



TITLE: HIPAA BUSINESS ASSOCIATES

PURPOSE: To provide guidance in identifying the Harris County Hospital District's (HCHD) Business Associates, to ensure that HCHD enters into written Business Associate Agreements prior to the use or disclosure of Individually Identifiable Health Information (IIHI) or Protected Health Information (PHI), and to outline HCHD's steps in the event of a breach of a Business Associate Agreement or this policy. This policy supports the Harris County Hospital District's Health Insurance Portability and Accountability Act (HIPAA) policy and may require development of department specific procedures.
[Key Words: Business Associate, Business Associate Agreement, Disclosure, Protected Health Information (PHI), Individually Identifiable Health Information]

POLICY STATEMENT:

HCHD values the protection of Individually Identifiable Health Information and Protected Health Information. HCHD will permit the Disclosure of such information to a Business Associate, if there is a current written Business Associate Agreement.

POLICY ELABORATION:

I. DEFINITIONS

- A. **Business Associate (BA)** - a person or entity that provides certain functions, activities, or services for or to a Covered Entity involving the use and/or disclosure of PHI (e.g., claims processing or administration, data analysis, processing or administration, utilization review; quality assurance, billing, benefit management, repricing, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, and financial services, etc.). Note: HCHD employees are not Business Associates of HCHD.
- B. **Business Associate Agreement (BAA)** - a written contract between the Business Associate and HCHD outlining the responsibilities of the BA with



respect to the protection of Individually Identifiable Health Information being shared or disclosed.

- C. **Covered Entity (CE)** - a health plan, a health care clearinghouse, or a health care provider that electronically transmits health information covered by the HIPAA Regulations. For the purposes of this policy, HCHD is a covered entity as defined by HIPAA Regulations.
- D. **Disclosure** - the release of information outside the facility.
- E. **Individually Identifiable Health Information (IIHI)** - information, including demographic information, that:
 - 1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 - 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; and
 - a. Identifies the individual; or
 - b. There is a reasonable basis to believe the information can be used to identify the individual.
- F. **Protected Health Information (PHI)** - individually identifiable patient health information in any form, including demographic information, that is created or received by a healthcare provider, and relates to the patient's healthcare condition, provision of health care or payment for the provision of health care.
- G. **Use** - with respect to Individually Identifiable Health Information, the sharing, employment, application, utilization, examination or analysis of such information within an entity that maintains such information.

II. IDENTIFICATION OF BUSINESS ASSOCIATES

- A. Prior to contracting with any outside organization, whether a person or



entity, it is the responsibility of the using department to contact Harris County Purchasing and/or the County Attorney's Office to determine whether the person or entity qualifies as a Business Associate. If the using department is unable to obtain a determination regarding the outside organization's status or if there is a disagreement regarding the determination, the using department must contact the HCHD Privacy Officer who will confer with the Harris County Attorney's Office and HCHD's Corporate Compliance Office.

- B. If the determination is made that the person or entity is a Business Associate, HCHD is required by law to enter into a written Business Associate agreement with the person or entity.
- C. If a Business Associate Agreement is required, the Business Associate Agreement (or an agreement with the Business Associate required language inserted) must be signed by all appropriate parties before the person or entity performs any services that involve the use and/or disclosure of PHI. The current HCHD approved Business Associate Agreement is available on either the HCHD Intranet (<http://home/departments/HIPAA/Forms/Forms.htm>) or Internet (www.hchdonline.com/about/hipaa/hipaa.htm) sites.
- D. If a person or entity provides services requiring the use or disclosure of IIIHI or PHI, and the person or entity has no known written Business Associate Agreement, HCHD personnel shall notify the HCHD Privacy Officer, Security Official or their designees of the need for a Business Associate Agreement. Failure by the using department to assist in obtaining a Business Associate Agreement, where appropriate, may result in disciplinary action.

III. BREACH OF A BUSINESS ASSOCIATE AGREEMENT

- A. The using department or any other HCHD personnel shall contact the HCHD Privacy Officer if made aware that a Business Associate has violated a term or obligation of the Agreement relating to HIPAA compliance.



- B. When HCHD becomes aware of the violation, HCHD shall act in order to mitigate the breach or, if mitigation is not possible, terminate the agreement, and/or, notify the Secretary of the Department of Health and Human Services.

REFERENCES/BIBLIOGRAPHY:

Harris County Purchasing Manual
HCHD Contract Signature Policy
Policy 3.11.000, HCHD HIPAA Policy
Policy 3.11.101, Privacy Officer, Roles and Responsibilities
Policy 3.11.103, Mitigation for Patient Privacy Violations Under HIPAA
Policy 3.11.303, Patient’s Access to the Designated Record Set
Policy 3.11.304, Accounting of Disclosures of Protected Health Information

OFFICE OF PRIMARY RESPONSIBILITY:

Office of Privacy Administration.

REVISION HISTORY:

Effective Date	Version	Approved by:
04/14/03	V1.0	President & CEO
06/26/03	V1.1	HCHD Board of Managers
05/28/05	V2.0	President & CEO