



INDIANA UNIVERSITY

HIPAA-G06 Business Associate Agreements Guidance

FULL POLICY CONTENTS

Scope
Reason for Guidance
Guidance Statement
Definitions

ADDITIONAL DETAILS

Forms
Web Address
Related Information
History

Effective: July 1, 2017
Last Updated: February 12, 2018

Responsible University Office:
HIPAA Privacy and Security Compliance Office

Responsible University Administrator
Vice President for Clinical Affairs

Policy Contact:
University HIPAA Privacy Officer

Scope

This guidance applies to all IU personnel, regardless of affiliation, who create, access or store Protected Health Information (“PHI”) on behalf of Indiana University (“IU”), designated for purposes of complying with the final provisions of the security and privacy rules regulated by the Health Insurance Portability and Accountability Act (“HIPAA”) and the Health Information Technology for Economic and Clinical Health (“HITECH”) Act. Please refer to the IU HIPAA Affected Areas (“IU HAAs”) document for a full list of units impacted within Indiana University.

This guidance document also applies to any unit or area at Indiana University that may create or receive PHI from a covered entity to provide a service on behalf of that covered entity.

Reason for Guidance

IU is required to identify vendors who qualify as Business Associates as defined by the Privacy and Security Rules of the HIPAA regulation and the HITECH Act to ensure that PHI is being appropriately safeguarded by third parties.

When IU is a Business Associate of another covered entity, IU will be required to enter into an agreement and must comply with the HIPAA Security Rule, portions of the HIPAA Privacy Rule

that apply to the service being provided as well as the requirements in the covered entity's Business Associate Agreement.

Guidance Statement

A. IU as the Covered Entity

1. Business Associates of IU are required to enter into a Business Associate Agreement ("BAA") or the required language added to a service agreement which outlines the responsibilities of the Business Associate with respect to the use, disclosure and safeguarding PHI.
2. Activities of the Business Associate will be managed through the BAA. The BAA is completed during the procurement process. If the Business Associate fails to fulfill its responsibilities outlined in the BAA there will be an opportunity to correct the failure. If the failure is not corrected the contract may be terminated.
3. The Business Associate may provide PHI to a "subcontractor" as long as the Business Associate and subcontractor have entered into an agreement that meets the requirements of the IU BAA ensuring the same restrictions and conditions for implementing appropriate safeguards to protect PHI apply to the subcontractor.
4. Suspected or discovered violations of a BAA should be reported to the IU incident response team (it-incident@iu.edu) and the University HIPAA Privacy Officer to investigate.
5. Examples of instances when a BAA is necessary
 - a. Data process or software companies that have access to computer systems or databases containing PHI, including cloud based services;
 - b. Accreditation organizations;
 - c. Record storage facilities or shredding services*;
 - d. Consulting services;
 - e. Temporary employment agencies that place individuals in positions where they will have access to PHI;
 - f. Lawyers, accountants, external auditors, translator services, consultants.

*IU has university-wide agreements with vendors for this purpose and the agreements include a BAA.

6. All IU vendors that have access to IU data classified as critical, including PHI must go through an approval process, IU's third-party security review.
7. IU's HIPAA Privacy Officer will maintain a copy of all BAAs and a list of all of IU's business associates.

B. IU as the Business Associate

1. In some instances, IU may receive or create PHI to perform a service on behalf of an external covered entity. In those cases, IU may be a Business Associate and may be required to enter into a Business Associate Agreement ("BAA") with that covered entity.

2. Activities of IU as the Business Associate will be managed through the covered entity's BAA. The BAA may be requested during the contract, grant or service agreement phase of the engagement.
3. IU as the Business Associate may provide PHI to a "subcontractor" as long as IU and the subcontractor have entered into an agreement that meets the requirements of the BAA ensuring the same restrictions and conditions for implementing appropriate safeguards to protect PHI apply to the subcontractor.
4. Suspected or discovered violations of a BAA should be reported to the IU incident response team (it-incident@iu.edu) and the University HIPAA Privacy Officer to investigate.
5. Examples of instances when IU may be a business associate:
 - a. Providing data processing services, hardware and/or software support, or colocation services that involve systems containing PHI, including IU provided cloud based services;
 - b. Consulting services;
 - c. Management of non-IU research projects that involve PHI;
 - d. Management of projects for the Indiana Department of Public Health, Indiana Medicaid or other state or county agencies when the project involves PHI.
6. IU's HIPAA Privacy Officer will maintain a copy of all agreements and list of the units acting as a business associate and the covered entities for which IU is providing a service.

Signature Authority

Only the Treasurer of the Trustees of Indiana University and others acting ***in conjunction with the Treasurer*** are granted specific authority to execute certain documents on behalf of the University.

The Treasurer has the sole authorization to delegate authority.

Signature Authority, for Business Associate Agreements:

1. Treasurer of the Trustees of Indiana University and others acting ***in conjunction with the Treasurer;***
2. Signature Authority, has been delegated by the Treasurer to:
 - Jill Schunk, Procurement Services and sub-delegated to her staff;
 - Leslie Pfeffer, University HIPAA Privacy Officer

Definitions

Business Associate: An individual or entity who performs certain functions or activities on behalf of IU that involve the use or disclosure of PHI. Business associate functions and activities include: claims processing or administration; data analysis, processing or administration; utilization review; quality assurance; billing; benefit management; practice management; and repricing. Business associate services are: legal; actuarial; accounting;

consulting; data aggregation; management; administrative; accreditation; and financial. A covered entity may be a business associate of another covered entity.

See [Glossary of HIPAA Related Terms](#) for a complete list of terms

Related Information

HIPAA Privacy and Security Rules

Related IU Policies

HIPAA-G01	HIPAA Sanctions Guidance
HIPAA-P01	Uses & Disclosures of Protected Health Information Policy
HIPAA-P02	Minimum Necessary Policy

History

07/01/2017	Effective Date
02/12/2018	Updated