

ATTACHMENT A

CHECKLIST FOR HIPAA BUSINESS ASSOCIATE CONTRACTS

- 1.0 **General.** The following information must either be included or is optional (as indicated) for a HIPAA Business Associate contract. Additional information may be included at the discretion of LSUHSC-NO, but LSUHSC-NO may request such information to be deleted from a HIPAA Business Associate contract.
- 2.0 **Required provisions in a HIPAA Business Associate Contract.** A contract between LSUHSC-NO and a business associate must:
- 2.1 **(Must Include)** Establish the permitted and required uses and disclosures of Protected Health Information by the business associate. The contract may not authorize the business associate to use or further disclose the information in a manner that would violate the HIPAA Privacy Regulations, if done by LSUHSC-NO, except that:
- 2.1.1 **(Optional)** The contract may permit the business associate to use and disclose Protected Health Information for the proper management and administration of the business associate, as provided in paragraph (e)(4) of this section; and
- 2.1.2 **(Optional)** The contract may permit the business associate to provide data aggregation services relating to the health care operations of LSUHSC-NO.
- 2.2 **(Must Include)** Provide that the business associate will:
- 2.2.1 **(Must Include)** Not use or further disclose the information other than as permitted or required by the contract or as required by law;
- 2.2.2 **(Must Include)** Use appropriate safeguards to prevent use or disclosure of the information other than as provided for by its contract;
- 2.2.3 **(Must Include)** Report to LSUHSC-NO any use or disclosure of the information not provided for by its contract of which it becomes aware;
- 2.2.4 **(Must Include)** Ensure that any agents, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by the business associate on behalf of, LSUHSC-NO agrees to the same restrictions and conditions that apply to the business associate with respect to such information;
- 2.2.5 **(Must Include)** Make available Protected Health Information in accordance with the Patient's Right to Access to their PHI in 45 C.F. R. § 164.524;
- 2.2.6 **(Must Include)** Make available Protected Health Information for amendment and incorporate any amendments to Protected Health

- Information in accordance with the Patient’s Right to Request an Amendment to their PHI in 45 C.F.R. §164.526;
- 2.2.7 ___ **(Must Include)** Make available the information required to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528;
- 2.2.8 ___ **(Must Include)** Make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the business associate on behalf of, LSUHSC-NO available to the Secretary for purposes of determining LSUHSC-NO’s compliance with the HIPAA Privacy Regulations; and
- 2.2.9 ___ **(Must Include)** At termination of the contract, if feasible, return or destroy all Protected Health Information received from, or created or received by the business associate on behalf of, LSUHSC-NO that the business associate still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of the contract to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- 2.3 ___ **(Must Include)** Authorize termination of the contract by LSUHSC-NO, if LSUHSC-NO determines that the business associate has violated a material term of the contract.
- 2.4 ___ **(Optional)** The business associate contract between LSUHSC-NO and the business associate may permit the business associate to use the information received by the business associate in its capacity as a business associate to LSUHSC-NO, if necessary:
- 2.4.1 ___ **(Optional)** For the proper management and administration of the business associate; or
- 2.4.2 ___ **(Optional)** To carry out the legal responsibilities of the business associate.
- 2.5 ___ **(Must Include if 2.4 above is in the Contract)** The business associate contract may permit the business associate to disclose the Protected Health Information for LSUHSC-NO for the purposes described in 2.4 above, if:
- 2.5.1 ___ **(Must Include if 2.4 above is in the Contract)** The disclosure is required by law; or
- 2.5.2 ___ **(Must Include if 2.4 above is in the Contract)** The business associate obtains an agreement from the person to whom the information is disclosed that (1) the information will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person; and (2) the person notifies the business associate of any instances of which

it is aware in which the confidentiality of the information has been breached.

- 2.6 ___ **(Optional)** The contract may include the following provisions that require LSUHSC-NO to inform the business associate of certain situations:
- 2.6.1 ___ **(Optional)** LSUHSC-NO shall notify Business Associate of any limitation(s) in its notice of privacy practices, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- 2.6.2 ___ **(Optional)** LSUHSC-NO shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- 2.6.3 ___ **(Optional)** LSUHSC-NO shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that LSUHSC-NO has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

3.0 **Determination of a Business Associate**

- 3.1 ___ Does the associate perform a function/service on behalf of your organization? Do you benefit from those actions? If no, not a BA. If yes, go to next question.
- 3.2 ___ Does the associate act as a member of your workforce performing this function or service? If yes, not a BA. If no, go to next question.
- 3.3 ___ Does the associate create, receive or retain Protected Health Information on your behalf? If yes, then it is a BA. If no, go to next question.
- 3.4 ___ Does the associate perform a function/service involving the use or disclosure of PHI on or behalf of your organization? If yes, then it is a BA. If no, go to next question.
- 3.5 ___ Does the associate perform any other HIPAA regulated function on behalf of your organization? If yes, it is a BA. If no, go to next question.
- 3.6 ___ Does the associate perform a service for or on behalf of your organization that involves disclosure of PHI? If yes, it is a BA. If no, go to next question.
- 3.7 ___ Is the associate incidentally exposed to PHI, but does not need access to perform its work? If yes, not a BA.

HIPAA BUSINESS ASSOCIATE TRACKING CHART

Name of HIPAA Business Associate	Function/Activity Performed by Business Associate	Contract Renewal Date/ Date for Inserting Business Associate Language	Date Business Associate has been added/ Business Associate Contract Entered Into