

VENDOR AND CLEARINGHOUSE REQUIREMENTS FOR HIPAA COMPLIANCE

HIPAA SUMMIT AUDIO CONFERENCE

PRESENTED BY:

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BOUNDARY INFORMATION GROUP

JULY 24, 2002



BOUNDARY INFORMATION GROUP

- ◆ Virtual Consortium of Health Care Information Systems Consulting Firms
- ◆ Founded 1995
- ◆ Internet-Based
- ◆ Websites
 - ◆ Company: www.boundary.net
 - ◆ HIPAA Resources: www.HIPAAInfo.net
- ◆ Senior Consultants with Commitment to HIPAA
 - ◆ WEDI member
 - ◆ Industry leadership experience since 1992
- ◆ BIG Consultants have completed more than 50 HIPAA engagements

WORKGROUP FOR ELECTRONIC DATA INTERCHANGE (WEDI)



- ◆ Founded 1992
- ◆ Nonprofit Association with 213 Organization Members
 - ◆ Consumers, Government, Mixed Payer/Providers, Payers, Providers, Standards Organizations, Vendors
- ◆ Goal: To Foster Widespread Support for the Adoption of Electronic Commerce Within Health Care
- ◆ Significant Activities
 - ◆ Named in 1996 HIPAA Legislation as an Advisor to the Secretary of DHHS
 - ◆ Initiated SNIP for HIPAA Implementation (5,000 participants)
- ◆ Websites: WEDI – www.wedi.org WEDI SNIP – snip.wedi.org
- ◆ Steven Lazarus, WEDI Chair (2001-2002)

WHO NEEDS TO HAVE A BUSINESS ASSOCIATE AGREEMENT?

◆ Covered Entities

- ◆ Clearinghouses
- ◆ Health plans (payers)
- ◆ Providers that utilize one or more Standard Transactions

◆ Vendors

- ◆ Are not Covered Entities
- ◆ Will be required by Covered Entities to have Business Associate agreements

OPERATIONAL REQUIREMENTS

1. Determine who is your Business Associate

- ◆ Develop a list of all contracts
- ◆ Develop a list of all Accounts Payable entities
- ◆ Find copies of all contracts, agreements and purchase orders
- ◆ Determine if there is a Business Associate relationship
- ◆ Examples of Criteria
 - What is the function(s) that the vendor does for you?
 - Does the vendor receive PHI from you?
 - Does the vendor create PHI for you?

OPERATIONAL REQUIREMENTS

2. Terms of the Business Associate Agreement

- ◆ See Federal Register March 27, 2002, pages 14809-14810 for model provisions (<http://www.hhs.gov/ocr/fedreg.zip>)
- ◆ Covered Entities should drive the terms

OPERATIONAL REQUIREMENTS

3. Some Interesting Considerations

- ◆ Managing the termination and/or other enforcement of the Business Associate if outside the United States
- ◆ What if the Covered Entity refuses to sign a Business Associate Agreement (e.g., landlord for a physician office who supplies the cleaning service after hours)
- ◆ In Texas most, maybe all, vendors and State Government agencies will be Covered Entities as of September 1, 2002
- ◆ Business Associate agreements are required when a Covered Entity performs a Business Associate function for a Covered Entity
- ◆ BIG recommends that the Business Associate agreement includes reimbursement by the Business Associate to the Covered Entity for all fines and legal fees incurred for Privacy and Security violations due to the solo fault of the Business Associate
- ◆ The Business Associate agreement could included the Chain of Trust agreement for Security

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