



*Issuing Department:* Internal Audit, Compliance, and Enterprise Risk Management

*Effective/Reissue Date:* 10/5/2016  
*Current Version:* 4/1/2024

## **Business Associates**

### **Policy**

NYU Langone Health may engage outside parties to perform functions for or on our behalf. In any case where a third party needs to receive, create, transmit, or maintain Protected Health Information (“PHI”) to perform a service or function for or on behalf of NYU Langone Health, the individual or entity may be a Business Associate (“BA”) and a valid Business Associate Agreement (“BAA”) must be in place prior to the Disclosure (sharing) of any PHI.

A BAA must contain certain provisions to be considered valid. The NYU Langone Health template BAA should be used. A use of any other BAA must be reviewed and approved by the Privacy Officer. The template is available from the Privacy Officer, on the Internal Audit, Compliance, and Enterprise Risk Management (“IACERM”) intranet site, or in the HIPAA manual on Ellucid.

Generally, it is the responsibility of the Department Head, or his/her designee, engaging the third party to ensure that the appropriate BAA is executed. The department is also responsible for periodically reviewing the individual departmental needs with respect to vendors/third parties and the necessity of a BAA.

Certain contracts and agreements are processed through specific departments and responsibility lies therein for obtaining a BAA as necessary (e.g., Medical Center Information Technology Contract Management and Sourcing, Supply Chain Management, and Sponsored Programs Administration) are likewise responsible for obtaining BAAs when necessary. All software purchasing agreements must go through Medical Center Information Technology Contract Management and Sourcing. All other purchasing agreements must go through Supply Chain Management.

No PHI shall be Disclosed until the BAA is signed by both parties.

### **Procedure**

1. The Department Head (or appropriate individual/department as described above) considers whether a BAA is required.
  - A BAA is generally required when:
    - the third party creates, receives, maintains, or transmits PHI, and
    - the third party is performing a function for or on behalf of NYU Langone Health.
  - A BAA is not required for:

- treatment services provided to the patient (e.g., another physician or a reference laboratory).
  - incidental access to PHI (e.g., janitorial services).
  - other specific exceptions.
  - Contact the Privacy Officer at [baacompliance@nyulangone.org](mailto:baacompliance@nyulangone.org) for assistance as necessary and/or to determine if NYU Langone Health already has a BAA in place with the third party.
2. If the relationship involves electronic data (e.g., transmission, storage, or processing of), the Privacy Officer and MCIT Security should be notified. The Department Head (or appropriate individual/department as described above) is responsible for requesting MCIT Security to complete a third party risk assessment. MCIT Security must approve the use of the vendor prior to any engagement of services.
  3. If it is determined that a BAA is required, execute the agreement in accordance with the following:
    - The NYU Langone Health standard form should be used and the appropriate corresponding box(es) checked, indicating which entities the services will be provided to or on behalf of (e.g., NYU Langone Hospitals/NYU School of Medicine; the Family Health Centers at NYU Langone Health).
    - Use of any other BAA (i.e., one provided by the third party) is not permitted unless reviewed and approved by the Privacy Officer.
    - Alterations or modifications to the NYU Langone Health standard agreement are generally not permitted. The Privacy Officer must approve any vendor requests to alter or modify the BAA prior to execution of the agreement.
      - The Privacy Officer will consult the Office of Legal Counsel as appropriate.
    - Only those persons with document signing authority for the corresponding or underlying contract may sign the BAA on behalf of the appropriate NYU Langone Health covered entity. Refer to the *Document Signing Authority Policy*.
  4. The Department Head will forward all non-purchasing agreements and associated BAAs, that are not otherwise added to the department's appropriate Selectica tab, to the Office of Legal Counsel via email to: [SelecticaAdmin@nyulangone.org](mailto:SelecticaAdmin@nyulangone.org).
  5. The Department Head (or appropriate contract specialist/department as indicated above) will forward a fully executed copy of the BAA to the Privacy Officer at [baacompliance@nyulangone.org](mailto:baacompliance@nyulangone.org).
  6. The fully executed Business Associate Agreement must be retained by:
    - the department,
    - as an addendum to the contract, and
    - the Privacy Officer in the institutional contracts management database (i.e., Selectica).

**Related Documents**

Business Associate Agreement

Document Signing Authority

HIPAA Privacy Policies, Procedures, and Documentation

HIPAA Privacy Policies and Procedures Definitions

**Legal Reference**

45 C.F.R. §160.103

45 C.F.R. §164.502(a)(3)

45 C.F.R. §164.504(e)

45 C.F.R. §164.532

45 C.F.R. §164.402

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This version supersedes all NYU Langone Health (as defined in this Policy) previous policies, including but not limited to NYU Hospitals Center, New York University School of Medicine, Lutheran Medical Center, and Winthrop University Hospital.