Accreditation Council on
Optometric Education

American Optometric Association
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April 7, 2003

Andrew Fleshman (144)
Department of Veterans Affairs
Veterans Health Administration
Office of Academic Affiliations
810 Vermont Ave., NW
Washington, DC 20420

Dear Mr. Fleshman:

As requested by Dr. Robert Roswell in his March 27, 2003 letter, I am enclosing the signed Business Associate Agreement between the Department of Veterans Affairs (VA), Veterans Health Administration (VHA), and the Accreditation Council on Optometric Education (ACOE).

If additional information is needed, you may contact me at the St. Louis office address above or at jlurbeck@aoa.org.

Sincerely,

Joyce Urbeck

Joyce L. Urbeck,
ACOE Administrative Director

cc: Dr. John Townsend

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Visit our World Wide Website at http://www.aoa.org

DEPARTMENT OF VETERANS AFFAIRS
UNDER SECRETARY FOR HEALTH
WASHINGTON DC 20420

MAR 2 7 2003

Ms. Joyce Urbeck
Administrative Director
Accreditation Council on Optometric Education (ACOE)
243 North Lindbergh Boulevard
St. Louis, MO 63141-7881

Dear Ms. Urbeck:

Enclosed is a Business Associate Agreement between the Department of Veterans Affairs (VA), Veterans Health Administration (VHA), and the Accreditation Council on Optometric Education (ACOE).

The Privacy Rule promulgated by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act (HIPAA) requires all covered health care providers to enter into a "business associate" agreement with an educational accrediting agency before the covered health care provider may provide the accrediting agency with access to the provider's "Protected Health Information" (PHI) during accreditation activities. 45 CFR 160.103, 164.502(e), 164.504(e)

Under the Privacy Rule, VHA must have these business associate agreements in place before April 14, 2003, unless VHA entered into a written contract or agreement with the accrediting agency before October 15, 2002, whether or not that agreement or contract met the business associate agreement requirements. If VHA entered into such an agreement, VHA has until the renewal date of the agreement or April 14, 2004, whichever is earlier, to sign a business associate agreement with the accrediting agency. 45 CFR 164.532(d), (e)

As required by HIPAA, VHA is establishing agreements with each of its accreditation organizations, certifying entities and all other similar entities that provide a service to VHA (the Covered Entity) and which requires the sharing of PHI.

It is VHA's desire to enter into a single business associate contract for ACOE accreditation activities relating to all programs as to which VHA is either a sponsor or a clinical site, and the enclosed business associate contract has been prepared for that purpose. In other words, the single agreement will be between VHA Central Office and your accreditation organization, rather than a separate agreement between each VA facility and your accreditation organization. The Office of Civil Rights, Department of Health and Human Services has approved the concept of VHA entering into one business associate agreement with each accrediting body, because, although VHA facilities at various locations are sponsors and/or clinical sites of ACOE training programs, VHA is one unitary, covered entity.

Ms. Urbeck

VHA believes that establishing the contract between ACOE at the corporate level and VHA Central Office is an efficient, effective vehicle through which compliance can be achieved throughout VA as well as within your organization.

For your convenience the template business associate agreement has been placed on VHA's Office of Academic Affiliation website (http://www.va.gov/OAA/default.asp). If it is necessary to secure another copy of the business associate agreement enclosed with this correspondence, the document is available as an Abode Acrobat PDF®. We have also posted it as a Microsoft Word ® document which you can download and modify for your use with other organizations with whom you are required to establish business associate agreements.

I have signed the agreement and am now requesting your acceptance and signing of the contract. Should you need to discuss this further, please contact Andrew Fleshman at andy.fleshman@hq.med.va.gov, 202-273-8369.

Once finalized, please send the completed document to:

Andrew Fleshman (144)
Department of Veterans Affairs
Veterans Health Administration
Office of Academic Affiliations
810 Vermont Avenue, NW
Washington, DC 20420

In addition, please provide a contact for your organization should we need to discuss the agreement further or need to make adjustments at a later date.

In order to establish a single agreement that encompasses all existing as well new accreditation arrangements (those entered into after October 15, 2002), I am asking that you return this agreement to VHA by April 10, 2003. Thank you for your prompt attention to this important matter.

Sincerely yours,

Robert H. Roswell, M.D.

Enclosure

BUSINESS ASSOCIATE AGREEMENT
BETWEEN VETERANS HEALTH ADMINISTRATION AND
ACCREDITATION COUNCIL ON OPTOMETRIC EDUCATION

This Agreement governs the provision of Protected Health Information (PHI) (as defined in 45 C.F. R. §164.501) by Veterans Health Administration (Covered Entity or VHA) to Accreditation Council on Optometric Education (ACOE) (Accrediting Entity or ACOE) for its use and disclosure in accrediting all Optometry education programs conducted in whole or in part in VHA facilities.

Whereas, Accrediting Entity provides certain accreditation-related services to the Covered Entity and, in connection with the provision of those services, the Covered Entity discloses to Accrediting Entity PHI that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 (HIPAA);

Whereas, VHA is a "Covered Entity" as that term is defined in the HIPAA implementing regulations, 45 C.F.R. Part 160 and Part 164, Subparts A and E, the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule");

Whereas, the accrediting entity, as a recipient of PHI from Covered Entity, is a "Business Associate" of the Covered Entity as the term "Business Associate" is defined in the Privacy Rule;

Whereas, pursuant to the Privacy Rule, all Business Associates of Covered Entities must agree in writing to certain mandatory provisions regarding the use and disclosure of PHI; and

Whereas, the purpose of this Agreement is to comply with the requirements of the Privacy Rule, including, but not limited to, the Business Associate contract requirements at 45 C.F.R. §§164.502(e), 164.504(e), and as may be amended.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. Definitions. Unless otherwise provided in this Agreement, capitalized terms have the same meanings as set forth in the Privacy Rule.

2. Scope of Use and Disclosure by Accrediting Entity of Protected Health Information

   A. Accrediting Entity shall be permitted to make Use and Disclosure of PHI that is disclosed to it by Covered Entity as necessary to perform its obligations under Accrediting Entity's established policies, procedures and requirements.

B. Unless otherwise limited herein, in addition to any other Uses and/or Disclosures permitted or authorized by this Agreement or required by law, Accrediting Entity may:

(1) use the PHI in its possession for its proper management and administration and to fulfill any legal responsibilities of Accrediting Entity;

(2) disclose the PHI in its possession to a third party for the purpose of Accrediting Entity's proper management and administration or to fulfill any legal responsibilities of Accrediting Entity; provided, however, that the disclosures are Required By Law or Accrediting Entity has received from the third party written assurances that (a) the information will be held confidentially and used or further disclosed only as Required By Law or for the purposes for which it was disclosed to the third party; and (b) the third party will notify the Accrediting Entity of any instances of which it becomes aware in which the confidentiality of the information has been breached;

(3) engage in Data Aggregation activities, consistent with the Privacy Rule; and

(4) de-identify any and all PHI created or received by Accrediting Entity under this Agreement; provided, that the de-identification conforms to the requirements of the Privacy Rule.

3. Obligations of Accrediting Entity. In connection with its Use and Disclosure of PHI, Accrediting Entity agrees that it will:

A. Use or further disclose PHI only as permitted or required by this Agreement or as required by law;

B. Use reasonable and appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;

C. To the extent practicable, mitigate any harmful effect that is known to Accrediting Entity of a use or disclosure of PHI by Accrediting Entity in violation of this Agreement;

D. Promptly report to Covered Entity any Use or Disclosure of PHI not provided for by this Agreement of which Accrediting Entity becomes aware;

E. Require contractors or agents to whom Accrediting Entity provides PHI to agree to the same restrictions and conditions that apply to Accrediting Entity pursuant to this Agreement;

F. Make available to the Secretary of Health and Human Services Accrediting Entity's internal practices, books and records relating to the Use or Disclosure of PHI for purposes of determining Covered Entity's compliance with the Privacy Rule, subject to any applicable legal privileges;

G. Within (15) days of receiving a request from Covered Entity, make available the information necessary for Covered Entity to make an accounting of Disclosures of PHI about an individual in a Designated Record Set;

H. Within ten (10) days of receiving a written request from Covered Entity, make available PHI in a Designated Record Set necessary for Covered Entity to respond to individuals' requests for access to PHI about them that is not in the possession of Covered Entity;

I. Within fifteen (15) days of receiving a written request from Covered Entity incorporate any amendments or corrections to the PHI in a Designated Record Set in accordance with the Privacy Rule;

J. Not make any Disclosures of PHI that Covered Entity would be prohibited from making.

4. Obligations of Covered Entity. Covered Entity agrees that it:

A. Has included, and will include, in Covered Entity's Notice of Privacy Practices required by the Privacy Rule that Covered Entity may disclose PHI for health care operations purposes;

B. Has obtained, and will obtain, from Individuals any consents, authorizations and other permissions necessary or required by laws applicable to Covered Entity for Accrediting Entity and Covered Entity to fulfill their obligations under this Agreement;

C. Will promptly notify Accrediting Entity in writing of any restrictions on the Use and Disclosure of PHI about Individuals that Covered Entity has agreed to that may affect Accrediting Entity's ability to perform its obligations under this Agreement;

D. Will promptly notify Accrediting Entity in writing of any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes or revocation may affect Accrediting Entity's ability to perform its obligations under this Agreement.

5. Termination.

A. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Accrediting Entity, Covered Entity shall either:

(1) provide an opportunity for Accrediting Entity to cure the breach or end the violation and terminate this Agreement if Accrediting Entity does not cure the breach or end the violation within the time specified by Covered Entity;

(2) immediately terminate this Agreement if Accrediting Entity has breached a material term of this Agreement and cure is not possible; or

(3) if neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary.

B. Automatic Termination. This Agreement will automatically terminate upon the cessation of VHA's conducting accredited activities in all VHA facilities.

C. Effect of Termination.

(1) Termination of this Agreement will result in cessation of Accrediting Entity conducting accredited activities in all VHA facilities.

(2) Upon termination of this Agreement, Accrediting Entity will return or destroy all PHI received from Covered Entity or created or received by Accrediting Entity on behalf of Covered Entity that Accrediting Entity still maintains and retain no copies of such PHI; provided that if such return or destruction is not feasible, Accrediting Entity will extend the protections of this Agreement to the PHI and limit further Use and Disclosure to those purposes that make the return or destruction of the information infeasible.

6. Amendment. Accrediting Entity and Covered Entity agree to take such action as is necessary to amend this Agreement for Covered Entity to comply with the requirements of the Privacy Rule or other applicable law.

7. Survival. The obligations of Accrediting Entity under section 5.C. (2) of this Agreement shall survive any termination of this Agreement.

8. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

9. Other Applicable Law. This Agreement does not, and is not intended to, abrogate any responsibilities of the parties under any other applicable law.

10. Effective Date. This Agreement shall be effective on April 10, 2003.

VHA	ACOE
By: Robert H. Roswell	By: Joyce L. Urbeck
Name: Robert H Roswell, M.D.	Name: JOYCE L. URBECK
Title: Under Secretary for Health	Title: ACOE Administrative Director
Date: MAR 2 7 2003	Date: April 7, 2003