

Are You a Business Associate Under the HIPAA Privacy and Security Rules?

A person or entity may be either a covered entity or a business associate under HIPAA, triggering certain obligations and potential liability under the HIPAA Privacy and Security Rules. HIPAA requires that business associates of covered entities follow the same practices as covered entities with respect to the maintenance and disclosure of protected health information (PHI). For example, business associates must comply with restrictions on disclosures and sale of health information, ensure that administrative, physical, and technical safeguards are in place, and comply with breach notification requirements.

A business associate is:

- A person or entity that creates, receives, maintains, or transmits PHI on behalf of a covered entity for purposes of a regulated function or activity (such as claims processing, data analysis, utilization review, quality assurance, and billing); or
- A person or entity that provides legal, actuarial, accounting, consultation, data aggregation, management, administrative, accreditation, or financial services where the services involve disclosure of PHI.

You may be a business associate if:

- You have persistent or prolonged access to PHI, even if you never take the opportunity to access that information.

You are not a business associate if:

- You are a covered entity that creates or maintains the protected health information in question
- However, a covered health care provider, health plan, or health care clearinghouse can be a business associate of another covered entity.
- You are an employee of a covered entity or business associate.
- You are a mere conduit that has temporary or infrequent access to PHI incident to the transmission of the PHI (such as a credit card provider that processes payments for health care transactions).

Common types of business associates:

- | | |
|--|--|
| <ul style="list-style-type: none"> • Attorneys • Accountants • Medical transcription services • Third-party administrators that process claims for health plans • Health care clearinghouses (translating claims from a non-standard format into a standard transaction from provider to payer) | <ul style="list-style-type: none"> • Pharmacy benefits managers • Health Information Organizations (HIOs) • E-prescribing gateways • Record locator services • Data/records storage or cloud computing services |
|--|--|

For more information, see our resources on [state and federal laws related to privacy](#) and on [HIPAA](#).

Follow us on Twitter at [@HealthInfoLaw](#)

The website content and products published at www.HealthInfoLaw.com are intended to convey general information only and do not constitute legal counsel or advice. Use of site resources or documents does not create an attorney-client relationship.