



# HIPAA

## Lesson 4. Covered Entities and Business Associates

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# Covered Entities and Business Associates

The HIPAA rules (the Privacy Rule, the Security Rule and the Breach Notification Rule), apply to **Covered Entities** and **Business Associates**.

Individuals, organizations and agencies that meet the definition of a covered entity under HIPAA must comply with the rules and requirements to protect the privacy and security of health information and must provide individuals with certain rights with respect to their health information. If a covered entity engages a business associate to help it carry out its health care activities and function, the covered entity must have a written business associate contract or other arrangement with the business associates, that establishes specifically what the business associates has been engaged to do and requires the business associates to comply with the requirements to protect the privacy and security of protected health information.

In addition to these contractual obligations, business associates are directly liable for compliance with certain provision of the HIPAA rules.

*REMEMBER: HIPAA only applies to covered entities and their business associates.*



# What is a Covered Entity?

A HIPAA covered entity is any organization or corporation that directly handles Personal Health Information or Personal health Records. The most common examples of covered entities include hospital, doctors' offices and health insurance providers.

There are three types of covered entities under HIPAA

# The Three Types of Covered Entities

A Covered Entity is one of the following:

- **Health Care Providers:** Health care providers must comply with HIPAA *only if they transmit information electronically in connection with covered transactions*. Most providers transmit information electronically to carry out functions such as processing claims and receiving payment. Therefore most providers are covered under HIPAA.
- **Health Plans:** List of covered Health plans under HIPAA.
  - Health insurance company
  - Health maintenance Organization (HMO)
  - Group Health plan sponsored by an employer
  - Government-funded health plans (Medicare-Medicaid)
  - Different companies that pay for health care.
- **Health Care Clearinghouses:** Clearinghouses often act as a go between for health care providers and health plans which means that they rarely deal directly with patients. For example a clearinghouse may take information from doctor and put into a standard coded format that can be used for insurance purposes.

# The Rule Of The Thumb With Providers To Be Considered As A Covered Entity

It is important to understand that HIPAA does not automatically cover all health care providers. It generally depends on whether a provider bill (directly or indirectly) for services electronically. The reason for this odd standard has to do with the structure of the health care system and the Department of Health and Human Services.

A simple rule of thumb is that ***any provider who bills an insurance company or health plan is a covered entity under HIPAA.*** If your doctor accepts Medicare or Medicaid, the doctor is a covered entity. A free health clinic may not be subjected to HIPAA because it doesn't bill anyone. A doctor who charge every patient cash and does not submit a bill to any insurance company may not be covered by HIPAA. A first aid room at your workplace may or not be covered by HIPAA. If a doctor or facility doesn't have a written privacy policy, then it is either not covered by HIPAA or it is violating the rule.



# Hybrid Entities

HIPAA defines a Hybrid Entity as one that uses or discloses Protected Health Information for only a part of its business operations. If all of an entity's activities are covered functions, then it cannot be hybrid.

Examples of Hybrid entities would include:

- Corporations that are not in the health care industry, but that operate on-site health clinics that conduct the HIPAA standard transaction's electronically.
- Insurance carriers that have multiple lines of business that include both health insurance and other insurance lines, such as general liability or property and casualty insurance.

Hybrid entities are required to create adequate “firewalls” between their health care components and other components. Transfer of PHI held by the health care component to other components of the hybrid entity is a disclosure subjected to the HIPAA privacy rule and is allowed only under the same circumstances as would make it permissible for a separate entity.

# What is a Business Associate?

Health Care providers, health plans, and health care clearinghouses are just few of the players in the health care business. Covered entities hire or contract with people and companies outside their own workforce to perform numerous services.

***A Business Associate creates, receives, maintains protected health information on behalf of a covered entity or another business associates acting as a subcontractor.***

The HIPAA Rules generally require that covered entities enter into contracts with their business associates to ensure that the business associates will appropriately safeguard protected health information.

# Examples of Business Associates

Business associates can perform many different services for a covered entity, including:

- Legal
- Accounting
- Consulting
- Data aggregation
- Management
- Administrative accreditation
- Data transmission
- Data analysis
- Processing or administering claims

- Quality assurance
- Billing (OnQ Contact Center)

*\*Business associates often perform services that don't involve patient interaction. However, as an example, patients may interact with a company (business associate) that offers a personal health record (PHR) to individuals on behalf of the entities.*





# Who is not a Business Associate?

- Health Science Center's Workforce: Employees, faculty, residents, students
- Health care workers providing treatment
- Providers with staff privileges at the institution
- Labs
- Individuals or companies with very limited and incidental exposure to health information, such as telephone company, electrician, etc.
- Companies that act as a conduit for PHI, such as the postal service, UPS, private couriers, etc.

# Potential Business Associates

- Lawyers
- External auditors or accountants
- Professional translator services
- Answering services
- Consultants hired to conducting audits, perform coding reviews, etc.
- Accreditation agencies
- Shredding and/or documentation storage companies
- Data processing firms or software companies that may be exposed to or use PHI
- Medical transcription services, even if you contract with an individual rather than company
- Medical equipment service companies handling equipment that holds PHI
- E-prescribing gateways
- Health information organizations

# The Business Associate Agreement (BAA)

A covered entity's contractual agreement or other written arrangement with its business associate must contain the elements specified by HIPAA.

For example, the contract must:

- Describe the permitted and required uses of protected health information by the business associate;
- Provide that the business associate will not use or further disclose the protected health information 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 protected health information other than as provided for by the contract.

Where a covered entity knows of a material breach or violation by the business associate of the contract or agreement, the covered entity is required to take reasonable steps to cure the breach or end the violation, and if such steps are unsuccessful, to terminate the contract or arrangement. If termination of the contract or agreement is not feasible, a covered entity is required to report the problem to the Department of Health and Human Services (HHS) Office for Civil Rights (OCR).

# In Conclusion A Business Associate Is:

Any person or entity who, on behalf of a covered entity, performs or assists in performance of a function or activity involving the use or disclosure of individually identifiable health information, such as data analysis , claims, processing or administration, utilization, review and quality assurance reviews, or any other function regulated by the HIPAA Administrative Simplification Rules, including the Privacy Rule.

Business associates are also person or entities performing legal, actuarial, accounting, consulting or financial services to or for covered entity where performing those services involves disclosure of individually identifiable health information by the covered entity or another business associate of the covered entity to that person or entity. A covered entity may be the business associate of another covered entity.

# Important Things To Remember

- *HIPAA only applies to covered entities and their business associates.*
- The *HIPAA Covered Entities* are: *Health Care Providers, Health Insurance Plans* and *Health Care Clearing Houses.*
- *OnQ Contact Center is a HIPAA Business Associate.*





**HIPAA**

Health Insurance Portability  
and Accountability Act

Thanks!