

UTMB PURCHASING  
POLICY 3.20 CONTRACT ADMINISTRATION PROCESS  
BAA DECISION TREE  
**EXHIBIT-E**

**UTMB Contract #** \_\_\_\_\_

**Supplier Name:** \_\_\_\_\_

**Date:**

**IS A BUSINESS ASSOCIATE AGREEMENT NECESSARY?**

When UTMB shares “Protected Health Information” with a vendor, that vendor MAY be an UTMB “Business Associate”, and HIPAA requires that Business Associates execute a Business Associate Agreement (BAA). The following analysis should be used to determine whether a vendor must execute a BAA.

**DEFINITIONS**

- **Protected Health Information (PHI)** - a patient's health information that identifies the person or can be used to identify that person
- **Business Associate** - a person or entity to which UTMB discloses PHI so that the person or entity can carry out, assist with the performance of, or perform a function or activity for UTMB

**Three steps in determining whether a vendor must execute a BAA:**

**1.Step #1** - Will UTMB **be disclosing PHI** to this person or entity?

- a. **Yes - BAA - proceed to step 2 and 3 below**
- b. No - PHI will not be shared, the vendor is not a Business Associate, and no BAA is needed.
- Dept confirmation attached      Purchasing Specialist Initials \_\_\_\_\_  
Date
- d. End.

**2.Step #2** - Determine whether the recipient of PHI **provides a service** to, for, or on behalf of UTMB, and whether that recipient falls into the category of vendors that **ALWAYS** must execute a BAA.

Certain categories of vendors who provide services to UTMB and who receive PHI are **ALWAYS** considered to be Business Associates, and UTMB **ALWAYS** needs to have a BAA in place with these vendors. Always execute a BAA if the provider of one of the following services will receive PHI:

- legal services,
- actuarial services,
- accounting services,
- consulting services,
- management services,
- administrative services,
- auditing services,
- accreditation services,
- data aggregation services, or
- financial services (except for the financial institutions mentioned in Step #3 below). Go to Step 3

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**Examples** of Business Associates other than those listed in the “ALWAYS” category.

- professional translator services
- shredding companies
- warehouse companies
- data processing firms
- software companies
- medical transcription services.

None of these vendors fall into the HIPAA exceptions above; therefore, if they receive PHI, they must execute a BAA.

Dept confirmation attached          Purchasing Specialist Initials \_\_\_\_\_  
Date

End.

**3.Step #3** - If the recipient of PHI does not fall within the “ALWAYS” category in Step #2 above, determine whether the recipient falls into one of the **HIPAA “EXCEPTIONS”** below.

- UTMB workforce
- Health care workers providing treatment
- Health care laboratory
- Health plan to which PHI is being disclosed for payment purposes only
- Health oversight agency
- Financial institution that is only performing consumer financial transactions,
- clearing checks, processing electronic funds transfers
- Companies acting as conduits of PHI for transportation purposes, like a courier service or moving company

If the recipient of PHI falls into one of the exceptions above, then a BAA is NOT necessary and should be acknowledged here:

Dept confirmation attached          Purchasing Specialist Initials \_\_\_\_\_  
Date

End.

If the recipient does NOT fall into one of these exception categories, then a BAA IS necessary.

Dept confirmation attached          Purchasing Specialist Initials \_\_\_\_\_  
Date

End.