

Title: Policy on Business Associate Arrangements	Date Originated: 4/9/03
Department: Operations	Date Revised:
Approved By: Nancy Lavoie, General Manager	Date Effective: 4/14/03

Purpose/Statement:

The purpose of this policy is to outline the procedures of LifeLine Ambulance (the "Organization") for entering into and maintaining Business Associate arrangements.

1.0 POLICY

- 1.1. It is the policy of the Organization to enter into appropriately drafted contracts with its Business Associates, in accordance with the requirements of the Privacy Standards of the Health Insurance Portability and Accountability Act of 1996, 45 CFR Parts 160 and 164 ("HIPAA").

2.0 AREAS INVOLVED

- 2.1. Departments with arrangements with third parties involving PHI.

3.0 CROSS-REFERENCED DOCUMENTS

- 3.1. Policy on Uses and Disclosures of PHI in Compliance with the Minimum Necessary Standards
- 3.2. Compliance Checklist for Business Associate Contracts
- 3.3. Form _1_: Business Associate Contract
- 3.4. Policy on Documentation and Document Retention

4.0 KEY DEFINITIONS

The following are definitions of key terms used in this policy. The definitions of other capitalized terms used in this policy and not defined in this Section 4.0 can be found in the Glossary.

- 4.1. **"Business Associate"** means a person or entity who is not a member of the Organization's Workforce and who, on behalf of the Organization, performs or assists in the performance of:
- a. A function or activity involving the Use or Disclosure of PHI, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or

- b. Any other function or activity regulated by HIPAA; or
 - c. Provides legal, actuarial, accounting, consulting, data aggregation (as defined in HIPAA), management, administrative, accreditation, or financial services to or for the Organization.
- 4.2. **“Business Associate Contract”** means the contract language as set forth in Form _1_: Business Associate Contract, between the Organization and its Business Associates that allows the Business Associate to create or receive PHI on behalf of the Organization. The term “Business Associate Contract” includes both stand-alone contracts and amendments to existing services agreements, as well as Business Associate Contract language that is part of a new services agreement. A Business Associate Contract is not required for Disclosures by the Organization to a Health Care Provider regarding an individual’s Treatment.
- 4.3. **“Disclose”** or **“Disclosure”** means, with respect to PHI, the release of, transfer of, provision of access to, or divulging in any manner, of PHI outside of the Organization’s internal operations or to other than its Workforce Members.
- 4.4. **“Protected Health Information (“PHI”)**” means information that is: (i) created or received by a Health Care Provider, Health Plan, employer, or Health Care Clearinghouse; (ii) relates to the past, present, or future physical or mental health or condition of an individual; the provision of Health Care to an individual; or the past, present, or future Payment for the provision of Health Care to an individual; (iii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- 4.5. **“Use”** or **“Uses”** means, with respect to PHI, the sharing, employment, application, utilization, examination or analysis of such information within the Organization’s internal operations.
- 4.6. **“Workforce”** or **“Workforce Member”** means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the Organization, is under the direct control of such entity, whether or not they are paid by the Organization.

5.0 PROCEDURE:

- 5.1. Pre-HIPAA’s April 14, 2003 Compliance Effective Date
 - 5.1.1. The HIPAA Task Force [or designated committee] shall use the Compliance Checklist for Business Associate Contracts, attached as Attachment A, to begin the process of identifying Business Associate relationships and preparing, negotiating, reviewing, administering and maintaining required Business Associate Contracts.
 - 5.1.1.1 The Privacy Officer shall provide guidance in identifying Business Associate relationships covered by this policy and shall make the final determination as to whether an

arrangement with a third-party constitutes a Business Associate arrangement.

- 5.1.1.2 If there is an existing contract with a vendor in effect prior to October 15, 2002, and it is not renewed or modified between such date and April 14, 2003, it shall be deemed compliant until the earlier of: (i) the date such contract is renewed or modified, or (ii) April 14, 2004. Accordingly, the Organization may delay modifying such agreements to incorporate Business Associate Contract language until the agreement is up for renewal or modification, or April 14, 2003, which ever occurs first. Notwithstanding the ability to delay, the Organization shall still remain responsible for ensuring that it obtains the information necessary from Business Associate for the Organization to comply with HIPAA including making information held by Business Associate available to the Secretary of Health and Human Services and complying with the Policy on Individuals' Rights (access, amendment, restriction, accounting). In the event that the Organization avails itself of this Section 5.1.1.2, the Privacy Officer shall be responsible for tracking agreements with these vendors or third parties, ensuring that a Business Associate Contract is timely entered into in accordance with this Section, and obtaining information from these vendors or third parties in the interim period needed by the Organization to comply with HIPAA.
- 5.1.2. The HIPAA Task Force will assign responsibility for the tasks outlined on Attachment A and assign appropriate deadlines.
- 5.1.3. The Task Force is responsible for ensuring that Business Associate Contracts are sent to all identified Business Associates.
- 5.1.4. Any proposed changes to a Business Associate Contract must be approved by the Privacy Officer.
- 5.1.5. In the event that a contractor or vendor refuses to sign a Business Associate Contract, the Workforce Member or Department that receives such refusal shall forward all relevant information regarding the refusal to the Privacy Officer.
- 5.1.6. The Privacy Officer shall be responsible for handling and resolving refusals by contractors or vendors to sign Business Associate Contracts or disputes regarding the language contained in such Business Associate Contracts.

- 5.2. Post-HIPAA's April 14, 2003 Compliance Effective Date
 - 5.2.1. The Privacy Officer shall be responsible for negotiating and approving all Business Associate Contracts. The Privacy Officer may delegate to another officer or individual, all or some of these responsibilities. The Privacy Officer shall retain full responsibility for decisions relating to the final version of the language of all Business Associate Contracts.
 - 5.2.2. The Contract Administrator shall be responsible for:
 - 5.2.2.1 Identifying, preparing, reviewing, administering and maintaining the Organizations' Business Associate Contracts, new Business Associate contractual arrangements and Business Associate Contract renewals.
 - 5.2.2.2 A log of all of the Organization's contracts shall be forwarded to the Privacy Officer [or other designated individual] on a semi-annual basis. Contracts that include Business Associate Contract language shall be specifically identified. The Privacy Officer or designee shall review such log to identify any arrangements that may be subject to this policy but that do not include Business Associate contractual language.
 - 5.2.2.3 The Privacy Officer shall be responsible for implementing storage, access, filing, record retention, and contract administration policies and procedures, including those contracts incorporating Business Associate Contract language.
- 5.3. Disclosures of Protected Health Information to Business Associates
 - 5.3.1. All Workforce Members shall notify the Contract Administrator [or other designated individual or department] of any new, renewal of, or potential Business Associate arrangement.
 - 5.3.2. The Contract Administrator [or other designated individual or department] shall notify the Privacy Officer of a Business Associate arrangement (either new or a renewal) and shall provide a description of the general PHI that needs to be Used and Disclosed to a specific Business Associate under the terms of a written agreement.
 - 5.3.3. The Privacy Officer shall determine if Disclosure of such PHI meets the Minimum Necessary standards pursuant to the Policy on Uses and Disclosures of PHI in Compliance with the Minimum Necessary Standards. The Privacy Officer shall provide the Contract Administrator with confirmation as to whether the PHI is the Minimum Necessary that may be Used or Disclosed to the contemplated Business Associate.

6.0 POTENTIAL VIOLATIONS BY BUSINESS ASSOCIATES

- 6.1. In the event that a Workforce Member has reason to believe that a Business Associate has engaged in an activity or practice, or failed to engage in an activity, that could constitute a breach or violation of the Business Associate's obligations under the Business Associate Contract, such Workforce Member will immediately contact the Privacy Officer or designee.
- 6.2. The Privacy Officer or designee shall take steps necessary to conduct an investigation into the Business Associate's alleged breach or violation of the terms of the Business Associate Contract.
 - 6.2.1. The Privacy Officer or designee, in consultation with the appropriate Workforce Members and outside legal counsel as necessary, shall take reasonable steps to cure breaches or violations by Business Associates, such steps including, but not limited to, notifying the Business Associate of the breach or violation and providing the Business Associate with the opportunity to cure the breach or violation pursuant to the terms of the Business Associate Contract.
 - 6.2.2. In the event that the Privacy Officer, in consultation with appropriate Workforce Members and outside legal counsel as necessary, determines that the Business Associate has failed to cure the breach or end the violation, the Privacy Officer may terminate the Business Associate Contract, if feasible, or if termination of such Contract is not feasible, report the problem to the Secretary of the Department of Health and Human Services.

7.0 DOCUMENTATION RETENTION

All contracts will be kept in the General Managers office and Billing Department.

8.0 CONTACT FOR QUESTIONS

If a Workforce Member has questions or is uncertain about the correct procedure for Business Associate arrangements, such Workforce Member should contact LifeLine General Manager.

ATTACHMENT A

Compliance Checklist for Business Associate Contracts

1. Identify who will be responsible for the preparing, reviewing, administering and maintaining the required Business Associate contracts
 - i. Privacy Officer
 - ii. Security Officer
 - iii. Contract Administrator
 - iv. Legal Counsel
 1. In-house
 2. Outside
 - v. Compliance Officer
 - vi. HIPAA Committee
 - vii. Medical Records Director
 - viii. Operating Officer
 - ix. Other
2. Determine whether the Organization's contracts are centralized or de-centralized.
3. Review the policies and procedures for contract administration and review and revise as needed to incorporate Business Associate Contract requirements.
4. Determine storage, access, filing, maintenance policies, record retention policies, and other policies and procedures.
5. Identify and inventory all existing contracts (oral and written), as well as all relationships/arrangements that may involve Disclosure of PHI by the Organization.
 - i. Who are you doing business with? Review existing written agreements.
 - ii. Identify the parties to existing written agreements and determine which of them are Business Associates
 - iii. Interview key employees to ascertain if oral arrangements constituting Business Associate arrangements exist.
 - iv. Review vendor list from finance office (i.e. the accounts payable ledger) to identify written or oral agreements that might have been missed.
 - v. Review arrangements or agreements with the following: