

Policy Title: Business Associate Agreement			
Department Responsible: Network Administration	Policy Number: SEC-111	THN's Effective Date: January 1, 2022	Next Review/Revision Date: September 30, 2024
Title of Person Responsible: Director of Network Administration	THN Approval Council: THN Compliance and Privacy Committee	Date Committee Approved: June 9, 2023	Date Approved by THN Board of Managers: August 15, 2023

- I. **Purpose.** The purpose of SEC-111 is to provide instruction to all Triad HealthCare Network (THN) workforce members regarding the necessity of and the requirements for business associate agreements relating to Business Associates who receive, use, or disclose PHI on behalf of THN.

- II. **Policy and Procedure.**
 - A. Generally: THN may disclose PHI to a Business Associate, or, as a Covered Entity, create or receive PHI on a Business Associate's behalf, if adequate assurances that the Business Associate will appropriately safeguard the PHI are obtained by THN. THN must document these assurances through a written agreement. This requirement **does not** apply with respect to:
 1. Disclosures made to a provider concerning the patient's treatment (such as retail pharmacies).
 2. Uses or disclosures made to a governmental agency for purposes of public benefit eligibility or enrollment determination where such agency is authorized by law to make these determinations.
 - B. Content Requirements: The agreement between THN and a Business Associate must meet the following requirements, as applicable:
 1. Establish permitted and required uses or disclosures of PHI that are consistent with those authorized for the entity, except that the agreement may permit THN to use or disclose PHI for its own management and administration if such use or disclosure is required by law or THN obtains reasonable assurance from the entity to which the PHI is disclosed that the confidentiality of the PHI will be maintained.
 2. Provide that THN will:
 - a. Not use or disclose the PHI except as authorized under the agreement or required by law.
 - b. Use safeguards to prevent unauthorized use or disclosure.



- c. Report unauthorized uses or disclosures to proper parties.
 - d. Pass on the same obligation relating to protection of PHI to any subcontractors or agents.
 - e. Make PHI available for access by the patient or his/her personal representative, in accordance with relevant law and policy.
 - f. Make PHI available for amendment and incorporate any approved uses and disclosures in accordance with relevant law and policy.
 - g. Make its internal practices, books, and records relating to its receipt or creation of PHI available to the Secretary of HHS to determine compliance with HIPAA regulations.
 - h. If feasible, return or destroy all PHI upon termination of contract; if any PHI is retained, continue to extend the full protections specified herein if the PHI is maintained.
 - i. Authorize termination of the agreement by the entity upon a material breach by the Business Associate.
- C. If THN knows of a pattern or practice of the Business Associate that amounts to a material violation of the agreement, THN must attempt to cure the breach to end the violation, and if unsuccessful, terminate the agreement. If terminating the agreement is not feasible, THN must report the problem to the Secretary of HHS.

Date	Reviewed	Revised	Notes
January 1, 2022			Originally Published for DCE
May 2023	X		Reviewed for REACH – no changes