



## ADMINISTRATIVE PRACTICES MANUAL

### Business Associate (BA) Policy

#### PURPOSE

To set forth procedures related to Business Associates (BAs) and Business Associate Agreements (BAAs).

#### PROCEDURE

A Business Associate Agreement (BAA) is needed when Dane County is working with a Business Associate (BA). A BA is a person or entity, other than a workforce member of the county, that creates, receives, maintains, or transmits PHI on behalf of, or provides services to, the covered component for non-treatment management functions, such as claims processing or administration, data analysis, utilization review, quality assurance, billing, legal activities, accounting, consulting, data aggregation management, administrative activities, accreditation activities, or financial services. Program contract managers will determine the entities their department or division contracts with for program related services that require BA contracts. A BA contract addendum will be attached to the standard contract provided for the purchase of services. PHI may be exchanged with BAs who have signed Business Associate Agreements (BAAs) and thus agree to be bound by HIPAA Privacy, Security and Breach Notification Rules.

When Dane County determines a BAA is needed, workforce members must use the Dane County approved BAA unless a different BAA is authorized by the Corporation Counsel. BAAs may be stand-alone or made as an addendum to a contract. The BAA must include the following:

1. Establish the permitted and required uses and disclosures of PHI by the BA; and
2. Provide that the BA will:
  - a. Comply with the requirements of HIPAA that apply to Dane County;
  - b. Not use or further disclose the information other than as permitted or required by the BAA or as required by law;
  - c. Use appropriate security safeguards as noted in HIPAA to prevent unauthorized use or disclosure of PHI;
  - d. Report to Dane County any unauthorized use or disclosure of which it becomes aware, including breaches of unsecured PHI as required by HIPAA;
  - e. In accordance with HIPAA, ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the BA agree to the same restrictions and conditions that apply to the BA with respect to such information;
  - f. Make available PHI in accordance with HIPAA;
  - g. Make available PHI for amendment and incorporate any amendments to PHI in accordance with HIPAA;
  - h. Make available the information required to provide an **Accounting of Disclosures** in accordance with HIPAA;
  - i. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by the BA on behalf of, Dane County available to the Secretary for purposes of determining Dane County's compliance with HIPAA; and

- j. At termination of the BAA, if feasible, return or destroy all PHI created or transmitted under the BA. If such return or destruction is not feasible, extend the protections of the BAA to the PHI and limit further uses and disclosures.
3. Authorize termination of the BAA by Dane County, if Dane County determines that the BA has violated a material term of the BAA.
4. All PHMDC BAAs will be logged utilizing the City's contract database. All Dane County BAAs will be logged utilizing the County's contract database, MUNIS.
5. DCDHS program managers will take steps to ensure that Point of Service ("POS") contractors are in compliance with applicable confidentiality, privacy, security and notice requirements, including but not limited to requirements set forth in HIPAA.

#### DOCUMENTATION

Dane County will maintain the documentation associated with this policy for a minimum of seven years.

#### ROLES & RESPONSIBILITIES

The HIPAA Privacy & Security Officer is responsible for the implementation, maintenance, and adherence to this policy.

#### RELATED DOCUMENTS

Definitions

Dane County Department of Human Services standard BAA

City of Madison's standard BAA

#### DOCUMENT VERSION HISTORY

Original: 10/2023