



Business Associates and HIPAA

Be sure to protect yourself with BAAs.

BY MICHAEL L. BRODY, DPM

A recent look at the HIPAA News Releases and Bulletins at the HHS website reveals the following item: **Florida contractor physicians' group shares protected health information with unknown vendor without a Business Associate Agreement (BAA).** (<https://>

ciate agreement with the individual providing medical billing services to ACH, as required by HIPAA.

- *Advanced Care Hospitalists failed to adopt any policy requiring Business Associate Agreements until April 2014.*
- *Although Advanced Care Hospitalists had been in operation since*

Here we have a case where the breach DID NOT OCCUR at the practice but happened at a billing service (the practice's business associate). Yet, the practice paid the \$500,000 fine and the practice is required to undertake a robust corrective action plan. Even if you think you are doing everything in a manner that a breach cannot occur in your practice, you are still at risk should there be a breach via a business associate.

Almost every podiatry practice has business associates including (but not limited to):

- EHR Vendors
- Digital Imaging Vendors
- Practice Management Vendors
- Orthotic Labs
- Billing Services
- Transcription Services

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www.hhs.gov/hipaa/for-professionals/compliance-enforcement/agreements/ach/index.html)

In this event, Advanced Care Hospitalists, a physician group, agreed to pay half a million dollars to the Office for Civil Rights for sharing information with a billing service and not having a Business Associate Agreement in place.

Back in 2011, Advanced Care Hospitalists engaged with Doctors First Choice Billings. In 2014, patient information was visible to the public on the Doctors First Choice website. This breach appears to have affected over 8,000 individual patients.

The Office for Civil Rights investigation revealed the following important facts:

- *Advanced Care Hospitalists never entered into a business asso-*

ciate agreement with the individual providing medical billing services to ACH, as required by HIPAA. 2005, it had not conducted a risk analysis or implemented security measures or any other written HIPAA policies or procedures before 2014.

"This case is especially troubling because the practice allowed the names and social security numbers of thousands of its patients to be exposed on the Internet after it failed to follow basic security requirements under HIPAA," said OCR Director Roger Severino.

In addition to the monetary settlement, ACH will undertake a robust corrective action plan that includes the adoption of business associate agreements, a complete enterprise-wide risk analysis, and comprehensive policies and procedures to comply with the HIPAA Rules.



Dr. Michael Brody has presented webinars for the e-Health initiative, (www.ehealthinitiative.org/) and is active in the EMR workgroup of the New York E Health Collaborative (www.nyehhealth.org/). He has provided consulting services to physicians for the implementation of EHR software and to EHR vendors to assist in making their products more compatible with CCHIT and HIPAA guidelines. Dr. Brody is a member of AAPP.