DECISION TREE: When is a Business Associate Agreement Required?

- Is PHI being disclosed to Health Care Provider for Treatment only? NO → YES
- EXAMPLES - Primary Physician - Contract Nursing Staff - Contract Radiology - Ambulance - Audiologist - Home Health

- Is PHI being disclosed to Insurance Plan for Payment? NO → YES
- EXAMPLES - Medicaid - Medicare - Private Insurance

- Is PHI being disclosed for Official Investigation? NO → YES
- EXAMPLES - Health Dept - FDA - CMS - OSHA

- Is PHI being disclosed or used on behalf of the facility? NO → YES
- Is PHI being used for purposes of Research? NO → NO → Contact Privacy Officer

- Is PHI being accessed or used by a member of our workforce? NO → NO → BA Agreement NOT Required

- YES → YES → BA Agreement IS Required

- EXAMPLES (Requiring BAA)
  - External Call Center
  - Third Party Billing
  - External Attorney
  - IT Vendor

- Is an outside researcher or entity used to contact prospective subjects? NO → BA Agreement NOT Required

Updated: 11/3/2005