HIPAA/HITECH

Business Associate Decision Tree

1. Is Protected Health Information (PHI) being disclosed to a person or entity other than in the capacity as a member of the covered entity's workforce?

   Yes
   
   No

2. Is the PHI being disclosed to a healthcare provider for treatment purposes (e.g., primary/referring physician, contract physicians or specialists, contract nursing staff, contract rehab staff, ambulance, home health, dentist, etc.)?

   Yes
   
   No

3. Is the PHI being disclosed to a health plan for payment purposes, or to a health plan sponsor with respect to disclosures by a group health plan?

   Yes
   
   No

4. Is the PHI being disclosed to a government agency pursuant to an official investigation (e.g., CMS, OCR, OSHA, FDA, Health Department, etc.)?

   Yes
   
   No

5. Is the PHI being disclosed to another covered entity that is part of an organized healthcare arrangement in which the originating covered entity participates?

   Yes
   
   No

6. Does the other person or entity create, receive, maintain or transmit PHI for a function or activity regulated by HIPAA, including: claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, patient safety activities, billing, benefits management, practice management, and repricing?

   Yes
   
   No

7. Does the other person or entity provide legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation or financial services where the provision of such services involves disclosure of PHI to the person or entity?

   Yes
   
   No

8. Will the other person or entity be able to access PHI on a routine basis, AND/OR is there a possibility that the PHI in the person or entity's custody or control could be compromised (e.g., data storage vendor, document shredding company, or other, etc.)?

   Yes
   
   No

Business Associate Agreement IS needed.

Entities specifically included under HITECH:
- Health Information Organizations
- E-prescribing Gateways
- Data transmission vendors with routine access to PHI
- Personal Health Record vendors that offer a PHR to individuals on behalf of a covered entity
- Subcontractors that create, receive, maintain, or transmit PHI for or on behalf of a business associate

March 22, 2016

WEDI Privacy & Security Workgroup, Business Associate Sub-Workgroup

ATTACHMENT B

HSC OP 52.13