

## Operational Policy

<b>Policy Title:</b>	HIPAA: ODHS OHA Business Associate Relationships		
<b>Policy Number:</b>	ODHS OHA 100-013		
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<b>Approved:</b>	Kris Kautz Deputy Director OHA Don Erickson Chief Administrative Officer ODHS		

### Purpose

This Health Insurance Portability and Accountability Act (HIPAA) policy is one of a series that outlines Oregon Department of Human Services (ODHS) and Oregon Health Authority (OHA) expectations for the necessary collection, use, and disclosure of protected health information (PHI) about individuals in order to provide services and benefits while maintaining reasonable safeguards to protect the privacy of their information.

ODHS and OHA workforce shall review all ODHS and OHA privacy policies to protect individual privacy and ensure compliance.

### Description

This policy describes the responsibilities of ODHS programs that are business associates of OHA when creating, receiving, maintaining, or transmitting individual PHI.

### Applicability

This policy applies to all ODHS and OHA staff including employees, volunteers, interns, and agency contractors employed by or doing business with the covered entity components of OHA or the business associate components of ODHS.

As keepers of the public trust, all agency employees have a responsibility to comply with state and agency policies, administrative rule, and state and federal law. The agency takes this responsibility seriously and failure to fulfill this responsibility is not treated lightly. Employees who fail to comply with state or agency policy, administrative rule, or state and federal law may face progressive discipline, up to and including dismissal from state service.

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## Policy

1. A covered entity is a health plan, health care clearinghouse, or any health care provider which transmits protected health information (PHI) in electronic form in connection with transactions for which the U.S. Department of Health and Human Services (DHHS) has adopted standards under the Health Insurance Portability and Accountability Act (HIPAA).
2. A business associate in general is a person or entity that, on behalf of the covered entity component of OHA or a business associate component of an ODHS program, creates, receives, maintains, or transmits PHI as detailed by the Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH).
3. Due to functions performed by certain ODHS programs on behalf of OHA, some programs are considered and defined as business associates of OHA.
4. ODHS and OHA contract administrators shall review contracts to ensure a business associate agreement is in place for relationships, when appropriate.
5. When OHA covered entity components or ODHS business associate components are engaged in a relationship with an external entity that involves creating, receiving, maintaining, or transmitting PHI:
  - a. The agency program most directly involved in that relationship shall determine whether the external entity is a business associate.
  - b. The agency program is responsible for communicating the relationship to ODHS and OHA contract administrators and ISPO.
6. Staff who are unclear about the activities or services performed by the agency that creates a business associate relationship as defined by HIPAA, shall contact ISPO.
7. Staff shall complete required privacy and security training and review of agency policies as follows:
  - a. Staff shall complete all required training assigned by the Department of Administrative Services (DAS); and
  - b. Partner and contractor staff shall complete all required privacy and security training within 30 days of accessing ODHS and OHA information.
8. Staff shall adhere to ODHS privacy and security policies as outlined by DAS and ISPO.
9. Examples of ODHS programs who have been identified as performing business associate functions include but are not limited to:
  - a. Office of Developmental Disability Services (ODDS)
  - b. Facilities
  - c. Internal Audits
  - d. Office of Payment Accuracy and Recovery (OPAR)
  - e. Office of Program Integrity (OPI)
  - f. Aging and People with Disabilities (APD)

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- g. Office of Business Intelligence (OBI)
  - h. Office of Contracts and Procurement (OC&P)
  - i. Office of Legal and Client Relations
10. When any ODHS or external entity staff learns of a practice or pattern of activity that constitutes a data breach or violation of the business associate's obligation under the HIPAA Privacy and Security rule, related Oregon Administrative Rules (OARs), the contract, or other agreement:
- a. ISPO and OC&P shall be notified.
  - b. ISPO and OC&P shall consult on contract breaches, mitigation, and corrective action plans, up to and including terminating the business associate contract.

## References

[45 CFR 160 General Administrative Requirements](#)

[45 CFR 164 Security and Privacy](#)

[OAR 407-014-0050 Business Associate](#)

[OAR 943-014 Privacy and Confidentiality](#)

[OAR 943-014-0015 Covered Entity Status for Purposes of the HIPAA Privacy Rules](#)

## Contacts

Information Security and Privacy Office (ISPO)

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## Policy History

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## Keywords

Business associate, contract, covered entity, external entity, HIPAA, protected health information, PHI

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