

**MCS HEALTHCARE HOLDINGS, LLC**

MCS Policy No: MCS-Policy-056	Page <b>1</b> of <b>3</b>
Related Department: Compliance	Effective Date: 01/01/2003
Unit: Privacy	Most Recent Revision Date: 4/25/2018
Policy Title: Business Associate Agreement Policy	Applies to: <input checked="" type="checkbox"/> MCS Advantage, Inc. <input checked="" type="checkbox"/> MCS Life Insurance Company <input checked="" type="checkbox"/> MCS General Insurance Company
Approved by: Corporate Compliance Committee	

**POLICY**

1. MCS shall comply with 45 CFR 164.504 by ensuring that it has entered into written contract (Business Associate Agreement (BAA)) with any person or entity that receives, creates, accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses or discloses protected health information (PHI) on behalf of MCS. Such agreement shall guarantee that the business associate (BA) will safeguard and protect the integrity, availability and confidentiality of PHI.
2. A BA may permit a business associate that is a subcontractor to create, receive, maintain, or transmit PHI on its behalf only if the BA obtains satisfactory assurances that the subcontractor will appropriately safeguard the information and comply with 45 CFR 164.314(a).
3. BA functions and activities include claims processing or administration; data analysis, processing or administration; utilization review; quality assurance; billing; benefit management; practice management; and repricing. Business associate services are: legal; actuarial; accounting; consulting; data aggregation; management; administrative; accreditation; and financial.

**DEFINITIONS**

ACTright – mechanism implemented by MCS to receive, record, respond and track compliance, FWA and/or security and privacy issues. It is a web based application customized for MCS and designed to gather data from the Hotline, Web Reporting and MCS internal reporting by its users. It is a confidential line and allows anonymity if desired.

Breach – the unauthorized acquisition, access, use, or disclosure of protected health information (PHI) which compromises the security or privacy of such information.

Business Associate (BA) – A person or entity, other than an MCS employee, that performs certain functions or activities that involve the use or disclosure of PHI on behalf of, or provides services to, MCS. BA functions and activities include: claims processing or administration; data analysis, processing or administration; utilization review; quality assurance; billing; benefit management; practice management; repricing; and data aggregation

Business Associate Agreement (BAA) – A contract or other written arrangement between MCS and another person or entity for services to which the HIPAA Privacy Rule applies.

Compliance 360° - is a web access application that allows consistency in the drafting, review, approval and indexing of policies and procedures, among other benefits.

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## MCS HEALTHCARE HOLDINGS, LLC

Confidentiality – characteristic of information that should only be accessible to persons authorized to access such information.

Consultant – a consultant or independent consultant that enters into an agreement with MCS to perform specific services.

Covered Entity (CE) – A health plan, a health care clearinghouse, or a health care provider who transmits health information in electronic form in connection with a transaction for which the Secretary of HHS has adopted standards under HIPAA.

Department of Health and Human Services (HHS) – is the cabinet-level department of the United States federal government tasked with the goal of protecting the health of all Americans and providing essential human services.

Disclosure – refers to the release, transfer, access to, or divulging of information in any other manner outside the entity holding the information.

Employee - Individual working on full-time or part-time basis for an MCS entity.

Office of Civil Rights (OCR) – refers to the organization within the U.S. Department of Health and Human Services (HHS) responsible for enforcing the HIPAA Privacy and Security Rules. OCR investigates civil rights, health information privacy, and patient safety confidentiality complaints to identify discrimination or violation of the law and take action to correct problems.

Owner – MCS employee who has the primary responsibility for a contract, process, program, or project.

Protected Health Information (PHI or ePHI) – means individually identifiable health information that relates to the past, present, or future health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual. Individually identifying information includes, but is not limited to, any of the following:

1. Name
2. Address
3. Date of Birth
4. Social Security Number
5. Telephone
6. Email address
7. License number
8. Occupation
9. Medical records number
10. Account numbers
11. ID numbers
12. Diagnosis
13. Treatment
14. Any other unique identifying characteristics or codes
15. Diagnosis code/text
16. Others.

Policy - a concise statement regarding the company's position in response to regulatory or contractual mandates or other guides from federal or commonwealth agencies.

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Procedure - critical steps for carrying out operations to achieve the policy intent. Each sentence starts with a verb. For example, "Review the file for accuracy and completeness." Each step must describe only one action, should be succinct and to the point. Each step is numbered.

User - person with privilege to use a system or any resource of information system infrastructure no matter what his/her status is (employee or contractor).

Workforce – means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity or business associate, is under the direct control of such covered entity or business associate, whether or not they are paid by the covered entity or business associate.

**REFERENCES**

Federal

- 45 CFR 164.308(b)
- 45 CFR 164.314(a)
- 45 CFR 164.504

State

- Public Law No. 194 of August 29, 2011, as amended; – Puerto Rico Health Insurance Code – Article 14.

**RELATED MCS POLICIES & PROCEDURE(S):**

- CA-SP-009: "Business Associate Agreement Procedure"
- CA-COMP-053: "Document Retention and Access to Records by Federal and Commonwealth Regulatory Authorities"
- CA-COMP-085: "Disciplinary Actions for Non-Compliance of HIPAA Regulations"

**POLICY REVISIONS:**

<b>DATE</b>	<b>CHANGE(S)</b>	<b>REASONS</b>
6/13/2016	Segregation between Policy and Procedure	Annual Review
8/9/2017	Change of departments	Annual Review
4/25/2018	Minor changes	Annual Revision

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