



University of Connecticut Health Center

POLICY NUMBER 2003-04

January 28, 2005

**POLICY: BUSINESS ASSOCIATE CONTRACTS
(Privacy & Security of Protected Health Information (PHI))**

PURPOSE:

To comply with HIPAA requirements for disclosures of protected health information (PHI) to Business Associates.

SCOPE:

Applies to all UCHC contractors and vendors

POLICY STATEMENT:

1. References to PHI include electronic protected health information (ePHI).
2. Definition: Business Associate means a person or entity who:
 - a. acts on behalf of UCHC to perform, or assist in performing a function or activity involving the use or disclosure of PHI, including claims processing or administration, data analysis, data processing, data administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or
 - b. provides services to or for UCHC where the services involve the disclosure of PHI to the person or entity, including legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services; and
 - c. does not act in the capacity of a member of the UCHC workforce.
3. UCHC may disclose PHI to a Business Associate and may allow a Business Associate to create or receive PHI on behalf of UCHC.
4. UCHC will obtain satisfactory assurance that the Business Associate will appropriately safeguard the PHI it creates or receives from UCHC.
5. This policy does not apply to disclosures by UCHC to health care providers concerning treatment.
6. UCHC will document satisfactory assurances through a written contract or other written agreement or arrangement with the Business Associate.

7. UCHC will ensure continued privacy protections of PHI by entering into a Business Associate Contract (the "Contract"). As part of the Business Associate Contract, UCHC will investigate when complaints are received or other information is received containing substantial and credible evidence of violation by a Business Associate. If UCHC becomes aware of a material breach by a Business Associate, UCHC will take reasonable steps to correct the breach or terminate the contract with the Business Associate. If termination is not feasible, UCHC will report the problem to the U. S. Secretary of Health and Human Services.
8. If UCHC and its Business Associate are both governmental entities, UCHC may enter into a memorandum of understanding (MOU) rather than a contract. The MOU must contain all the terms that a Business Associate Contract must contain.
9. The following guidelines are applicable to all providers that utilize Business Associates in the area of health care information:
 - a. Business Associate agrees that it shall be prohibited from using or disclosing PHI provided or made available by UCHC for any purpose other than as expressly permitted or required by the Contract or as required by law;
 - b. Specify purposes for which the Business Associate may use or disclose PHI. These uses and disclosures must be within the scope of the Business Associate's services provided to the UCHC such as: claims processing or administration, data analysis, utilization review, quality assurance, billing, benefit management, practice management and repricing; legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation or financial services;
 - c. Business Associate is permitted to use or disclose PHI if necessary for its proper management and administration or to carry out its legal responsibilities provided: the Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and agrees that the PHI provided or made available by UCHC shall not be further used or disclosed other than as permitted or required by the contract or as required by law;
 - d. Appropriate Safeguards: Business Associate will establish and maintain appropriate safeguards to prevent any use or disclosure of PHI other than as specified in the contract. These safeguards shall include the implementation of administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the covered entity
 - e. Reporting: Business Associate will report to UCHC any use or disclosure not provided for by the contract of which it becomes aware. The Business Associate will report to the covered entity any security incident of which it becomes aware. In the event of a suspected or known security incident, the covered entity shall execute incident response and reporting procedures
 - f. Subcontractors and Agents: Business Associate agrees that anytime PHI is provided or made available to any subcontractors or agents, Business Associate

- must enter into a subcontract which contains the same terms, conditions and restrictions on the use and disclosure of PHI as contained in the contract;
- g. Right of Access and Amendment to PHI: Business Associate agrees to make available and provide a right of access and amendment to PHI by the individual for whom the information was created and disclosed;
 - h. Accounting: Business Associate agrees to make information available as required to provide an accounting of disclosures;
 - i. Access to Books and Records: Business Associate agrees to make its internal practices, books and records relating to the use and disclosure of information received from, or created or received by Business Associate on behalf of UCHC, available to the U.S. Secretary of DHHS for purposes of determining UCHC's compliance with the DHHS Privacy Regulations;
 - j. Return or Destruction of Information: At termination of the Contract, Business Associate agrees to return or destroy, as determined by UCHC, all PHI received from or created or received by the Business Associate on behalf of UCHC; or if such return or destruction is not feasible, extend the protections of the Contract to the PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible;
 - k. Mitigation Procedures: Business Associate will have procedures in place for mitigation any harmful effects from the use or disclosure of PHI in a manner contrary to the Contract or the DHHS Privacy Regulations;
 - l. Sanctions Procedures: Business Associate must develop and implement a system of sanctions for any employee, subcontractor or agent who violates the Contract or the DHHS Privacy Regulations;
 - m. Property Rights: The PHI shall be and remain the property of UCHC. Business Associate agrees that it acquires no title or rights to the PHI, including any de-identified information, as a result of the Contract; and
 - n. Termination of Contract: Business Associate agrees that the UCHC has the right to immediately terminate the Contract if UCHC determines that Business Associate has violated a material term of the Contract.

Reference: §164.504 (e) Health Insurance Portability and Accountability Act of 1996

Iris Mauriello (signed)

2/10/05

Privacy Officer

Date

Jonathan Carroll (signed)

2/16/05

Information Security Officer

Date

Daniel L. Upton (signed)

2/24/05

Chief Financial Officer

Date

Peter Deckers, MD (signed)

2/24/05

Executive Vice President for Health Affairs

Date

Replaces: 4/14/03