

Director of HIPAA Compliance

MEMORANDUM

To: Vice Presidents, Deans, Directors, Department Chairs
From: Brian Murphy, Director; UB HIPAA Compliance
Date: July 28, 2009
RE: Identifying UB entities impacted by AARA changes to HIPAA

The "Health Information Technology for Economic and Clinical Health Act" (HITECH) within Title XIII of the American Reinvestment and Recovery Act of 2009 (ARRA) recently signed by President Obama implements changes that significantly impact HIPAA Covered Entities (CEs: health care providers, health plans, health care clearing houses) and Business Associates (BAs) of CEs.

In brief, the changes within HITECH require alterations of policies/practices/procedures for both CEs and BAs, and are particularly significant for BAs as they formally extend HIPAA penalty and corresponding enforcement activities (Federal, State) to BAs. Penalties can range from \$100 to \$1.5M to 10 years in Federal prison per violation and, with recent clarifications, are now applicable directly to individuals within CEs and BAs. In the case of BAs these new requirements and penalties will be implemented as a matter of law and consequently do not require a modification of existing agreements to take effect.

Because of the potential for substantial new liabilities brought about by this act for UB entities acting as BAs, the UB HIPAA Compliance Office is requesting your help in identifying any HIPAA BA Agreements (BAAs), also known as BA Contracts (BACs), of which it may not be aware.

If you have knowledge of any HIPAA BACs that are in place within your area, please notify my office ASAP via phone (829-3172x2) or Email (hipaa-compliance@buffalo.edu). Please be sure this request is appropriately circulated in order to assure that no BACs are missed.

An effort is already underway to address these changes for BAs known to the UB HIPAA Compliance Office, i.e., those identified on RF/UBF BACs for extraction of research data at ECMC. Similar efforts are already underway in the officially designated SUNY HIPAA CEs on campus. SUNY's formal designation of these entities, which is required by law, is maintained at http://www.hpitp.buffalo.edu/hipaa/Declarations_Positions.htm.

I would also like to take this opportunity to remind units that all HIPAA BACs must be coordinated through my office, and that signature authority for executing BACs has not been delegated to units on campus beyond Daniel Vivian, Assistant Vice President Procurement Services for SUNY BACs, Charlie Kaars, Assistant Vice President, Sponsored Projects Services for RF BACs, or Edward Schneider, Executive Director, U.B. Foundation for UBF BACs. No other entity on campus has been given the authority to negotiate or execute BACs.

Please contact the UB HIPAA Compliance Office if you have any questions regarding this memorandum or for general inquires about HIPAA at UB.

cc: Daniel Vivian, Assistant Vice President. Procurement Services
Charles Kaars, Assistant Vice President, Sponsored Projects Services
Edward Schneider, Executive Director, UB Foundation