

Clinical Significance

Patients may need help in accessing their dental records from a former dental practice. They can be referred to the “Patient Records” oral health fact sheet under the Public Resources tab on the cda.org site. Similar information may be available from other state dental associations. Copies of the fact sheet can be made and submitted with a written request for records to the dental practice. Patients may also want to encourage the former dental practice to contact their own state association for further information.

that does not exceed \$6.50. If the dental practice chooses not to use the flat fee approach, \$6.50 is not the limit that can be charged.

The transmission of an electronic copy can be through unencrypted e-mail only if the patient consents to this method. He or she must be informed of the risks of unsecure communications; this informed consent should be documented by the practice.

If a patient requests a copy of a portion of his or her record to support an appeal regarding eligibility for a public benefit program, the copy must be provided by the dental office without charge. However, the patient can only have 1 copy free of charge; any additional copies would have to be paid for.

CDA Practice Support: Patient access to their information. *CDA J* 46; 459-460, 462, 2018

Reprints not available

HIPAA

Business associate agreements



BACKGROUND

HIPAA-covered entities must have an agreement with each business associate to ensure that patient information is safeguarded according to the demands of the laws governing the handling of this sensitive information. Definitions were given for business associates and business associate agreements (BAAs) to help clarify what is needed for a dental practice to be in compliance with regulations.

HIPAA BUSINESS ASSOCIATES

HIPAA business associates are entities, individuals, or organizations that create, receive, maintain, use, store, or transmit protected health information (PHI) on behalf of a covered entity, such as a dental practice, usually for nontreatment purposes. These associates are not part of the entity's workforce but can be entities such as claims clearinghouses, practice management software companies, cloud service providers, document shredding companies, or collection agencies. Among the individuals who can be business associates are an attorney, an accountant, or a practice management consultant or liability insurance carrier when PHI is used to provide a service to the dental practice. Subcontractors of business associates are considered business associates under HIPAA. The entities and individuals listed are not the only business associates but give an idea of the range of examples that can qualify.

Among those who would not be considered business associates are associate dentists working in a practice, specialists or other care providers who receive referrals from the dentist for

treatment, and dental laboratories. Interpreters, students, or on-site bookkeepers are examples of nonemployees who can be managed as part of the covered entity's workforce and are not business associates. Dental benefit or medical plans, banks and other financial institutions, services that just serve as conduits for PHI, and researchers using a limited data set are also not considered HIPAA business associates.

BAAS

When is a BAA required?

Several situations should be considered to determine if a BAA is required. If the service vendor creates, receives, maintains, uses, stores, or transmits PHI on behalf of the dental practice, that vendor becomes a business associate and requires a BAA. If a provider claims it's not a HIPAA business associate, the dental practice should determine if PHI is needed for the vendor to perform its job and, if it is, determine the pathway of the PHI, its destination, and if the vendor stores PHI. Vendors who must use PHI but cannot confirm its disposition before, during, and after its use should be avoided.

Voice over Internet Protocol (VoIP) and digital fax services with online patient portals must be carefully considered. The dental practice should understand where patient information moves when these are in use.

Larger vendors want their covered-entity customers to sign their BAA and will not sign a covered entity's BAA. A careful review of

the vendor's BAA, perhaps with an attorney, must be done to determine its scope and limitations. Again, vendors who must use PHI but refuse to sign a BAA should be avoided.

If the vendor uses subcontractors in providing services to the dental practice, a BAA should be in place between the vendor and its subcontractors that complies with all Security Rule requirements and many Privacy Rule requirements.

Defining a BAA

BAAs are designed to obtain satisfactory assurances that the business associate will safeguard PHI according to the standards of the Privacy and Security Rules of HIPAA. A covered entity can add clarifications and limit the permissible uses and disclosures of BAAs with business associates and can set up additional requirements.

The elements of a BAA must include the following:

- Establish permitted and required uses and disclosures of PHI by the business associate.
- Prevent the business associate from using or disclosing information other than as agreed to or according to legal requirements.
- Require the business associate to implement appropriate safeguards to prevent uses or disclosures that are unauthorized.
- Require reports from the business associate to the covered entity regarding uses or disclosures of information not covered in the agreement.
- Require disclosure of PHI as specified with respect to individuals' requests for copies of their PHI and make available PHI for amendments and accountings.
- Require the business associate to comply with the requirements applicable to the obligations of the covered entity under the Privacy Rule to the extent that it is possible.
- Require the business associate to make available to the US Department of Health and Human Services Office for Civil Rights (OCR) its internal practices, books, and records related to the use and disclosure of PHI received from or created or received by the business associate on behalf of

the covered entity for the purposes of OCR determining whether the covered entity is in compliance with the Privacy Rule.

- When the business relationship is terminated, the business associate is required to return or destroy all PHI received from or created or received by the business associate on behalf of the covered entity, if possible.
- Require that any subcontractors engaged by the business associate who will have access to PHI agree to the same restrictions and conditions the business associate observes.
- Authorize the termination of the agreement by the covered entity if the business associate violates a material term of the agreement.

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HIPAA regulations are designed to keep PHI safeguarded from breaches and exposure beyond the control of the health care entity with which the patient has an association. Within the HIPAA realm exist not just the covered entity but also business associates and their subcontractors, all of whom are responsible for taking care of sensitive health information. Each dental office must identify which entities, individuals, or others constitute business associates who should sign BAAs and which ones do not qualify as business associates and will not need to be covered by these agreements. All HIPAA-covered entities should maintain a log of their identified business associates, their contact information, and the dates these entities or individuals signed BAAs, when they will expire, and when they are to be renewed.

CDA Practice Support: HIPAA business associate agreements. CDA J 46:331-332, 334, 2018

Reprints not available

MILLENNIALS

Are millennials really a different breed of dentist?



BACKGROUND

When you say, "Millennials," it tends to conjure up pictures of narcissistic, lazy, selfie-loving entitled young people who don't hold to the values of generations past. Those are the tags applied to this generation, but are these views true? Do they have a root in fact? It's important to evaluate where the views come from and

what millennials actually want and are faced with in their careers as dentists.

SOURCES OF STEREOTYPES

Most of the stereotypes relating to millennials come from the internet. In many cases, the research actually does not cite