

Policy #: DHHS-08-14

Issue Date: 9/10/14

Revised Date:

I. SUBJECT

HIPAA Business Associate Agreement Policy

II. POLICY STATEMENT

HIPAA covered entities and covered components of the Department of Health and Human Services (the Department) will enter into business associate agreements as appropriate, in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information for Technology for Economic and Clinical Health Act (HITECH). We will allow our business associates to use, create, receive, maintain, or transmit protected health information (PHI) or electronic PHI (ePHI) on behalf of the Department only if we obtain satisfactory written assurances that the business associate, and any subcontractor that the business associate engages to perform a function with the Department's PHI or ePHI, will appropriately maintain the privacy and security of such data and fulfill its HIPAA/HITECH business associate obligations.

III. RATIONALE

This policy is created to ensure that PHI which is shared in any format under such agreements contain appropriate safeguards and protections as required by HIPAA and HITECH.

IV. PROCEDURE STATEMENT

- A. HIPAA covered entities or components of the Department will not permit vendor access to PHI or ePHI until a valid business associate agreement is properly executed where required. The Department's business associate agreement template, located at <http://www.maine.gov/dhhs/contracts/contract-2014/> establishes the permitted and required uses, disclosures and obligations regarding our patients' PHI contained in any format. A decision tree/checklist intended to

help users determine whether the business associate agreement is required is located at that same web link.

- B. Business associate agreements will be maintained, and monitored for renewal, by the Division of Contract Management or the General Counsel, depending upon the nature of the underlying agreement.

V. DEFINITIONS:

Business Associates are those individuals or entities (other than our workforce) that provide services using, creating, accessing, maintaining and/or disclosing PHI or ePHI on behalf of the HIPAA-covered entities and HIPAA covered-components of the Department.

Protected Health Information is information about a patient, including demographic information that may identify a patient, which relates to the patient's past, present or future physical or mental health or condition, related health care services or payment for health care services.

VI. DISTRIBUTION

All Staff via e-mail and posting on the DHHS Intranet.

September 10, 2014

Date



Mary C. Mayhew

Commissioner