

Operational Policy

Policy Title:	OHA Business Associate Relationships		
Policy Number:	OHA-100-013		
Original Date:	7/22/2014	Last Update:	10/03/2016
Approved:	Mark Fairbanks, OHA CFO		

Purpose

This policy is one of a series that describes Oregon Health Authority (OHA) guidelines and expectations for the necessary collection, storage, protection, use, and disclosure of protected information about individuals in order to provide services and benefits to individuals, while maintaining reasonable safeguards to protect the privacy of information.

Description

This policy describes the requirements for OHA business associates, when creating, receiving, maintaining or transmitting individual protected health information.

Applicability

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

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.

Policy

1. A business associate in general is a person or entity that, on behalf of the covered entity component of OHA creates, receives, maintains, or transmits protected health information as detailed by the Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH).
2. Members of the OHA workforce, including employees, volunteers, and interns are not business associates.
3. When OHA is engaged in a relationship with another entity that involves creating, receiving, maintaining or transmitting protected health information, the agency program most directly involved in the relationship shall make a determination about whether the entity is a business associate.

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4. Members of the OHA workforce who are unclear about whether or not the activities performed by an individual or entity create a business associate relationship shall contact the Privacy Office and the Office of Contracts and Procurement for assistance with making the determination.
 5. When acting as a covered entity OHA shall enter into a written business associate contract or agreement with each contracting partner identified as performing a business associate function.
 6. Written business associate contracts and agreements shall comply with HIPAA, state statute and rule.
 7. Program contract managers that are part of the covered entity component of OHA shall review all contracts, whether existing, new or renewing, to determine whether a contract establishes a business associate relationship.
 8. OHA business associates shall comply with OAR 943-014-0400 to 943-014-0465, the HIPAA Privacy and Security Rule and related regulations.
 9. When OHA is engaged in a business associate relationship, the OHA Privacy Office shall receive and log:
 - a. Individual privacy complaints related to the improper or unauthorized use and disclosure of information by the businesses associate.
 - b. Individual privacy complaints related to the business associate or the business associate relationship.
 - c. Reports from business associates related to privacy breaches.
 - d. Reports from business associates related to the business associates breach notification to individuals and the Department of Health and Human Services Office of Civil Rights.
 10. Business associates shall manage their own privacy incidents and breaches in accordance with OHA business associate rules.
 11. The OHA Privacy Office shall:
 - a. Assist business associates as needed in their response to privacy breaches and creating and implementing corrective action plans.
 - b. Notify business associates if the agency becomes aware of a breach and monitor the business associates response.
 - c. Report privacy breaches to the Department of Health and Human Services Office of Civil Rights if the business associate fails to do so.
 12. When any member of the OHA workforce learns of a practice or pattern of activity that constitutes a material breach or violation of the business associate's obligation under the HIPAA Privacy and Security rule, related OARs, the contract or other agreement, that employee shall contact the program contract manager, the Privacy Office and the Office of Contracts and Procurement.
 13. When a material breach or violation of a business associate's obligation occurs, the OHA contract administrator and program manager, the OHA Privacy Office and the Office of Contracts and Procurement will consult on contract breaches, mitigation, and corrective action plans, up to and including terminating the business associate contract.
 14. If OHA policy conflicts with federal or state statute or rule, that statute or administrative rule supersedes unless the OHA policy provides more protection.

References

45 CFR 160 & 164

OAR 125-055-0100 to 125-055-0130

OAR 943-014-0400 to 943-014-0465

[Privacy/Security Glossary of Common Terms](#)

Contacts

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Policy History

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Keywords

Business associate, Business associate agreement, Breach, Privacy, Protecting privacy, Release of information, Protected health information, PHI, Protected individual information, PII, Disclose, Disclosure, HIPAA, Create, Receive, Maintain, Transmit