HIPAA Business Associates

You may often use the services of a variety of other persons or businesses to carry out your chiropractic business functions. The Privacy Rule allows you to disclose patients’ Protected Health Information (PHI) to these “business associates” if you obtain satisfactory assurances that the business associate will use the information only for the purposes for which it was engaged by your office, will safeguard the information from misuse, and will help you comply with some of your duties under the Privacy Rule. Business Associates are also held to the standards of HIPAA and are subject to civil and criminal penalties as well. You may disclose PHI to an entity in its role as a business associate only to help carry out your health care functions and not for the business associate’s independent use or purposes, except as needed for the proper management and administration of the business associate.

The Privacy Rule - The Privacy Rule requires that you obtain satisfactory assurances from your business associate that they will appropriately safeguard the PHI it receives or creates on behalf of your office. The satisfactory assurances must be in writing in the form of a contract or other agreement between yourself and the business associate.

Business Associate - A “business associate” is a person or entity that performs certain functions or activities that involve the use or disclosure of PHI on behalf of your office. A member of your staff is not a business associate. A covered health care provider, health plan, or health care clearinghouse can be a business associate of another covered entity.

Business associate functions and activities include: claims processing or administration; data analysis, processing or administration; utilization review; quality assurance; billing; benefit management; and practice management. Business associate services are: legal; actuarial; accounting; consulting; data aggregation; management; administrative; accreditation; and financial.

Examples:

- A CPA firm whose accounting services to a health care provider involve access to protected health information.
- An attorney whose legal services involve access to protected health information.
- A consultant that performs utilization reviews for a provider.
- A health care clearinghouse that translates a claim from a non-standard format into a standard transaction on behalf of a health care provider and forwards the processed transaction to a payer.
- An independent medical transcriptionist that provides transcription services to a physician.
- A benefits manager that manages a provider’s credentialing network or employee benefits.
- Your software company, with access to your system for technical support.
- A collection agency hired to assist with overdue collections.

Business Associate Contracts – Your contract or other written arrangement with your business associate must contain specific elements. The contract must: describe the permitted and required uses of PHI by the business associate; provide that the business associate will not use or disclose the PHI other than as permitted or required by the contract or as required by law; and require the business associate to use appropriate safeguards to prevent a use or disclosure of the PHI other than as provided for by the contract. Where you know of a material breach or violation by the business associate of the contract or agreement, you are required to take reasonable steps to cure the breach or end the violation. If these steps are unsuccessful, you must terminate the contract or arrangement. If termination of the contract or agreement is not feasible, you are required to report the problem to the Department of Health and Human Services (HHS) Office for Civil Rights (OCR).
Exceptions - You are not required to have a business associate contract or other written agreement in place in the following circumstances:

- PHI is disclosed to another health care provider for treatment of the patient.
- When you disclose PHI to a health plan for payment purposes, or when you simply accept a discounted rate to participate in the health plan’s network. When you submit a claim to a health plan and a health plan then assesses and pays the claim, you are each acting on your own behalf as a covered entity, and not as the “business associate” of the other.
- With persons or organizations (e.g., janitorial service or electrician) whose functions or services do not involve the use or disclosure of PHI, and where any access to protected health information by such persons would be incidental, if at all.
- With a person or organization that acts merely as a conduit for PHI, for example, the US Postal Service, certain private couriers, and their electronic equivalents.
- To disclose protected health information to a researcher for research purposes, either with patient authorization, or as a limited data set.
- When a financial institution processes consumer-conducted financial transactions by debit, credit, or other payment card, clears checks, initiates or processes electronic funds transfers, or conducts any other activity that directly facilitates or affects the transfer of funds for payment for health care.