

BUSINESS ASSOCIATES

Initial: 1/1/03

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Revised:

PURPOSE:

Protecting patient confidentiality is one of the primary responsibilities of all employees of this facility. Such a commitment also is demanded of those who aid in this practice and who need access to “protected health information,” or PHI as that term is defined by the Health Insurance Portability and Accountability Act (HIPAA) privacy regulations.

POLICY:

All entities and persons with whom this practice contracts, but are not members of the workforce, will be evaluated against the following criteria to determine if they are a business associate as defined by HIPAA privacy regulations.

DEFINITION OF A BUSINESS ASSOCIATE

Obtain a business associate agreement for the following:

- The entity or person, on behalf of the practice, arranges, performs, or assists in the performance of a function or activity involving the use of PHI, including but not limited to: 1) claims processing or administration, 2) data analysis, 3) utilization review, 4) quality assurance, 5) billing, 6) benefit management, 7) practice management, 8) re-pricing, or 9) any other function or activity that is regulated by HIPAA.
- The entity or person provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for the practice and this service involves the disclosure of PHI from the practice to the entity or person.

A business associate agreement is not needed for the following:

- An entity or person providing a service that acts merely as a conduit for the transmission of PHI such as a telephone company, mail or delivery services, or Internet service provider.
- Communications between this practice and another HIPAA covered entity do not require a business associate contract for purposes of treatment.

BUSINESS ASSOCIATE AGREEMENTS

Our business associate agreement will establish the permitted and required uses and disclosures of PHI. In these contracts, business associates will agree to the following terms:

- Disclose PHI only as permitted or required by the contract or by law.
- Use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by contract.

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- Report to us any use or disclosure of PHI not provided for by its contract of which it becomes aware.
- Ensure that any agent, including a subcontractor, who receives PHI that is provided a business associate on behalf of this office, agrees to the same restrictions and conditions that apply to the business associate.
- Make available PHI as necessary and required by law.
- Make available PHI for amendment, and incorporate any amendments to PHI in accordance with the law. See *Patient Amendment of Records* policy and procedure.
- Make available the information required to provide an accounting of disclosures in accordance with the law. See *Accounting of Disclosures* policy and procedure.
- Make internal practices, books, and records relating to the use and disclosure of PHI from this office available for appropriate investigators.
- At termination of the contract, if feasible, the business associate will return or destroy all PHI that is received from, or created or received by the business associate on behalf of this office.

MONITORING OF BUSINESS ASSOCIATES

- This office will monitor all business associates, and will not tolerate any behaviors that are not in keeping with our agreement.
- If this office discovers a breach of a material term of the business associate contract by the associate, we will take steps to prevent further breach. If that is unsuccessful, this office will exercise the contract's termination provision.
- This office also will consider reporting any business associate that fails to keep its contractual assurances regarding privacy to the Office for Civil Rights.
- The privacy officer is responsible for obtaining contractual assurances, and monitoring, and storing the contracts.

NOTICE: The Office of the General Counsel of the Texas Medical Association provides this information with the express understanding that 1) no attorney-client relationship exists, 2) neither TMA nor its attorneys are engaged in providing legal advice and 3) that the information is of a general character. You should not rely on this information when dealing with personal legal matters; rather legal advice from retained legal counsel should be sought.