



**COMMUNITY HEALTH PLAN**  
of Washington

*Committed to your health.*

Subject:	<b>Business Associates Policy</b>	Policy No.: TS106
Signature		Original Issue: 4/12/05
SEC Approval:	Marilee McGuire	Date: 4/12/05
Prepared By:	Carrie Hardie	Effective Date: 4/20/05

**Purpose:**

This policy serves to document the satisfactory assurances required by the HIPAA Privacy and Security Rules that a business associate will appropriately safeguard all protected health information (PHI), including electronic PHI.

Furthermore, this policy documents the satisfactory assurances required by the Business Associates Contracts and Other Arrangements Standard in the HIPAA Privacy and Security Rules through a written contract or other arrangement with the business associate that meets the applicable requirements of the Business Associates Contracts and Other Arrangements Standard in the Administrative Safeguards section of the HIPAA Privacy and Security Rules.

**Scope:**

This policy applies to all Community Health Plan (CHP) workforce members and impacts all business associates that access, use, disclose, or process PHI on behalf of CHP.

**Policy:**

CHP will identify and maintain a log of all vendors that access, use, disclose, or process PHI on CHP's behalf. All contracts with such vendors will include a Business Associate Addendum (BAA) executed by CHP.

CHP will establish the flow of PHI to all outside entities and identify how such information is used and transmitted, as well as the requirements for processing PHI at the business associate site.

CHP will review all existing Business Associate Addendums and ensure that all such Addendums are modified with a Security Rule Amendment or revised for compliance with the HIPAA Security Rule. Vendors who signed a BAA for Privacy Rule compliance purposes will be required to execute an Amendment to the Business Associate Addendum, which will include provisions required by the Security Rule, such as:

- Business associates must be required to report any instance of misuse or unauthorized disclosure to PHI, including security breaches impacting ePHI.
- The termination of an Addendum with the business associate must result in return or destruction of all PHI with the business associate.
- Business associate must train all members of their workforce that process or come into contact with PHI. This training must include awareness of the requirements of the HIPAA Privacy and Security Rules as well as information about the business associates privacy and security policies and procedures.

- CHP must have the right to audit the business associate in the event of violations related to its PHI.
- CHP must reserve the right to take “reasonable steps” including canceling the BAA without penalty.
- If the business associate intends to process or transmit CHP’s PHI outside the United States of America, then CHP will be informed of specific details related to such processing or transmission and reserves the right to not authorize any such flow of PHI.

A copy of this Policy will be retained for a minimum period of six (6) years from the date it was created or, if revised, for a minimum period of six (6) years from the date it was last in effect.

**Responsibilities:**

The Privacy Officer will review all BAAs and ensure their modification as necessary to ensure compliance with this standard. The Privacy Officer will review the flow of PHI to identify all possible organizations that access PHI and may be required to execute a BAA or other legal document to ensure compliance with the HIPAA Privacy and Security Rules.

**Compliance:**

Failure to comply with this or any other security policy will result in disciplinary actions as described in the Sanction Policy. Legal actions also may be taken for violations of applicable regulations and laws such as HIPAA.

Business Associate Contracts and Other Arrangements is a standard (164.308 (b)(1)) in the Administrative Safeguards category of the HIPAA Security Rule.

**Procedure(s):**

1. Any CHP employee that facilitates vendor contracting and supervises the vendor’s projects (the CHP “vendor manager”) must have Compliance review all contracts prior to seeking a CHP Officer signature to determine if a Business Associate Agreement (BAA) is required.
2. Sufficient information about the services the vendor will be performing for CHP must be provided with the contract in order for Compliance to determine if the vendor meets the definition of a Business Associate.
3. Compliance will maintain the master template for the Business Associate Agreement and Addendum. CHP staff must contact Compliance for a BAA.
4. If a BAA is needed for a contract, Compliance will prepare it and provide it to the CHP staff who has requested the contract review.
  - a. Two signed originals will be provided for the vendor to countersign.
  - b. The vendor must return one original to CHP.
  - c. The original BAA and contract must be sent to Compliance for retention.
5. The CHP vendor manager is responsible for ensuring that the properly executed BAA and original contract is returned by the vendor to CHP and is sent to Compliance.
6. **No PHI, including ePHI, may be transmitted or provided to a Business Associate until a properly executed BAA is received by Compliance.**
7. Questions about Business Associate Agreements should be directed to the Compliance department.

**Definition(s):**

Definitions for all policies are included in the glossary section of the Appendix.

**References:**

- HIPAA Final Privacy Rule, 45 CFR Parts 160 through 164

- HIPAA Final Security Rule, 45 CFR Parts 160, 162, and 164, Department of Health and Human Services, <http://www.cms.hhs.gov/hipaa/hipaa2/regulations/security/default.asp>, February 20, 2003.
- Getting Started with HIPAA, Uday O. Ali Pabrai, Premier Press, April 2003.
- CMS, "CMS Information Systems Security Policy, Standards and Guidelines Handbook", CMS, February 2002.
- International Standards Organization (ISO/IEC 17799:2000(E))

**Contact:**

See Master Contacts List

<b>Revision History</b>		
Revision Date	Revision	Revision Made By
10/24/05	Removal of Contacts and consolidation in Master Contact List	Carrie Hardie
3/22/06	Changed all references from "Community Health Plan of Washington" to "Community Health Plan" and "CHPW" to "CHP"	Carrie Hardie