



Oklahoma State University

Title: Other Arrangements	Policy #: PRV-02.02
Category: HIPAA Compliance	Authority: 45 CFR § HIPAA SECTIONS: 164.504(e)(3)(i)
Standard: Uses and disclosures: Organizational Requirements	Responsibility: Health Care Components
Effective Date: 4/14/2003	Page 1 of 2
Approved By: OSU Legal Counsel	Revised: 7/1/2013

PURPOSE:

To establish what other types of documents and what conditions may satisfy the requirement of having a Business Associate Contract.

POLICY:

Since OSU is a State (governmental) agency, and if the business associate is a governmental agency, then: §164.504(e)(3)(i)

1. OSU may comply with §164.314(a)(1) *Business Associate Contracts*, if applicable, by entering into a memorandum of understanding with the business associate that contains terms that accomplish the objectives of policy PRV-02.01 Business Associate Contracts and §164.314(a)(2). §164.504(e)(3)(A)
2. OSU may comply with this implementation specification and §164.314(a)(1), if applicable, if other law (including regulations adopted by OSU or its business associate) contains terms that accomplish the objectives of Policy PRV-02.01 and §164.314(a)(2), if applicable. §164.504(e)(3)(B)
 - a. If a business associate is required by law to perform a function or activity on behalf of OSU or to provide a service described in the definition of business associate in §160.103 of the HIPAA Administrative Simplification law to a covered entity, such covered entity may disclose protected health information to the business associate to the extent necessary to comply with the legal mandate without meeting the requirements of this paragraph and § 164.314(a)(1), if applicable, provided that the covered entity attempts in good faith to obtain satisfactory assurances as required by Policy PRV-02.01 and § 164.314(a)(1), if applicable, and, if such attempt fails, documents the attempt and the reasons that such assurances cannot be obtained. §164.504(e)(3)(B)(ii)
 - b. OSU may omit from its other arrangements the termination authorization as required in policy PRV-02.01 *Business Associate Contracts*, if such authorization is inconsistent with the statutory obligations of OSU or its business associate. §164.504(e)(3)(B)(iii)
 - c. OSU may comply with this language in the policy and §164.314(a)(1) if OSU discloses only a limited data set to a business associate for the business associate to carry out a health care operations function and OSU has a data use agreement with the business associate that complies with §164.514(e)(4) *Data Use Agreement* and §164.314(a)(1), if applicable. §164.504(e)(3)(B)(iv)



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PROCEDURE:

OSU, if unable to, or if the situation requires other arrangements than a business associate agreement, will either use the limited data set as long as the data use agreement is in place and meets all required specifications as described in the above policy, or will have language in memorandum of understanding (MOU) or other legal document that meets the specifications required.

REFERENCE:

§160.103 Definition of Business Associate