

HIPAA PRIVACY RULE: POLICY REGARDING BUSINESS ASSOCIATES

I. Policy

The University of Southern California (USC)¹ ensures that its business associates (as defined below) protect patients' right to privacy consistent with USC's obligations under federal and state law and USC's privacy policies.

II. Definition

A. "Business associate" is defined as a person or entity that is not part of USC's covered workforce and performs certain functions on behalf of USC that involve the use or disclosure of USC's Protected Health Information², including uses for purposes related to payment and/or healthcare operations. Such functions or activities include:

1. Claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or
2. Any other function or activity regulated by the Privacy Rule; or
3. Legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for USC, or to or for an organized health care arrangement in which USC participates.

B. Excluded from definition of business associate

The definition of business associate does not include the following:

¹ For purposes of the HIPAA Privacy Rule, USC includes USC Norris Cancer Hospital, Keck Hospital of USC, USC's employed physicians, nurses and other clinical personnel, those units of USC that provide clinical services within the School of Pharmacy, the Herman Ostrow School of Dentistry, Physical and Occupational Therapy as well as the Keck Doctors of USC, those units that support clinical and clinical research functions, including the Offices of the General Counsel, Audit and Compliance.

² Protected Health Information is defined as identifiable information that relates to the individual's past, present or future physical or mental health condition or to payment for health care.

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1. an employee of USC;
2. healthcare providers who disclose Protected Health Information for treatment purposes;
3. any other individuals (e.g., volunteers) USC considers members of its covered workforce; or
4. individuals who may obtain incidental disclosures of Protected Health Information, where access to Protected Health Information is minimal, if at all, and where receipt of such Protected Health Information is not part of the individual's job duties for USC (e.g., a cleaning service).

III. Procedures

A. Applicability of this policy

This policy only applies to an arrangement with a person or organization that meets the definition of a business associate (as defined above).

B. Execution of a business associate agreement

Individuals or entities determined to be business associates of USC must execute a business associate agreement. USC has a template business associate agreement for this purpose which can be found at <http://policies.usc.edu>. USC also has a template for when USC serves as the business associate of a third party. Contact the Office of Compliance for assistance.

1. Issues that arise from using the USC Business Associate Agreement when negotiating with business associate should be directed to the Office of Compliance.
2. The USC Business Associate Agreement may be executed only by USC designated officials.
3. Purchasing has established procedures to assist in identifying vendors who must execute business associate agreements per policy.
 - a. Proposed vendors/suppliers complete the Supplier Application Form indicating whether they will access or receive USC health information in connection with the USC agreement.

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- b. Purchasing will confirm the information received by the supplier/vendor with the applicable USC business unit(s), as appropriate.
 - c. Purchasing shall provide the supplier/vendor with USC's template business associate agreement for execution. Any revisions must be approved by the Office of Compliance or General Counsel.
 - d. Business associates are tracked in USC's purchasing system.
4. New vendors will not be established in the USC system without signing an appropriate business associate addendum.

C. Enforcement of contract; compliance oversight.

If USC learns of a pattern of activity or practice of a business associate that constitutes a material breach or violation of the business associate's obligation under the Business Associate Agreement, USC will first take reasonable steps to cure the breach or end the violation, as applicable. If such steps are unsuccessful, then USC shall: (1) if feasible, terminate the contract or arrangement; or (2) if termination is not feasible, report the problem to the Secretary of the U.S. Department of Health and Human Services.

Additional References

45 CFR §160.103, §164.502(e), 504(e)

Responsible Office: Office of Compliance
<http://ooc.usc.edu/>
complan@usc.edu
(213) 740-8258

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