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**Owner:** *David Behinfar: HCS Exec Dir Privacy*  
**Policy Area:** *HIPAA - Privacy*  
**Policy Tag Groups:**  
**Applicability:** *UNC Health Care System (all owned and managed entities)*

## Business Associates

### APPLICABILITY:

This policy applies to the following entities (collectively referred to as "UNC Health" in this policy):

✓ UNC Health Care System/UNC Medical Center*	✓ Johnston Health
✓ UNC Physicians Network	✓ Lenoir Memorial Hospital
✓ UNC Physicians Network Group Practices/UNC Physicians Group Practices II	✓ Margaret R. Pardee Memorial Hospital
✓ Rex Healthcare / Rex Hospital	✓ Nash Healthcare System/Nash Hospitals
✓ Chatham Hospital	✓ Wayne Memorial Hospital
✓ Caldwell Memorial Hospital	
✓ UNC Rockingham Health Care / UNC Rockingham Hospital	

**\*UNC Medical Center includes all UNC Hospitals' facilities and the clinical patient care programs of the School of Medicine UNC-Chapel Hill (including UNC faculty physicians).**

## I. Description

A UNC Health Facility may disclose protected health information (PHI) to a Business Associate, and may allow a Business Associate to create, modify, maintain, transmit, release or destroy protected health information on its behalf so long as the UNC Health Facility obtains satisfactory assurances from the Business Associate in writing that the Business Associate will appropriately safeguard the PHI.

Included within the scope of this policy are the patient care programs of the UNC School of Medicine (UNC SOM). As a result, this policy shall apply to all UNC SOM personnel, including but not limited to faculty, staff, students, trainees, interns and volunteers who may be full-time, part-time, paid or unpaid who create, store, transmit, access or use any patient information in support of clinical purposes for UNC Health or any other healthcare entity.

## II. Policy

- A. **Business Associate Agreement Required.** UNC Health Facilities shall require that all third parties who perform a service for or on behalf of one or more UNC Health Facilities involving the use or disclosure of PHI sign a Business Associate Agreement (BAA) in order to document the satisfactory assurances required of third parties as set forth in this policy.
- B. **Business Associate Agreement Form.** Each UNC Health Facility must use a Business Associate Agreement, in substantially the same form as the UNC Health BAA - For Use as Business Associated or UNC Health BAA - For Use as Covered Entity.
1. **Identifying Business Associates.** Each UNC Health Facility is responsible for identifying all business arrangements with third parties that require the execution of a Business Associate Agreement.
    - a. The identification of Business Associates is the responsibility of the department of the UNC Health Facility receiving the services from the Business Associate by indication on the requisition form/contract cover, routing sheet or any entity-approved purchasing mechanism of a department (collectively, the "Purchasing Departments").
    - b. The Purchasing Departments and the applicable entity's legal department and UNC Health Facility Privacy Office can serve as resources to assist the departments in identifying Business Associates.
  2. **Amending the Business Associate Agreement.** The UNC Health Business Associate Agreement Form may be amended by UNC Health Facilities as necessary. All amended provisions of the UNC Health Business Associate Agreement Form must remain in compliance with the HIPAA privacy regulations. UNC Health Facilities who amend the UNC Health Business Associate Agreement Form shall remain responsible for ensuring that the Business Associate Agreements in use at their facilities are in compliance with this UNC Health policy and procedure as well as the HIPAA privacy regulations. UNC Health Facilities are encouraged to seek legal counsel to review any modifications to the UNC Health Business Associate Agreement Form as appropriate.
  3. **Documentation.** Each entity's Purchasing Department or its designee will maintain a database of its Business Associates available for review and inspection by the UNC Health Privacy Office. Such database must be kept current at all times and list all contracts where the UNC Health facility is also serving as a business associate for another covered entity.
  4. **Execution and Maintenance of Business Associate Agreements.** The Purchasing Departments at UNC Health Facilities or their designees will ensure the execution of Business Associate Agreements with designated Business Associates and will maintain originals of such Agreements. Each Purchasing Department or its designee will institute a tracking system which will document the execution of a Business Associate Agreement with each designated Business Associate.
- C. **Obligations in the Event of a Business Associate fails to execute a Business Associate Agreement or there is a Violation of Material Term by Business Associate.** In the event a Business Associate Agreement cannot be obtained with an outside entity that UNC Health considers to be a Business Associate, then after consultation with the entity's Privacy Officer and/or legal department, then the applicable Purchasing Department or its designee will coordinate with the department utilizing the services of the Business Associate to initiate termination of the relationship with such designated Business Associate. The termination will be communicated by the Purchasing Department or its designee to other departments affected by the termination.

If at any time, a UNC Health Facility obtains knowledge that a Business Associate has violated a material term or obligation under the UNC Health Business Associate Agreement, the UNC Health Facility shall immediately notify the UNC Health Legal Office and the UNC Health Privacy Office. The UNC Health Facility shall also be required to notify the Business Associate and in such notification communicate to the Business Associate that the Business Associate is required to immediately remedy the breach.

If the Business Associate's violation cannot be remedied to the satisfaction of the UNC Health Facility, the Business Associate Agreement and all further disclosures of PHI to the Business Associate shall immediately be terminated by the UNC Health Facility.

- D. **UNC Health Facilities acting as a BAA.** A UNC Health Facility may be a Business Associate of another covered entity governed by HIPAA.
- E. **Documentation.** Copies of all Business Associate Agreements shall be documented and maintained for at least six (6) years.

### III. Definitions

**Business Associate** – is a person or entity who performs, or assists Facility in the performance of, a function or activity involving the use or disclosure of PHI. A list of common services that give rise to a business associate agreement are listed in this section below.

- Typical Business Associate activities include, but are not limited to, claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, re-pricing, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services.
- Health care providers who receive PHI relating to the treatment of a patient are not Business Associates. Workforce members are not Business Associates. Third parties with only incidental access to PHI, such as janitorial staff, are not Business Associates.

**Business Associate Agreement** – A written contract entered into between one or more Facilities and an external party that contains specific terms and conditions as required by the HIPAA Privacy Rule governing the use and disclosure of PHI by business associates. A Business Associate Agreement can be both a stand-alone document or incorporated into the terms and conditions of an underlying agreement.

### IV. References

45 C.F.R. §§ 164.314(a)(3), 164.502(e)(1), 164.504(e)

### V. Related Policies/Forms

UNC Health BAA - For Use as Business Associate  
UNC Health BAA - For Use as Covered Entity

#### Attachments

- [UNC Health BAA - For Use as Covered Entity](#)
- [UNC Health BAA - For Use as Business Associate](#)

## Approval Signatures

Step Description	Approver	Date
	Jerylyn Williams: Chief Audit & Compliance Ofcr	03/2021
SYSTEM Site Administrator	Emilie Hendee: HCS Attorney Sr	03/2021
	David Behinfar: HCS Exec Dir Privacy	03/2021

## Applicability

Caldwell Memorial Hospital, Chatham Hospital, Johnston Health, Nash UNC Health Care, Pardee Hospital, UNC Health Care System, UNC Lenoir Health Care, UNC Medical Center, UNC Physicians Network, UNC Rex Healthcare, UNC Rockingham Health Care, Wayne Memorial Hospital

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