



Tompkins County Compliance Program

Fact Sheet Series - Issue No. 6 (Revised 2019)

Think Compliance First!

Business Associate Agreements

Under the Privacy Rule of the Health Insurance Portability and Accountability Act (HIPAA: 45 CFR 160.10), the County is required to enter into a **Business Associate Agreement (BAA)** whenever the County grants an external entity or individual access to County records which contain protected health information (PHI), or individually identifiable information about health status, provision of health care, or payment for health care.

When is a Business Associate Agreement required?

To determine if a person or entity is a business associate that requires a BAA, consider the following questions:

1. Is Tompkins County allowing the person/entity access to County records that include PHI?
2. Does the person/entity create, maintain, transmit, or disclose PHI on behalf of Tompkins County?
3. Does the recipient of the PHI provide a service to, for, or on behalf of Tompkins County?

If you answered yes to any of the above questions, you may have a relationship that requires a Business Associate Agreement.

Who are Business Associates?

A Business Associate is an external entity or person (outside the County workforce) that creates, receives, maintains, or transmits PHI on behalf of Tompkins County, including those that provide legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services.

The following is a sample list of Business Associates that may require a BAA:

- Lawyers, external auditors, or accountants
- Professional translation
- Document storage and shredding companies
- Medical transcription services (even if you contract with an individual rather than a company)
- Medical equipment service companies handling equipment that contains PHI
- Accreditation agencies
- Answering services
- Data processing or software companies that may be exposed to or use PHI (e.g. EHR vendor)
- Health information organizations (e.g. RHIOS, HIEs, RECs)

The following are **NOT** considered Business Associates and do **NOT** require a BAA:

- Tompkins County Employees
- External health care providers that are referred for the treatment of an individual (e.g. specialist, diagnostic lab)
- Individuals or companies with very limited and incidental exposure to PHI (e.g. electrician, janitor)
- Companies that act as a conduit for PHI (e.g. postal service, internet service provider)

What is contained in a Business Associate Agreement?

In general, a BAA is a written contract between Tompkins County and a business associate which provides assurances that the business associate will:

- Use provided information only for the purposes for which the business associate is hired by the County;
- Safeguard that information from misuse and report any breaches;
- Help the County comply with its duties under the Privacy Rule;
- Ensure that any subcontractors will also agree to the same restrictions and conditions;
- Return or destroy all PHI received from or on behalf of the County at the end of the contract period, if feasible.

What is our procedure?

If you believe you need a BAA, please contact the **Information Security Compliance Officer** (ITS Department) or the **Contracts Coordinator** (County Administration) for assistance. They can help determine if the person or entity is a business associate requiring a BAA and the specific provisions to be included in the agreement.

For more information on the Tompkins County Compliance Program, visit: <http://www.tompkinscountyny.gov/tccp>