

HIPAA | Business Associate

An Infographic

Business Associate | Definition

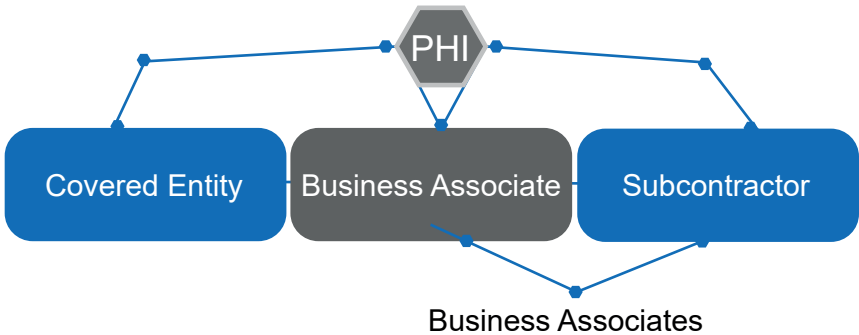
- A Business Associate is a person or organization, other than a workforce member of a covered entity, that performs certain functions on behalf of, or provides certain services to, a covered entity that involve access to Protected Health Information (PHI).
- A Business Associate can also be a subcontractor responsible for creating, receiving, maintaining, or transmitting PHI on behalf of another business associate.
- A Covered Entity can be a business associate of another covered entity.
- Business Associate is an independent contractor, not an agent.

Subcontractor Person to whom a business associate delegates a function, activity, or service and who is not workforce.

Business Associate | Examples

- Third-party administrator that assists a health plan with claims processing.
- Consultant that performs utilization reviews for a hospital.
- Health care clearinghouse that translates a claim from a nonstandard format into a standard transaction on behalf of a health care provider, and forwards the processed transaction to a payer.
- Independent medical transcriptionist that provides transcription services to a physician.

Business Associate | Fast Facts



- Entities that create, receive, maintain, or transmit PHI on behalf of a covered entity to perform:
 - ❖ A function or activity regulated by HIPAA (e.g., healthcare operations, payment, covered entity function), or
 - ❖ Certain identified services (e.g., billing or claims management, legal, accounting, or consulting services).
 - ❖ Health information organizations and e-prescribing gateways. Data transmission companies if they routinely access PHI.
 - ❖ Data storage companies (e.g., cloud computing, off-site storage facilities) even if they do not access PHI or data is encrypted.
 - ❖ Patient safety organizations.

Business Associate Contract (BAC) BAC is a written contract between a covered entity and a business associate that require the business associate to implement appropriate safeguards to prevent unauthorized use or disclosure of the information, including implementing requirements of the HIPAA Security Rule with regard to electronic PHI.

Business Associate | Services

- Case Management
- Medical Record Copying Services
- Collection Agencies
- Transcription Services
- Third Party Billing Services
- Computer Consultants with Access to PHI
- Clearinghouses
- Other Entities Which Perform Standard Transactions
- Accounting and Auditing Services
- Actuarial Services
- Data Aggregation
- Data Transmission Services if have Routine Access to Info
- Accreditation
- Billing
- Claims Processing
- Consulting
- Data Analysis
- Financial Services
- Legal Services
- Management Administration
- Utilization Review
- Quality Assurance
- Benefits Administration
- Disease Management

PHI PHI is defined as individually identifiable health information transmitted or maintained by a covered entity or its business associates.

HIPAA | Business Associate

An Infographic

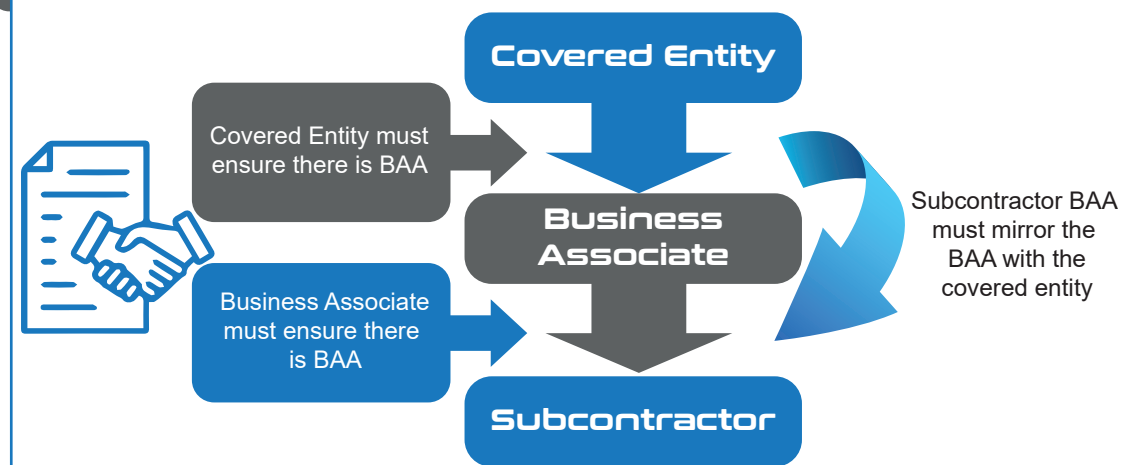


KONICA MINOLTA

Business Associate | Obligations

- Execute and comply with the terms of the BAA with covered entity. Must contain certain terms required by HIPAA.
- Comply with the HIPAA Security Rule.
 - Appoint security officer.
 - Perform and document a risk assessment.
 - Implement required safeguards.
 - Execute agreements with subcontractors.
 - Maintain written policies and procedures.
 - Train personnel.
- Comply with minimum necessary standard.
- Report breaches of unsecured PHI to covered entity.
- Business Associates directly liable under HIPAA for:
 - Use and disclosures in violation of the BAA or the HIPAA Privacy Rule, including minimum necessary standard.
 - Failing to comply with the HIPAA Security Rule.
 - Failing to notify covered entity of a reportable breach.
 - Failing to disclose PHI to HHS in response to investigation.
 - Failing to disclose PHI in response to an individual's request for e-PHI.
 - Failing to execute agreements with subcontractors.
 - Failing to address breach by subcontractor.

Business Associates Agreement (BAA)



- May disclose PHI to business associate if have valid BAA.
- BAA requires business associate to comply with certain HIPAA requirements.
- BAA must contain required elements.
- Business Associate = Someone you want to create, maintain, or access PHI for you.

Who are NOT Business Associates?

- Banks
- Post Office
- CMS - Oversight Agencies
- Providers with staff privileges
- Workforce members, i.e., if you have right to control
- Other providers when they are providing treatment
- Members of organized healthcare arrangement
- Insurance companies unless acting for you
- Mere conduits of information, e.g., mailman
- Janitors

What to Do About Business Associates?

- Must obtain "Satisfactory Assurances"
 - Covered Entity – Business Associate
 - Business Associate – Subcontractor Business Associate
- Generally as a Business Associate contract
- Must meet minimum content requirements of
 - HIPAA Privacy Rule – Applies to all PHI
 - HIPAA Security Rule – Applies to the ePHI

HIPAA Security Rule

Specifies safeguards that covered entity and their Business Associates must implement to protect the confidentiality, integrity, and availability of ePHI.