



Policy: Business Associate Agreements

Effective: 12/10/24

Identifier: S-FW-LD-1007

Acute Care: ENC ☒ GR ☒ LJ ☒ MER ☒ Ambulatory ☒ SHAS ☒

PURPOSE: To establish procedures for Business Associates (BA) and Business Associate Agreements (BAA) to enable compliance with HIPAA Privacy Regulations.

I. DEFINITIONS

Refer to Health Information Management Access, Use and Disclosure; S-FW-IM-0203 for HIPAA, Privacy, and related terminology.

A. **Business Associate:** A person or entity (not an employee) who, **on behalf of Scripps Health:**

1. Performs certain functions or activities involving the creation, receipt, maintenance, or transmission of Protected Health Information (PHI), (other than incidental) for Scripps, where the provision of the service involves the disclosure of individually identifiable health information from Scripps.
2. Exceptions to the Business Associate Standard are found in the HIPAA Privacy Rule 45 CFR 164.502. If this exception is met, Scripps is not required to have a business associate contract or other written agreement in place before protected health information may be disclosed to the person or entity. The most frequent exception applicable at Scripps is for disclosures made by Scripps to another health care provider for treatment of the individual.

Examples of Business Associates include but are not limited to:

<ul style="list-style-type: none">• Claims processing or administration• Data collection/analysis utilization review• Quality assurance• Patient safety activities• Billing• Benefit management.• Practice management.• Legal services	<ul style="list-style-type: none">• Re-pricing• Actuarial services• Accounting services• Consulting service• Data aggregation• Risk management services.• Administrative services• Accreditation services• Financial services
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II. POLICY

- A. Under the Privacy Rule, Scripps Health cannot disclose PHI to its Business Associates without first having in place a written and signed contract that includes specific privacy protections. Business Associate Agreements (BAA) are critical to safeguarding PHI when used or disclosed by service providers such as third-party administrators, benefit consultants and attorneys not otherwise covered by the Privacy Rule. By entering into a Business Associate Agreement, Scripps may ensure that the Business Associate will appropriately safeguard PHI and only disclose PHI as permitted by the agreement or as required by law.
- B. Scripps Health Legal Department has developed a standard HIPAA Business Associate Agreement to be used in any newly established Business Associate relationship or any contracts with existing relationships that are being renewed. (See **Related Form A: Scripps Business Associate Agreement and Cover Sheet**)
The BAA is generally a stand-alone document between Scripps Health and the third party; however, in limited circumstances, it may be embedded into the main contract.
- C. At the discretion of the Scripps Legal Department, an alternate BAA with more stringent requirements/specifications may be used with specific Business Associates that are deemed higher risk, as determined by Scripps Legal.
- D. Only a Scripps Legal Department attorney may approve signing a BAA that is not the Scripps standard BAA (i.e., the Business Associate's version) or making changes to the Scripps BAA if requested by the Business Associate.
- E. The Scripps Privacy Office will maintain the current list of signed BAAs, which is available to all staff on the Compliance and Privacy SharePoint site.
- F. An evaluation of the services a third party/vendor will provide may determine that the relationship does not meet the definition of a Business Associate; however, the third-party/vendor's functions, activities or services might incidentally include access to protected information and/or raise other confidentiality concerns.

If this is the case, it is recommended that the mutual agreement/contract with such third-party/vendors include appropriate provisions supporting Scripps' privacy and security requirements. The contract terms should include an obligation to protect each patient's right to privacy, security, and the confidentiality of their medical information. Please contact Scripps Legal Department for assistance.

III. PROCEDURES

The Scripps individual responsible for the contractual arrangement (refer to *Contracting and Signing Authority, S-FW-LD-1001*) is responsible for the following:

- A. Evaluating the relationship and/or need for a Business Associate Agreement (see **Related Form B- Prospective Business Associate Third party/Vendor Guide** and **C BAA Decision Tree**). If unclear whether a relationship requires a BAA, contacting the Scripps Privacy Office or Scripps Legal Department for assistance.
- B. Determining the existence of a signed and current BAA by reviewing the current list of BAAs on the Compliance and Privacy SharePoint site.
- C. If a BAA (or core contract content addressing BAA requirements) is not on file, providing the Business Associate with the Scripps Health Business Associate Agreement to sign. (**Related Form A**)
- D. If the Business Associate proposes edits or alterations to the BAA, wants to use their own BAA, or indicates that negotiations are needed, contacting the Scripps Legal Department.

- E. Upon receipt of a signed Scripps Business Associate Agreement from the third party/vendor:
 - 1. Scanning and emailing the third party/vendor signed agreement to the designated Scripps Legal representative for signature.
 - 2. When forwarding, including the completed BAA Cover Sheet with the third party/vendor's demographic information (i.e., company name, address, phone number, email address, company website) and a brief statement explaining what the vendor will be doing on behalf of Scripps. (**Related Form A**)
- F. Scanning and emailing the signed Business Associate agreements to the Scripps Privacy Program Manager and Audit, Compliance, and Risk Services (ACRS) Executive Assistant for logging and retention.
- G. When completing the New Vendor Set-Up & Reactivation Authorization form, the cost center manager must verify the necessity and existence of a signed BAA and either:
 - 1. Check off that a BAA is not needed, or
 - 2. If a BAA is needed, document that a signed BAA has been completed before checking off and approving the form.
- H. When the relationship with the vendor/Business Associate ends, the responsible Scripps individual must provide timely notification to the Privacy Office (i.e., Privacy Program Manager; and/or ACRS Executive Assistant) of the effective termination date so the Business Associate Agreement may be appropriately archived.

IV. RELATED DOCUMENTS

- A. Scripps Standard Business Associate Agreement and Cover Sheet; [SW-LD-1007](#)
- B. Prospective "Business Associate" Third Party/Vendor Guide; [SW-LD-1007 A](#)
- C. Scripps HIPAA/HITECH Business Associate Decision Tree; [SW-LD-1007 B](#)
- D. Business Associate Agreement Vendor List (Scripps Connect)
- E. [New Vendor Set-Up & Reactivation Authorization \(sharepoint.com\)](#)

V. RELATED PRACTICE DOCUMENT

Contracting and Signing Authority; [S-FW-LD-1001](#)

VI. REFERENCES

- A. HIPAA Administrative Simplification Regulation Text- 45 CFR Parts 160, 162, and 164.
- B. 45 CFR - Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules Under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules; Final Rule. Federal Register
- C. California Health Information Privacy Manual. California Hospital Association (CHA).

VII. SUPERSEDED

Business Associate Agreement Policy; S-FW-LD-1007, 09/21

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