If no, proceed to the next question

- Is the vendor a government agency?
 - If yes, they are not Business Associates
 - If no, this vendor is a Business Associate

Business Associates Inventory

(Provided by Catholic Health Initiatives)

In the following chart, please document all of your organization's "Business Associates." A "Business Associate" is a person or organization to whom a covered entity discloses protected health information such that:

The person can carry out, assist in the performance of a function, or activity involving the use or disclosure of individually identifiable health information including:

- claims processing or administration;
- utilization review;
- quality assurance;
- billing;
- benefit management; and
- practice management.

Please see the listing of Business Associate categories following.

All Business Associates must have Business Associate contractual assurances. A contract between the covered entity and a Business Associate must:

- Establish the permitted and required uses and disclosures of such information by the Business Associate.
- The contract may not authorize the Business Associate to use or further disclose the information in a manner that would violate the requirements.

If a Business Associate receives protected health information electronically, then a "Chain of Trust Agreement" will need to be signed. This contract is entered into by two business partners in which exchange of data occurs. Data transmitted is agreed to be protected between the partners. The sender and receiver depend upon each other to maintain the integrity and confidentiality of the transmitted information.

Protected Health Information Fields:

Name
Street Address
City
Precinct
Zip Code
Birth Date
Admission Date
Discharge Date
Date of Death
Telephone Number
Fax Number
Electronic Mail Address
Social Security Number
Medical Record Number
Health Plan Beneficiary Number
Account Number
Certificate/License Number
Vehicle and Serial Number
Internet Protocol Number
Biometric Identifiers
Web Universal Resource Locator (URL)
License Plate Number
Device Identifier and Serial Number
Full Face Photographic Images
Any other unique identifying number, characteristic or code

Business Associate Categories

accountants
accounting services, if the service involves the disclosure of PHI
accreditation services, if the service involves the disclosure of PHI
actuarial services, if the service involves the disclosure of PHI
actuarial specialists
adjudication services
administrative services, if the service involves the disclosure of PHI
all contractors, subcontractors and vendors to business associates, if involving the disclosure of PHI
ambulance companies
ambulatory surgery centers and facilities
architects and builders
assisted living homes
attorneys

billing service companies
board of directors of the covered entity
business associates who perform/assist in the performance of a function or service that involves the disclosure of PHI
care management programs
chiropractors
civic groups and other local groups help out on ad hoc basis with patients who are hospitalized for a traumatic event or complicated illness (e.g., Shrine Temples, Ronald McDonald House, etc.)
claims processing companies
clinical labs
clinical psychologists
clinical radiology
clinical therapists
clinics or infirmaries provided by employers
coding providers
colleges, universities, and training schools
community health management information systems
computer maintenance services and companies
consulting services, if the service involves the disclosure of PHI
copy services
coroners

data aggregation services, if the service involves the disclosure of PHI
dental clinics
dentists
diagnostic radiography
disease management programs
durable medical equipment businesses
employee assistance programs
employers who may use PHI
employers with self-administered ERISA plans
financial service companies
financial services, if the service involves the disclosure of PHI
funeral directors
government health data systems
group health plan sponsors
group health plans
hardware vendors
health care clearinghouses
health care consultants (risk management, information technology, billing, coding and management)

health care providers (direct and indirect)
health insurance companies
health oversight agencies
HMOs

home health care
hospice care
hospital employees
hospitals

HVAC vendors
insurance brokers
interpreter services (both deaf and foreign language)
janitorial, waste disposal and recycling services and companies
laboratories
law enforcement officials
law firms and staff
legal services, if the service involves the disclosure of PHI
maintenance contractors
management services, if the service involves the disclosure of PHI
marketing services or firms
Medicaid

medical examiners
medical record moving companies
medical record storage companies
medical record transcription services
medical researchers
medical software vendors
Medicare

mental health professionals
microfilm conversion providers
national and state hospital associations
national and state medical associations
non-federally funded schools
nurses

nursing homes
nursing temps
occupational therapists
optometrists
organ procurement organizations

outsourced document shredders
paramedics
pathology labs
patients and their families
pharmacies
pharmacists
pharmacy - brick & mortar
pharmacy - mail
pharmacy - web
pharmacy benefit managers
physical therapists
physicians
podiatrists
portable and fixed mammography
private health data systems
professional liability insurance carriers
radiology centers
repricing company
research organizations
school nurses
skilled nursing facilities
software vendors
student clinics
temporary staffing companies
third party administrators
trade associations
value added networks