

Rutgers University, The State University of New Jersey  
**Business Associate Agreement: Instructions and FAQs**

**What is a Business Associate?**

A person who, other than a Rutgers workforce member, or outside organization which creates, receives, maintains, or transmits Protected Health Information (PHI) on behalf of the University, or who provides services to or for the University involving the disclosure of PHI or any other function or activity regulated by HIPAA regulations.

Samples of who may act as a Business Associate to Rutgers:

- Health Information Organizations (HIOs)
- Patient Safety Organizations
- Health Information Exchanges
- Company providing case management to our patients.
- E-prescribing Gateways
- Personal Health Records (PHR) vendors
- Subcontractors that create, receive, maintain, or transmit PHI on behalf of the BA
- Accreditation Agencies
- Attorneys
- Auditors
- Billing firms
- Claims Review/Utilization Management Vendors
- Consultants
- Document destruction, imaging, and storage companies
- Interpreter Services
- IT Vendors
- Professional Liability Insurers
- Transcription Services

**What is a Business Associate Agreement (BAA) and why is it required?**

A BAA is the legal instrument that enables the University to share Protected Health Information in a legal and safeguarded manner. A BAA is required by the federal HITECH Act (February 2009) and Final Omnibus Rule (January 2013) ([45 CFR Section 160.103](#)). .

**When is a BAA required?**

If you or your unit intends to enter into an agreement with an organization which will provide services to the University and the scope of those services involves the usage, maintenance or transfer of PHI, then a BAA is required to be completed. The BAA should be completed concurrently with the contract and completed before services commence.

A BAA is also required if a unit or department of Rutgers will be acting as a business associate to another Covered Entity, such as to a health plan. If you are unsure and have questions, please contact the Rutgers University Director of Privacy, at the contact information listed below.

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**I understand the University has its own BAA, but the vendor or service provider we are contracting with says they have their own. Which one should I use? Am I required to use the University's BAA?**

Neither the law, nor University policy stipulates whose BAA is used. The BAA used needs to legally conform. However, when contracting with a potential BAA, using our own BAA is preferred and recommended. If you prefer to use the BAA of the service provider, please note Office of General Counsel will need to review the service provider's BAA. Some service provider's may apply slight pressure to use their agreement to save time; please note the most efficient path is to use the University's agreement.

If your unit/department is contracted by an outside Covered Entity for providing support services which handles the PHI of that Covered Entity, such as for quality assurance or case management services to a health care plan, then the BAA you will use will likely be that of the Covered Entity. However, again, the University recommends you use its own BAA; that of the outside entity will likely need to be reviewed by the Office of General Counsel. Again, if you have questions, please contact the Rutgers University Director of Privacy.

**Who Signs the BAA on the Rutgers side?**

University employees with signatory authority as defined by the Signatory Authority Policy (50.3.13) are allowed to sign. A listing of those individuals is posted on the website of the Office of the General Counsel, under Signatory Authority, Signatory Policy Matrix. Also listed on the website is a form, the Signatory Authority Delegation form, that allows proper delegation fo Signatory Authority. The OGC URL is: <http://generalcounsel.rutgers.edu/signatory-authority/signatory-authority-policy>

**Is the BAA part of the contract with the vendor or a separate agreement?**

The BAA is a separate document from the contract. The BAA does not need to be handled through the purchasing process. The BAA must be completed before services are signed.

**NOTE: THE EFFECTIVE DATE OF THE BAA NEEDS TO MIRROR THE EFFECTIVE DATE OF THE CONTRACT FOR SERVICES.**

**Once the BAA is completed and signed, who is responsible for keeping it?**

The completed BAA is kept at the department/unit. **A copy of the completed BAA is to be attached to a copy of the service contract (or that portion of the contract which provides scope of services and effective date) and forwarded to :**

University Director of Privacy  
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