

## MEMORANDUM

**To: DIOs and Program Directors**  
**From: Doug Carlson, ACGME Counsel**  
**March 3, 2005**

**Re: ACGME Amended BAA 2005 and HIPAA Security Rule – Changes to ACGME BAA 2003**

The ACGME Amended BAA 2005 includes the following changes:

1. The recitals and Section 1 have been revised to indicate that the amended BAA is intended to comply with the Security Rule in addition to the HIPAA Privacy Rule.
2. In paragraph 1 of the recitals, “45 C.F.R. §164.501” has been changed to “45 C.F.R. §160.103” to reflect a change in placement of the definition of PHI in the regulations.
3. In paragraph 4 of the recitals, “the accrediting entity” has been changed to “Accrediting Entity,” which has been capitalized because it is a defined term.
4. In paragraph 5 of the recitals, “and Electronic PHI” has been added.
5. In paragraph 6 of the recitals, “164.308(b)(1)” and “164.314(a)” have been added.
6. The word “fifteen” has been added in Section 3(G) to make it consistent with the stylistic convention for numbers used in Sections 3(H) and 3(I).
7. Section 3(K), which requires ACGME to implement administrative, physical and technical safeguards to protect Electronic PHI, has been added to comply with 45 C.F.R. § 164.314(a)(2)(A) of the Security Rule, which specifically require BAAs to contain such provisions. The portion of Section 3(K) that requires ACGME to make compliance documentation available to the Department of Health and Human Services has been added to reflect the Privacy Rule requirement contained in Section 3(F) of the 2003 BAA that ACGME make HIPAA compliance documentation available to the Department of Health and Human Services.
8. Section 3(L), which requires ACGME to ensure that its subcontractors implement appropriate safeguards to protect Electronic PHI, has been added to comply with 45 C.F.R. § 164.314(a)(2)(B) of the Security Rule, which specifically require BAAs to contain such provisions.
9. Section 3(M), which requires ACGME to report security incidents of which it becomes aware, has been added to comply with 45 C.F.R. § 164.314(a)(2)(C) of the Security Rule, which specifically requires BAAs to contain such provisions. The requirement in Section 3(M) that such reports be made promptly has been included to conform with the reporting requirement contained in Section 3(D) of the 2003 BAA.

10. At the end of Section 4(C), the word “and” has been added.
11. Section 4(D) has been revised to correct a typographical error in the 2003 BAA.
12. In Section 5(C)(1), “conducting accredited activities” has been changed to “conducting ACGME accredited activities” for clarification.
13. Section 10 has been revised to reflect the 2005 Security Rule’s compliance date.