SoRI HIPAA Business Associate Agreement Decision Tree

Will an entity ("Entity") provide services to or on behalf of a State agency in its capacity as a covered entity (health provider or health plan)?

[Note: This does not apply to an employee, volunteer, trainee, or other person whose conduct is under the direct control of the State agency (i.e., "workforce members").]

No → The Entity is NOT a business associate

↓ Yes

Will the Entity create, receive, maintain or transmit protected health information ("PHI") in the course of providing services to or on behalf of a State agency in its capacity as a covered entity (health provider or health plan)?

[Note: This does not apply to Entities who may periodically see or hear PHI, but whose job duties for the State agency do not involve the creation, receipt, maintenance, or transmission of PHI (e.g., a janitor, delivery person, or electrician who happens to be providing services in the building).]

No → The Entity is NOT a business associate

↓ Yes

Is the Entity a healthcare provider who is receiving the PHI for purposes of treating the individual?

Yes → The Entity is NOT a business associate

↓ No

Does the Entity perform a function or activity for a State agency in its capacity as a covered entity (health provider or health plan) involving PHI that is regulated by HIPAA (e.g., healthcare operations or payment functions), including claims processing or administration; data analysis, processing or administration; or utilization review, quality assurance, patient safety activities, billing, benefit management, practice management, or re-pricing services?

OR

Does the Entity provide legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services for a State agency in its capacity as a covered entity (health provider or health plan)?

OR

Is the Entity a health information organization, e-prescribing gateway, or other Entity that provides data transmission services with respect to PHI and the Entity requires access to the PHI on a routine basis (i.e., the Entity is not merely the conduit for the PHI)?

No → The Entity is NOT a business associate

↓ Yes

The Entity IS a business associate. You must execute a valid business associate agreement with the Entity before disclosing PHI to the entity.

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