

INTELLECTUAL PROPERTY POLICY

BAYSTATE HEALTH, INC.

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SUMMARY¹

Innovation leading to the creation of new medical treatments, medical devices, and diagnostic techniques goes to the core of BH's charitable mission of improving the health and welfare of the communities it serves. The principal purpose of this Policy is to help such innovation flourish by promoting research and creativity within BH and its affiliated entities. The Policy provides processes and structures for protecting Intellectual Property, supporting its development and implementation, and rewarding its Creators. This Policy applies to all individuals working for, with, or at a BH-Affiliated Entity. (Appendix A to this Policy provides definitions of capitalized terms used in the Policy.)

The Intellectual Property Committee and the Chair. The Intellectual Property Committee of BH (the "IP Committee") has principal responsibility for overseeing Intellectual Property development within BH-Affiliated Entities and for administering this Policy. The IP Committee is subject to the oversight authority of the BH Board of Trustees. The Chair of the IP Committee (the "Chair") is selected by BH's President and Chief Executive Officer and has responsibility for day-to-day administration and decision-making with respect to issues affecting Intellectual Property within BH-Affiliated Entities. These responsibilities include helping researchers, Inventors, Authors, and other Creators resolve administrative, contractual, and regulatory issues that may affect the development and marketing of the products of their creative efforts. Any questions regarding this Policy or Intellectual Property within BH should be addressed to the Chair.

IP Disclosure. Publication or other public disclosure of an Invention may preclude the possibility of obtaining or maintaining patents or other legal protection for the Invention. To allow for the opportunity to secure such protection, a Creator must disclose any new Intellectual Property to the Chair according to the procedures provided in this Policy as early as possible, and in all cases before information about a potential new creation is shared by poster, publication, or otherwise with those outside of BH. Upon disclosure, the Chair will evaluate the steps that BH should take, if any, to protect and possibly license or otherwise commercially develop the Property. The Chair will provide its recommendations to the IP Committee, whose decision will be final. The diagram shown at the end of this Summary depicts the treatment of IP within BH from creation to distribution of income.

IP Ownership, Protection, and Marketing. Fundamental to this Policy is the principle that Inventors and other Creators of IP supported by the financial or other resources of BH share in the rewards of their work. While BH owns most Inventions, Copyrightable Works, Trade Secrets, and other Intellectual Property that arise out of BH-related activities, it will, where appropriate, finance the costs of securing protection of such IP, evaluate its market potential, negotiate potentially advantageous licensing or other contractual arrangements, and share resulting profits with the IP's creators. It is the broad goal of BH to make Intellectual Property arising from BH-affiliated activities publicly available through licensing or other contractual arrangements as quickly as possible, when fiscally prudent and consistent with the mission and purposes of BH. Thus, when in the judgment of the Chair there appears to be a sound basis for

¹ This Summary provides a general description, only, of the Intellectual Property Policy of Baystate Health, Inc. It does not replace or supersede any aspect of the actual Intellectual Property Policy, which should be consulted with respect to any specific question or issue regarding its scope or application.

BH to proceed with marketing or commercial development of Intellectual Property, BH will take steps to secure patent, copyright, or other appropriate legal protection at no expense to, but with the cooperation of, the Creator of the Intellectual Property. The Chair may also make contractual or other arrangements that, in his or her judgment, are appropriate for commercial development of the Property. All activities of the Chair with respect to BH Intellectual Property are subject to the oversight authority of the IP Committee.

IP Income Sharing. Section III of this Policy summarizes how BH normally will share Net Income generated by Intellectual Property with its Creator. In cases where BH receives Equity or other intangible assets for rights to Intellectual Property, the Equity or assets will be held and managed by BH, and, at its discretion, disposed of by it. The proceeds from such disposition will be treated as Income and distributed to the Creator of the Intellectual Property according to the provisions of paragraph 9.2 of the Policy. Unless prevented by the BH Conflict of Interest Policy or other applicable policy, law, or rule, a Creator may elect to take an Equity interest in a company licensed to market or produce Intellectual Property rather than sharing in Income according to paragraph 9.2. Certain persons, however, who are specifically retained by BH to create Intellectual Property, such as those who work within BH Information & Technology, or who contribute to a creation as an employee of a third party, normally are compensated through employment contracts or other, pre-existing arrangements and generally are not entitled to Income-sharing under this Policy. Creators own their Scholarly Works and may take any actions with respect to such Property at his or her own expense, consistent with other applicable BH policies, and may keep any associated Income.

Relinquishment of IP Rights. Absent unusual circumstances or unless restricted by regulatory, administrative, or fiscal concerns, BH will relinquish its ownership of Intellectual Property to the Creator if the IP Committee determines that it is impracticable or otherwise undesirable for BH to market the Property. BH will normally retain at least a royalty-free, non-transferable license for uses of such Intellectual Property within the facilities or in connection with the activities of BH-Affiliated Entities.

Participation Agreements. All persons associated with a BH-Affiliated Entity will be asked, as a condition of that association, to read and sign a Participation Agreement, a copy of which is shown as Appendix C to this Policy. Each Participation Agreement confirms that the individual and BH agree that they are to be bound by the terms of this Policy. It also confirms that this Policy will control the treatment of any Intellectual Property that results from their relationship, including who will bear the costs of protecting and marketing the Intellectual Property and how the Income from its licensing, distribution, and use will be shared.

Third Party Contracts. BH encourages beneficial and productive arrangements with third parties. Such arrangements, however, can broadly affect BH and those who work with it, and a party's rights and obligations under this Policy may be affected or even superseded by the terms and conditions of grants, leases, or other contracts that BH approves. Thus, individuals wishing to enter into a consulting arrangement or other contract that is likely to involve the creation of Intellectual Property must consult with and obtain the prior approval of the Chair. The Chair normally will require that the contract reference and incorporate the parties' respective obligations under this Policy. Contracts to which a BH-Affiliated Entity is not a party or are not otherwise approved by BH will not affect the application and effectiveness of this Policy. The

Chair will assist individuals in understanding how the terms and conditions of a third party contract or other policy may affect specific creative endeavors within a BH-Affiliated Entity.

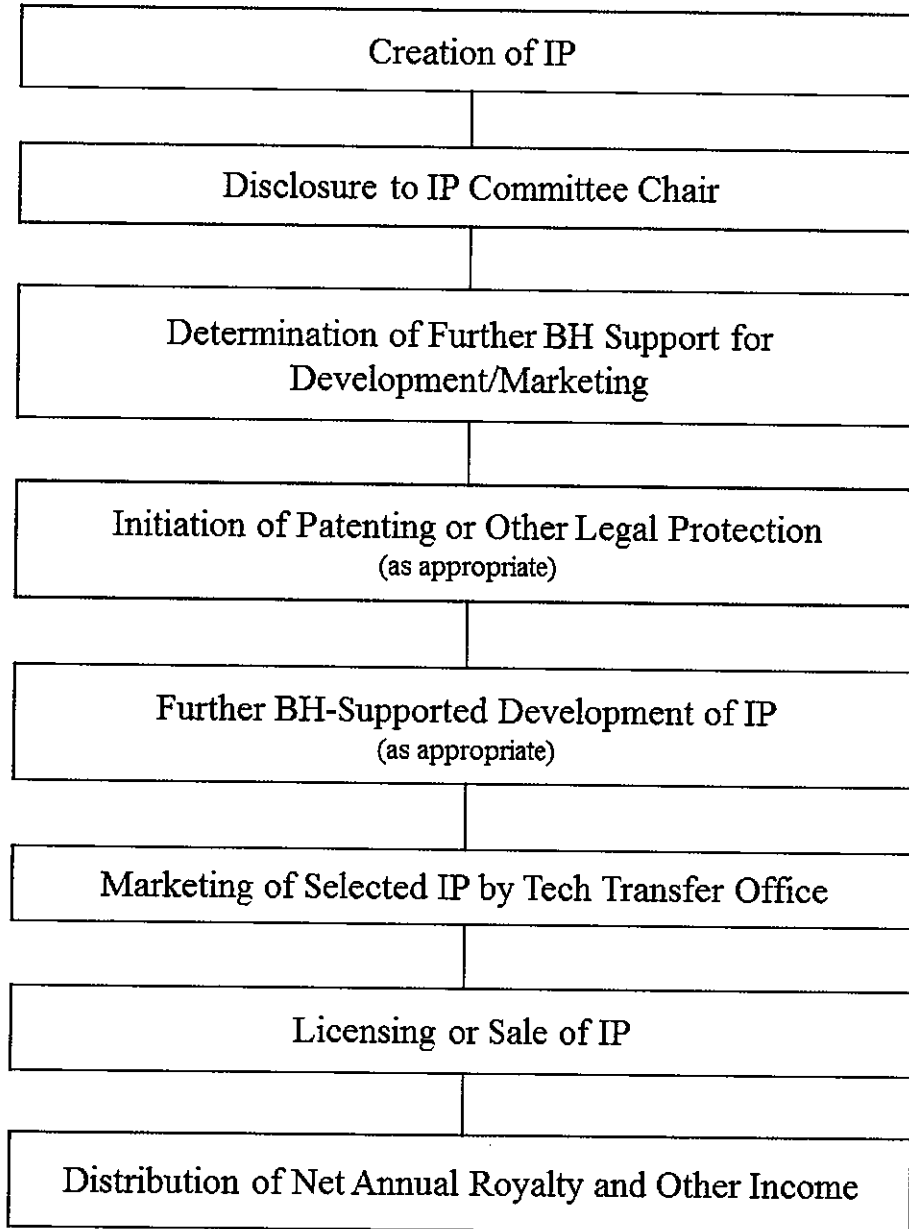
Modification of Rights and Obligations Under This Policy. At the request of a Covered Person and upon the recommendation of the Chair, the IP Committee may, in extraordinary circumstances, authorize modification of certain terms of this Policy regarding the obligations and rights of the Covered Person, BH, or other parties, including the Income distribution terms of Section III. A request for waiver or modification of IP Policy terms must be made by written proposal to the Chair and must be approved by the IP Committee to be effective.

Patient Privacy. Privacy and publicity rights may be implicated when an individual uses information concerning patients or other individuals. In all cases, the written permission of a patient and any other authorization required under the HIPAA Rules must be obtained before using information that identifies that person. Questions regarding the use of identifying information of any person associated with a BH-Affiliated Entity should be directed to the Chair.

Confidentiality. Maintaining confidentiality is also critical to protecting valuable Trade Secrets and other Confidential Information, which may consist of non-public technologies, processes, Software, patient information, or other demographic, financial or business data relating to an activity conducted at or supported by a BH-Affiliated Entity. It is therefore important that all individuals keep Trade Secrets and other Confidential Information confidential, and no one may disclose such information without the written approval of the Chair. No person may attempt to gain access to Confidential Information without authorization and every person must adhere to, and assist in maintaining the effectiveness of, procedures designed to protect the confidentiality of Trade Secrets and other Confidential Information. A person may be required to sign a confidentiality agreement with respect to Confidential Information as a condition for employment or as a condition for having access to such information.

Use of BH Trademarks. BH owns all trademarks, both registered and unregistered, that identify a product or service of a BH-Affiliated Entity, including “Baystate Health,” “Baystate Medical Center,” “Baystate Franklin Medical Center,” “Baystate Wing Hospital,” “Baystate Noble Hospital,” “Baystate Mary Lane Outpatient Center,” “Visiting Nurse Association and Hospice of Western New England,” “Noble Visiting Nurse Services,” “Baystate Health Foundation,” “Baystate Administrative Services,” “Baystate Total Home Care,” “Baystate Medical Practices,” “Westfield Medical Corporation,” “Pioneer Valley Information Exchange,” “Baystate Health Technology Innovation Center,” and all abbreviated and “doing business as” names for any of the foregoing, such as “PVIX” and “TechSpring.” The approval of the Office of the President of BH is required before using any name or logo belonging to BH, except where such use is solely to identify the Author's association with that Entity.

BH Intellectual Property (IP)
Creation of IP to Distribution of Income*



* This chart summarizes the actions that BH may take to develop and market IP when fiscally prudent and consistent with the mission and purpose of BH.

BAYSTATE HEALTH, INC.
INTELLECTUAL PROPERTY POLICY

I. INTRODUCTION.

1.0 Purpose and Scope.

The fundamental mission of Baystate Health, Inc. (“BH”) and its affiliates is to improve the health of the people in the communities they serve every day with quality and compassion. These purposes include providing medical care, training health care professionals, conducting research, and developing improved diagnostic and treatment methods. The purpose of this Policy is to promote creative and innovative research and development at BH-Affiliated Entities by encouraging the use of their resources for the creation of new inventions, useful expressions, scholarly explanations, and other Intellectual Property. (Appendix A provides the definitions of capitalized terms used in this Policy.)

This Policy applies to all individuals working for, with, or at a BH-Affiliated Entity. It covers a wide array of issues related to Inventions, Copyrightable Works, and other Intellectual Property, including the distribution of Net Income to those involved in the creation of such Property. Covered Persons should also consider whether other policies of BH-Affiliated Entities, such as the Conflict of Interest Policy, apply to their Intellectual Property activities.

2.0 Intellectual Property Oversight, Evaluation, Marketing, and Development.

2.1 The Intellectual Property Committee.

The BH Intellectual Property Committee (the “IP Committee”) is responsible for overseeing the development of Intellectual Property and the administration of this Policy within BH-Affiliated Entities. It will take steps to assure that creative endeavors that substantially advance Baystate’s mission are assisted, encouraged, and rewarded and that, when appropriate and consistent with sound fiscal practices, the useful products of those efforts are made available to the public. It will resolve any disputes arising under this Policy, including those involving ownership of Intellectual Property and distribution of licensing Income.

The IP Committee consists of a minimum of five voting members and includes: the Chair; the BH Chief Physician Executive or designee; the BH Chief Financial Officer or designee; the individuals, or the designees of such individuals, with oversight of research and education within BH (currently the Chief Research Officer and the Chief Education Officer, respectively), and other individuals who shall be appointed by the Committee’s Chair. Members of the Committee may participate in a meeting of the Committee through conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Participating by such means shall constitute presence in

person at the meeting. A majority of the voting members of the IP Committee at the time of a meeting shall constitute a quorum for purposes of that meeting.

2.2 Duties and Responsibilities of the Chair of the IP Committee.

The Chair is appointed by the President and Chief Executive Officer of BH and acts as the executive arm of the IP Committee. Working under the Committee's oversight, the Chair is responsible for assisting researchers, Inventors, Authors, and other Creators to address administrative, contractual, regulatory, and institutional issues that may affect their creative efforts. The Chair is also responsible for the day-to-day administration of this Policy, for addressing questions regarding the Policy or Intellectual Property within BH, and for marketing, licensing, and coordinating the distribution of Income from BH Intellectual Property. The IP Committee may delegate to the Chair the authority to approve assignment or licensing of rights to Intellectual Property to the extent that the value of, and reasonably expected gross Income from, any such transaction are within the Chair's contract approval/execution authority, as set forth in BH Policy No. GO.8, Approval and Execution of Contracts Policy.

2.3 Office of Technology Transfer.

The Office of Technology Transfer, within Baystate Medical Center's Division of Academic Affairs, is responsible for identifying clinically, educationally, or commercially significant research activities, Inventions, and other potentially important Intellectual Property arising within BH. Among other things, it works with the Chair and with legal counsel to ensure that such developments are legally protected and commercially evaluated for market potential. The Office's Technology Transfer Officer ("Technology Transfer Officer") works with a wide range of industries to license and otherwise commercially develop beneficial products from research and inventive efforts.

2.4 Participation Agreements.

Each individual working for or at Baystate will sign a Participation Agreement of the type shown in Appendix C to this Policy upon beginning or renewing his or her employment or contractual association with BH. Among other things, that Agreement confirms that the individual has reviewed this Policy and has agreed to comply with and be bound by its terms. A failure by a Covered Person to execute a Participation Agreement, however, will not affect the applicability of this Policy to that person or any other person or Entity.

3.0 Grants and Other Contracts.

BH encourages participation of Covered Persons in cooperative research with third parties and in research funded by grants or other funding from the federal government, foundations, and corporate research sponsors. Prior to entering into any contract for such research or funding, individuals should first consult with the Chair who, with the assistance of BH legal counsel and the Technology Transfer Officer, will review, negotiate, and approve applicable contractual arrangements. Properly authorized third party agreements may affect or

supersede certain of the rights and obligations of various parties under this Policy, and ownership of an Invention that is subject to any BH approved grant or other contract will be determined by the terms of that contract, if applicable. The terms of this Policy will determine the distribution of Income received by BH or its affiliated entities from Intellectual Property resulting from such contracts.

If a Covered Person wishes to enter into a Consulting Agreement or other contract with a third party that may involve the development of Intellectual Property, he or she must first obtain the approval of the Chair. Approval of any such contract normally will be contingent upon the contract referencing and incorporating the terms of this Policy regarding ownership of Inventions and the distribution of any resulting Income. Ownership interests of BH will not be affected by the terms and conditions of contracts to which a BH-Affiliated Entity is not a party unless BH has expressly waived such interests in writing.

II. DISCLOSURE, OWNERSHIP, AND DEVELOPMENT OF INTELLECTUAL PROPERTY.

4.0 Useful Inventions and Creative Concepts: Patent and Trade Secret Protection.

An “Invention” is any new or improved process, machine, or material, whether patentable or not, and includes original ornamental designs for useful articles. It is more than an abstract concept or aspiration and is, instead, a specific and reproducible means, method, or substance that is useful. Some Inventions may be protected under the patent laws of the United States and other countries. Trade Secret protection may be available for valuable Inventions and creative concepts if they are not patentable so long as the confidentiality of the Trade Secret is maintained. Whatever the potential legal protections, it is the goal of BH to encourage and reward the development of valuable Inventions and to make those Inventions available to the public through licensing or other contractual arrangements.

5.0 Creative Expression: Copyright Protection.

Copyright protection applies to original works of expression in tangible form. It does not protect ideas. Copyright does protect a wide variety of original expression such as pictures, audiovisual recordings, writings, and computer programs. The rights that copyright protects include the right to reproduce and distribute the work, prepare works derived from the original work, and perform or display the work publicly.

Under current law, copyright exists from the moment the expression is fixed in a tangible medium. It is no longer necessary to register a copyright to protect an original work, but registration is necessary before legal action can be brought to enforce a copyright. Certain other advantages are available if a copyright is registered before it is infringed.

6.0 Intellectual Property Ownership.

6.1 Intellectual Property Subject to Income Sharing Under This Policy.

Except for Scholarly Works, the following categories of Intellectual Property shall be owned by BH and, if not Works for Hire, subject to Income sharing according to Section III of this Policy.

6.1.1 Supported: Intellectual Property conceived, created, or reduced to practice during activities that either:

(1) received direct or indirect financial support from a BH-Affiliated Entity, including third party funding awarded to or administered by an Entity; or

(2) made substantial use of space, facilities, materials or other resources of an Entity. The use of office space and word processing capabilities alone does not constitute substantial use.

6.1.2 Related: Intellectual Property conceived or reduced to practice by one or more Covered Persons that arise out of or relate to the research, educational, or professional activities of the individual at a BH-Affiliated Entity.

Works may or may not be Works for Hire under United States copyright law. In either event, Covered Persons will assign all rights in these Inventions and Works to BH.

6.2 Scholarly Works.

Authors shall own all Scholarly Works that they create. "Scholarly Works" are those Copyrightable Works, not owned in whole or in part by a third party, that are non-commercial and of an academic or scholarly character prepared in the course of clinical research or educational efforts. Scholarly Works typically include research and other articles prepared for publication in scientific journals, traditional textbooks, and classroom presentation aids. Scholarly Works do not include works created at the request of a BH-Affiliated Entity or for an Entity's purposes. Authors may request review by the Chair to determine if a particular Work should be considered a Scholarly Work.

6.3 Works Created By Third Parties for BH.

Entering into contracts with, or otherwise utilizing, non-Covered Persons to prepare potentially Copyrightable Works, such as Software, internet sites, and marketing materials, will frequently implicate important Intellectual Property rights of BH. A written agreement usually will be needed in order to secure those rights. Covered Persons must obtain the approval of the Chair before entering into any arrangement with a non-Covered Person that may involve the

creation of a Copyrightable Work, unless the arrangement is embodied in a written contract that clearly states that all such Works shall belong to BH.

7.0 Disclosures of Intellectual Property.

7.1 Inventions and Works to be Disclosed.

All Inventions must be disclosed to the Chair. A person who creates Software, Video Material, or any other Copyrightable Work also shall disclose it to the Chair if he or she believes the Work has commercial value or would like to use it for commercial purposes. Disclosure to the Chair should be as early as possible, and in all cases before publication or other public disclosure so that the potential for patents or other legal protections can be maximized. For example, in most countries, Inventions cannot receive patent protection unless a patent application has been filed before its disclosure to the public.

7.2 Method and Timing of Disclosure.

An Inventor or Author must make disclosure of Inventions and Works as set forth in paragraph 7.1 by completing and submitting an Intellectual Property Disclosure Form to the Chair, a copy of which is shown as Appendix D to this Policy. In addition, an Inventor must make initial disclosure of an Invention orally to the Chair or Technology Transfer Officer at the earliest possible date.

8.0 Actions by BH in Support of Intellectual Property Development.

8.1 Determination of Ownership and Eligibility for Income Sharing.

After review of the Intellectual Property Disclosure Form, the Chair will initially determine whether the Invention or Work is owned by BH and eligible for Income sharing and BH-supported patent or copyright protection. After review by the IP Committee, whose decision will be final, the Chair will notify the Inventor or Author of its determination.

8.2 Evaluation, Protection, Marketing, and Licensing.

BH provides a variety of services to protect Intellectual Property and to bring it to market, including evaluating technological feasibility and market potential, identifying commercial partners, negotiating licenses and other contracts, preparing and filing patents and copyright registrations, and undertaking other appropriate measures to protect the integrity and value of the Intellectual Property. While BH shall not be obligated to take any action with respect to an Invention or Work, it will bear the initial expenses, not covered by pre-existing contractual arrangements, of any action that it does take to patent, register copyright, or otherwise protect or market Intellectual Property. Those expenses will be reimbursed from the initial Income, if any, generated by the Intellectual Property. BH also will make good faith efforts to provide the Inventor or Author of the Intellectual Property with sufficient resources and time, as is practical within scheduling and budgetary constraints, to complete any research and

development that are necessary prior to licensing or other commercial development of the Invention or Work. The Creator will cooperate with BH efforts to protect and commercially develop the Intellectual Property, including providing signatures on assignment, patent application, or other relevant documents.

8.3 Relinquishment of Ownership by BH.

Except as required by pre-existing contractual arrangements, BH will not be obligated to file a patent application, register a copyright, or take any other action when, in the judgment of the Chair, any such action would not be practical or prudent. In situations where the Chair determines that it is impracticable or otherwise undesirable for BH to promote, license, or otherwise market an Invention or Work, the Chair will so advise the Creator. Unless important public or institutional policy or other considerations suggest that BH should nonetheless retain its ownership rights, BH will then release its rights in the Intellectual Property to the Creator in exchange for at least the perpetual, royalty-free, non-exclusive license and right to use the Intellectual Property within or for the purposes of BH-Affiliated Entities. The Creator may then take any action with respect to the released Invention or Work at his or her own expense.

8.4 Resolution of Disputes.

The Chair will be initially responsible for resolving disputes regarding who is an Inventor or Author, ownership of Inventions and Works, whether a Work is a Scholarly Work or is related to the Author's activities at an Entity, and other issues addressed by this Policy. The decision of the Chair may be appealed to the IP Committee, whose decision will be final.

III. INCOME FROM INTELLECTUAL PROPERTY

9.0 Distribution of Intellectual Property Income.

9.1 Generation of Income.

The Chair, in consultation with the IP Committee, has responsibility for commercial development and administration of any Intellectual Property that BH owns in whole or in part.

9.2 Distribution of Invention and Copyright Income among Creator and BH Entities.

Except as provided in Section 10 of this IP Policy, BH shall allocate and distribute cumulative Net Income in accordance with the provisions of this Section 9 and the table shown in Appendix B for income generated as a result of any disclosure pursuant to Section 7 on or after the effective date of this Policy. The department entitled to a share pursuant to Appendix B is that department of the medical staff of the BH-Affiliated Entity with which, in the judgment of the Chair, the Creator of the Intellectual Property generating the Income was principally associated at the time the Intellectual Property was created (the "Creator's Department"). The

share distributed to the Creator's Department shall be distributed to such department's Special Purpose IP Research Fund.

The allocation and distribution of Net Income provided by Appendix B may be modified at any time by the IP Committee with respect to Intellectual Property not yet created at the time of the modification. The IP Committee shall resolve any issues or disputes concerning the application and administration of this Section III, and its determination shall be final.

9.3 Equity Interests Received by a BH-Affiliated Entity.

In response to a credible proposal for the receipt of Equity in an Intellectual Property enterprise by a BH-Affiliated Entity, the IP Committee may consider and recommend to the BH Board of Trustees whether to enter into an arrangement for such an Equity interest and, if so, the specifics of such arrangement. The Board of Trustees shall have the sole authority to enter into any Equity arrangement. In such case, BH will hold and be exclusively responsible for managing such Equity, all or a portion of which it may sell or otherwise dispose of at its discretion. In any case involving the liquidation or disposition of Equity in any Intellectual Property enterprise, the IP Committee shall distribute the proceeds of such liquidation as Income according to the paragraphs of this Section III.

9.4 Income Distribution among Co-Creators.

When more than one Creator has substantively contributed to the creation of Intellectual Property as determined by the Chair ("co-Creators"), the Creator's Share, as provided in paragraph 9.2, shall be distributed among the co-Creators equally. Any Covered Person whose contribution to the Creation is as an employee of BH Information & Technology or a Work for Hire, or was performed as an employee or under contract with a non-BH-Affiliated Entity, shall not be entitled to receive a portion of the Creator's Share, however, as discussed in Section 10.3 of this Policy. The IP Committee in its discretion, upon convincing evidence that principles of fairness and equity require a different distribution, may alter the distribution of shares provided in the circumstances encompassed within this paragraph.

BH recognizes that the creation of some Intellectual Property through group efforts may be facilitated by case-specific Income-sharing arrangements among co-Creators different from that provided for in the preceding paragraph. Thus, a group of Creators may propose, in writing, a different arrangement for the distribution among them of the Creator's Share of Income that may be generated by an Invention or Copyrightable Work that they are developing or have developed. The proposal should be made in writing at the time of submission of the Intellectual Property Disclosure Form, or earlier. Acceptance of the proposal is at the discretion of the Chair.

9.5 Termination of Employment or Other Cessation of Covered Person Status.

The termination of a Creator's affiliation with BH will not affect the allocation and distribution of Net Income to that person. The Creator's Share of a Covered Person who dies shall be paid to his or her estate.

9.6 Income from Names and Trademarks.

Unless otherwise provided by a written agreement approved by the IP Committee, Income from the use of any name or trademark of any BH-Affiliated Entity shall belong to BH and shall not be distributed to Covered Persons or departments.

9.7 Distribution of Department Shares among Multiple Departments.

If the Chair determines that more than one department was involved in the creation of Intellectual Property, the Chair shall recommend to the IP Committee a proportional sharing of the department share of Net Income. The IP Committee's decision with respect to sharing of the department share shall be final.

9.8 Determination and Transfer of Ownership Rights between BH-Affiliated Entities.

As between BH-Affiliated Entities, BH will own all Intellectual Property covered by this Policy unless otherwise determined by the IP Committee. The IP Committee, in response to grant requirements, contractual considerations, administrative convenience, or other reasons it deems appropriate, may transfer certain ownership rights of BH to different Entities or provide that certain categories of Intellectual Property are automatically owned by different Entities in the first instance. In such cases, the IP Committee, in its discretion, may allocate and distribute none, some, or all of the share of Net Income of the BH General Research Funds with respect to that Intellectual Property to the Entity receiving ownership or to another Entity. In cases where BH transfers or reallocates ownership of Intellectual Property from BH to another Entity, references in this Policy to ownership by BH shall be deemed to apply to the Entity to which ownership has been transferred or reallocated.

10.0 Exceptions to Income Distribution Rules.

Any distribution provided for above is subject to the following exceptions.

10.1 Grant-related Conditions.

Income from Intellectual Property that funding from a third party grant helped to create may be subject to conditions in the grant or grant-related regulations, such as grant repayment, with which the parties must comply before BH can distribute any of that Income. Covered

Persons are encouraged to consult with the Chair to determine contractual conditions that may affect Net Income distribution.

10.2 Equity Received by a Covered Person.

In many cases, a Creator of new Intellectual Property may advance its beneficial use by taking an Equity interest in a company licensed to market or produce that Intellectual Property. A Creator is allowed to do so under this Policy unless prevented by the BH Conflict of Interest Policy or other applicable policy, law, or rule. To avoid negotiation and other types of potential conflicts, a Covered Person must immediately disclose to the Chair of the IP Committee that he or she may receive Equity in connection with any Intellectual Property. It is understood that a person receiving such Equity will be compensated through the associated entity, and the distribution of Income that paragraph 9.2 provides shall not be applicable to such a person. In circumstances where a Creator is not entitled to a share of Income, the IP Committee will use its reasonable discretion to reallocate fairly the Creator's Share of Net Income to other Creators (if any), the Creator's Department, and/or the BH General Research Funds.

10.3 Work for Hire, Work of BH Information & Technology Employees, and Work Under Contract to a Third Party.

There will be no distribution of Income pursuant to Appendix B to a Creator who is an employee within BH Information & Technology or whose contribution was performed as a Work for Hire. Instead, distribution of Net Income, if any, to such a Creator will be determined by the terms of his or her employment or applicable contract with a BH-Affiliated Entity.

There will be no distribution of Income from BH to a Creator whose contribution was performed as an employee of or under contract with a non-BH-Affiliated Entity. The distribution of income, if any, to such a Creator shall be from that non-BH-Affiliated Entity according to the terms of his or her employment or other applicable contract with that entity.

The share of a Creator who, pursuant to this paragraph, is not entitled to a distribution of Income shall be reallocated equitably to some or all of the other Creators (if any), the Creator's Department, and/or the BH General Research Funds in the reasonable discretion of the IP Committee.

10.4 Anticipated Expenses.

If, in the judgment of the Chair, BH is reasonably likely to incur expenses that are deductible from Income under this Policy's definition of Net Income in connection with any Intellectual Property, BH may withhold all or a portion of that Income to the extent that the Chair determines is necessary to cover such anticipated expenses.

10.5 Waivers.

Any party for whom the terms of this Policy provide a share of Net Income may waive that share in writing, which share will then be reallocated equitably to some or all of the other Creators (if any), the Creator's Department, and/or the BH General Research Funds in the reasonable discretion of the IP Committee.

IV. PROTECTION OF PRE-EXISTING RIGHTS.

11.0 Sharing of Copyright Protected Works.

11.1 Works Owned by a BH-Affiliated Entity.

Copyrightable Works that BH owns may be published, licensed to third parties, or otherwise distributed for commercial purposes only through the Chair, unless the Chair agrees in writing to other arrangements. The Chair may develop guidelines for the distribution of such Works for noncommercial purposes. Any such guidelines will reflect BH's commitment to encouraging the exchange of Copyrightable Works with other researchers and institutions for the purpose of advancing biomedical research and education in a manner that protects copyright interests, prevents unsafe and unlawful uses of copyrighted works, and promotes development and sharing of ideas important to the medical and educational communities.

11.2 Works Owned by Others.

The rights of other copyright owners, including co-authors and contributors of original material to a collaborative effort, must be respected. Covered Persons should seek the advice of the Chair regarding copying or otherwise using the works of others.

12.0 Privacy and Related Rights.

Use of the name, likeness or other identifying information of any person is subject to the individual's rights of privacy or publicity, HIPAA Rules, and other legal restrictions. Authors must obtain patient authorization as required by HIPAA Rules or other appropriate written permission before using identifying information of a person. Any questions regarding the use of the name, likeness, or other identifying information of any person should be directed to the Chair.

13.0 Institutional Names and Trademarks.

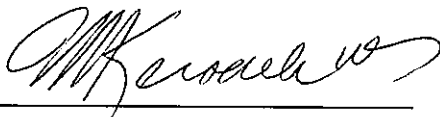
Trademarks are owned by BH if they are used to identify any product or service originating with or associated with a BH-Affiliated Entity. Covered Persons shall obtain approval from the Office of the President of BH before prominently displaying in any Copyrightable Work or in any advertising, promotional, or sales material a name or logo that is substantially the same as any of the following: "Baystate Health," "Baystate Medical Center," "Baystate Franklin Medical Center," "Baystate Wing Hospital," "Baystate Noble Hospital,"

“Baystate Mary Lane Outpatient Center,” “Visiting Nurse Association and Hospice of Western New England,” “Noble Visiting Nurse Services,” “Baystate Health Foundation,” “Baystate Administrative Services,” “Baystate Total Home Care,” “Baystate Medical Practices,” “Westfield Medical Corporation,” “Pioneer Valley Information Exchange,” “Baystate Health Technology Innovation Center,” and all abbreviated and “doing business as” names for any of the foregoing, such as “PVIX,” “TechSpring,” or any other name or logo used to identify any BH-Affiliated Entity, except where such use is solely to identify the Author's association with that Entity.

14.0 BH Trade Secrets and Other Confidential Information.

BH, through certain BH-Affiliated Entities, owns valuable Trade Secrets, which may consist of non-public technologies; processes; Software; patient, demographic, financial or business data; or other Confidential Information relating to an activity conducted at or supported by a BH-Affiliated Entity. Trade Secrets have value and can be protected only if they are kept confidential, while disclosure of other Confidential Information can be a violation of law or a breach of contractual or ethical obligations. All Covered Persons, therefore, must keep Confidential Information and Trade Secrets confidential. No Covered Person may disclose Confidential Information or attempt to gain access to Confidential Information without proper authorization. All Covered Persons must adhere to all procedures designed to protect the confidentiality of patient data, Trade Secrets, and other Confidential Information, and each Covered Person is expected to assist in maintaining the effectiveness of such procedures.

An individual may be required to sign a confidentiality agreement with respect to Confidential Information as a condition for employment or as a condition for having access to such information. A person may also be required to adhere to other guidelines and security measures as a condition for participating in any activity involving Confidential Information.

Approved: 

Effective: BH Governance Committee 11/1/2017
BH Board of Trustees 11/14/2017

Replaces: BH Policy No. GO.10 (4/14/09)

APPENDIX A

Definitions

For purposes of this Intellectual Property Policy:

“Author” means an individual who materially participates in the creation of a Copyrightable Work.

“BH” means Baystate Health, Inc.

“BH General Research Funds” means funds created or administered by the IP Committee or its Chair for the purpose of assisting in the funding of research within BH-Affiliated Entities.

“BH-Affiliated Entity (or Entities)” means, individually and collectively, Baystate Health, Inc., Baystate Medical Center, Inc. (including Baystate Health Technology Innovation Center, d/b/a TechSpring), Baystate Franklin Medical Center, Baystate Wing Hospital Corporation (including Baystate Mary Lane Outpatient Center), Baystate Noble Hospital Corporation, Visiting Nurse Association and Hospice of Western New England, Inc., Noble Visiting Nurse Services, Inc., Baystate Health Foundation, Inc., Baystate Administrative Services, Inc., Baystate Total Home Care, Inc., Baystate Medical Practices, Inc., Westfield Medical Corporation, Pioneer Valley Information Exchange, LLC, and any other corporation or entity affiliated with Baystate Health, Inc. and designated by the IP Committee as subject to this Policy.

“Chair” means the Chair of the IP Committee.

“Confidential Information” means information that a Covered Person receives under an express or implied obligation of confidentiality, including information that may constitute or be part of a Trade Secret.

“Consulting Agreement” means an agreement, to which a BH-Affiliated Entity is not a party, for the provision of consulting services by a Covered Person.

“Copyright” means the exclusive legal right, given to a Creator or an assignee of a Creator of original expression that is fixed in any tangible medium, to copy, print, publish, perform, film, or record that expression, and to authorize others to do the same. Copyright protects expression; it does not protect ideas (see Patents and Trade Secrets) or brand names (see Trademarks).

“Copyrightable Work” has the same meaning as “Work,” as defined below.

“Covered Person” means each employee and each member of a medical staff or an associate or allied health professional staff of a BH-Affiliated Entity, each person working in whole or in part under a contract with an Entity or an individual or organization affiliated with an Entity, residents,

students and others who are in any program of a BH-Affiliated Entity, and any person making substantial use of a facility of a BH-Affiliated Entity. The term “Covered Person” includes each student, researcher, and person holding a residency or a fellowship, who performs educational, research, clinical, or other activities at an Entity.

“**Creator**” is any Author, Inventor, or other person who invents, makes, authors or otherwise materially contributes to the creation of useful Intellectual Property.

“**Creator’s Department**” means the department of the medical staff of a BH-Affiliated Entity with which, in the judgment of the Chair, a Creator was principally associated at the time the Intellectual Property generating the Income was created.

“**Creator's Share**” of Income means that share of Net Income that is allocated to a Creator or Creators as provided by this Policy. An individual whose contribution as a Creator is as an employee of BH Information & Technology or a Work for Hire, whose contribution as a Creator is performed as an employee of or under contract with a non-BH-Affiliated Entity, or who receives an Equity interest as discussed in paragraph 10.2 of this Policy, shall not be included within those Covered Persons entitled to a Creator’s Share or part thereof.

“**Equity**” means stock, stock options, membership interests or contractual or other rights to acquire stock, stock options, membership interests or other interests as an owner, partner, member, or beneficiary of any entity, or a beneficial interest in any of the foregoing.

“**Entity**” or “**Entities**” means “BH-Affiliated Entity or Entities,” defined above.

“**HIPAA Rules**” means rules or regulations issued by the United States Department of Health and Human Services pursuant the Health Insurance Portability and Accountability Act of 1996.

“**Income**” means license fees, royalties, and other revenues attributable to the use or sale of Intellectual Property, but shall not include revenues explicitly earmarked in the license, distribution, or other commercial agreement to reimburse patent, development, or other costs incurred by BH or to compensate an Entity for providing training or other benefits in connection with the development of the Intellectual Property. “Income” does not include Equity but does include proceeds received from the sale of Equity.

“**Intellectual Property**” or “**IP**” means Inventions, Patents, Copyrightable Works, Trademarks, Trade Secrets and other intangible property, including data, that are protected by law.

“**Invention**” has the meaning given in paragraph 4.0 of this Policy.

“Inventor” means an individual who conceives of or materially participates in the creation of an Invention.

“IP Committee” or “Intellectual Property Committee” means the Intellectual Property Committee of BH as provided by paragraph 2.1 of this Policy.

“Net Income” means the net Income received by BH from the licensing or other disposition of any Intellectual Property owned in whole or in part by it after deduction of all unreimbursed costs reasonably attributable to protecting the Intellectual Property and making it available to the public. These deductions shall include any expense of patent prosecution and interference, copyright registration, litigation, licensing, acquisition of related rights or permissions needed to license the Intellectual Property, and like costs.

“Participation Agreement” means an Agreement, a form of which is attached as Appendix C to this Policy, or authorized modification thereof, that confirms acceptance of this Policy by a Covered Person and assigns to BH all rights in any Intellectual Property in which BH asserts ownership under the terms of this Policy.

“Patent” means the exclusive right granted by a government to an inventor, or an assignee thereof, to manufacture, use, license, and sell an Invention for a certain number of years.

“Policy” means this BH Intellectual Property Policy.

“Property” has the same meaning as “Intellectual Property” as defined above.

“Scholarly Work” has the meaning given in paragraph 6.2 of this Policy.

“Software” means computer or computer-based materials, whether or not protected by United States copyright laws, including but not limited to computer programs, computerized databases, microcode, subroutines, operating systems, high level languages, and application programs in whatever form expressed (e.g., machine or assembly language, source or object code) or embodied (e.g., chip architecture, ROM, disk or tape storage, program listing), and user's manuals and other accompanying explanatory materials or documentation.

“Special Purpose IP Research Fund” means a fund under the control and direction of the chair of a department of the medical staff of the BH-Affiliated Entity, funded by such department's share of Net Income.

“Trademark” means any word, phrase, logo, design or other symbol used to identify and distinguish the source of goods or services. As used here, the term includes any trademark, service mark, trade name or trade dress.

“Trade Secret” means any business, scientific, or technical information, design, process, formula,

listing, or other information relating to a business or profession that is kept reasonably confidential and that has economic value. A Trade Secret may but need not be patentable or copyrightable.

“Video Material” means any recorded visual, audio, or audio-visual work.

“Work” or “Copyrightable Work” means any original work of authorship or other expression that is fixed in any tangible medium of expression. Examples of Copyrightable Works include, but are not limited to, Software, journal articles and other scholarly or scientific papers, manuals, texts, books, photographs, drawings, and Video Materials.

“Work for Hire” means a Copyrightable Work that is prepared by an employee within the scope of his or her employment. It also means a Copyrightable Work specially ordered or commissioned for use as a contribution to a collective work, a part of an audiovisual work, a translation, a supplementary work, a compilation, an instructional text, a test or answer material for a test, or an atlas, that a BH-Affiliated Entity and the Creator expressly agree in a written instrument signed by them that the Work shall be considered a Work for Hire.

APPENDIX B

Distribution of Cumulative Net Income

<u>Net Income</u>	<u>Creator's Share</u>	<u>Creator's Department</u>	<u>BH General Research Funds</u>
First \$1,000,000	50%	20%	30%
Over \$1,000,000	30%	20%	50%

APPENDIX C

Participation Agreement

Baystate Health, Inc.

Intellectual Property Development: Participation Agreement

Your agreement to the terms of this Participation Agreement is a condition of your participation in activities associated with Baystate Health, Inc. ("BH") or any of its affiliated entities ("BH-Affiliated Entities"), including Baystate Medical Center, Inc., d/b/a TechSpring. Before signing this Agreement, you should review BH's Intellectual Property Policy ("IP Policy"), which applies to you. For purposes of this Agreement, "BH-Affiliated Activities" means activities that receive direct or indirect financial support from or through a BH-Affiliated Entity, that make substantial use of its facilities, materials, or other resources, or that are conducted under a contract to which BH or a BH-Affiliated Entity is a party.

Agreement:

I hereby agree to the following terms as a condition of my employment, medical staff membership and privileges, associate or allied health professional staff membership and privileges, or opportunity to participate in research or other activities at BH or BH-Affiliated Entities:

1. I will comply with the IP Policy, as BH may revise the IP Policy from time to time with notice to me.
2. I hereby assign, and agree in the future to assign, to BH all rights that I may have or may acquire in any new or improved process, machine, material, software, or other invention, whether patentable or not (collectively, "Inventions"), and in each copyrightable work that may have commercial value that are created in connection with my employment or my participation in research or other activities at BH or BH-Affiliated Entities. I do this in consideration of the benefits of my association with BH and my potential share of revenue under the terms of the IP Policy if BH receives income from the licensing of Inventions or other intellectual property in whose invention or creation I participate.
3. I will promptly disclose to BH intellectual property that I individually or jointly create, including Inventions and copyrightable works that may have commercial value. I will do this by completing and submitting a BH Intellectual Property Disclosure Form to the Chair of the BH IP Committee.
4. I will file with the BH Intellectual Property Committee, within thirty (30) days of the date of this Agreement, a complete and true copy of any agreement to which I am a party that involves financial or other support for activities that may involve the creation of new intellectual property. In the future, I will obtain the approval of the Chair of the IP Committee before entering into any arrangement that does not include a BH-Affiliated Entity as a party and that may involve research, the creation of intellectual property, or the sharing of BH materials, data, or research results, other than Scholarly Works, as that term is defined in the IP Policy.
5. I agree to comply with the terms of any grant or agreement in which BH or a BH-Affiliated Entity is a party that provides support for research in which I am involved.
6. I will not share or disclose confidential information (which may include, among other things, patient information, non-public data, technologies, and research results, processes, software, and other privileged information) without the written approval of the Chair of the IP Committee. I agree that my obligations under this paragraph will continue beyond the end of my involvement with BH or BH-Affiliated Entities and can be terminated only by the written consent of the IP Committee Chair.

Signature: _____

Date: _____

Printed Name: _____

Form approved by BH IP Committee, _____

APPENDIX D

Intellectual Property Disclosure Form

BAYSTATE HEALTH, INC.
INTELLECTUAL PROPERTY DISCLOSURE FORM

(The definitions of capitalized terms used in this form may be found at Appendix A to the BH Intellectual Property Policy.)_

PART A: GENERAL INFORMATION

1. TITLE OF INVENTION OR COPYRIGHTABLE WORK:

--

2. CREATOR(S) NAME, TITLE, DEPARTMENT, ADDRESS, EMAIL, AND TELEPHONE EXTENSION:

Identify each person who contributed to making this Invention or Copyrightable Work. If you are disclosing an Invention or Software, include each person who has or may contribute to any manuscript describing or disclosing the work and briefly describe the person's role in its creation.

3. **SOURCE OF FUNDS THAT HAVE SUPPORTED THE CREATION OF THE INVENTION OR COPYRIGHTABLE WORK:**

A.	BH	
B.	Government Grant - Agency and Grant No.	
C.	Private Industry - Name	
D.	Foundation	
E.	Other- Explain	

4. **NATURE OF WORK YOU ARE DISCLOSING**

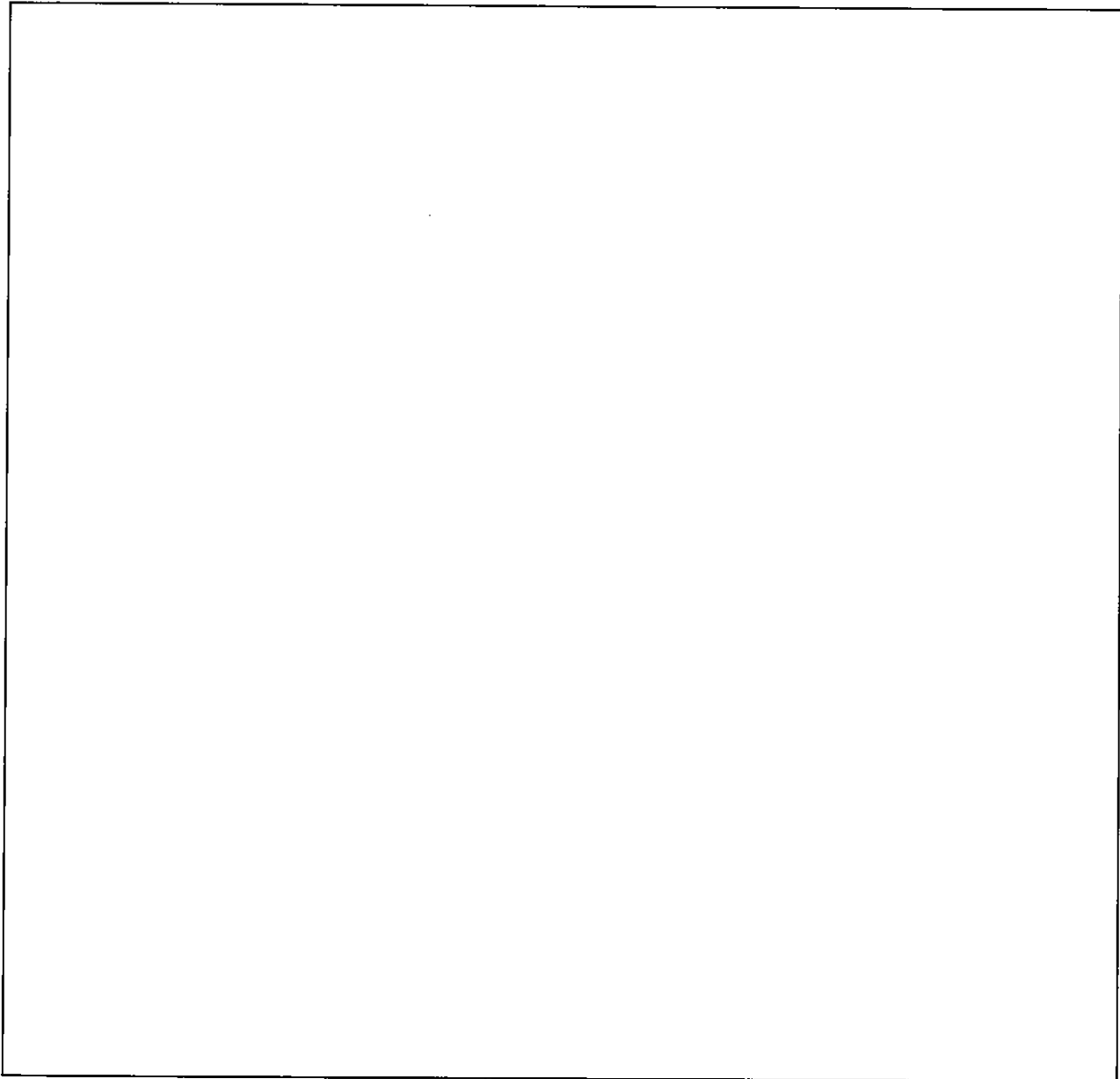
_____ Non-Software Copyrightable Work (Complete Parts A and B, only, and sign and date form.)

_____ Software (Complete Parts A, B and C, only, and sign and date form.)

_____ Invention (Complete Parts A, B and D, only, and sign and date form.)

PART B: GENERAL DESCRIPTION

A. Please provide a brief, **non-confidential** description of the nature and purpose of your work.

A large, empty rectangular box with a thin black border, intended for the user to provide a brief, non-confidential description of the nature and purpose of their work.

If your work is a Copyrightable Work, and it is not Software or an Invention, please go to the end of this form, sign and date it, and submit with it one complete copy of your Copyrightable Work.

PART C: SOFTWARE

1. **Please state whether the Software was made from or incorporates materials provided by a third party?**
___ YES ___ NO
If YES:
 - a. Identify any program code, data, files, or other incorporated elements (including, for example, runtimes, voices or other sounds, and graphics or other images) not original to the developer(s).
 - b. Indicate if this Software is a modification of or an improvement to an existing work and identify that work and its developer(s):
 - c. Attach a copy of the release, license, or other relevant agreement(s), if any exist, regarding the use of such materials or pre-existing work.
2. **State the approximate date when and the place where this Software was first conceived:**
3. **Software Description:**
 - a. Describe the methods used by the Software:
 - b. Describe the hardware configuration required to operate the Software:
 - c. Identify the operating system that is required:
 - d. Indicate the utilities that are required:
 - e. Identify the programming language that was used:
 - f. Indicate the code format that you recommend for the distribution of the Software (e.g., object code only, object and source):
 - g. Identify any aspects of the Software intended to assist the user, such as whether it has windows or a

written user's manual. (Please provide a copy of any such manual or similar written materials.):

h. Describe the program's development stage (e.g., whether it is fully functional; whether it has been fully tested):

4. State to whom the Software has been demonstrated:

a. Others within a BH-Affiliated Entity (include person(s), entity, department(s), and date(s)):

b. Others outside of any BH-Affiliated Entity (include person(s), organization(s), and date(s)):

c. Identify who has a copy of the Software (include person(s), department(s)/organization(s), and date(s)). If no one, please so note.

5. Market Potential for this Software:

a. Describe why someone would want to use this program, including the unique benefits that the Software offers to users, particularly relative to alternative products or techniques:

b. Identify who the potential end users of the Software may be:

c. Please identify any independent experts with whom we may communicate, with your approval, to get additional information (include the expert's name, address, and telephone number):

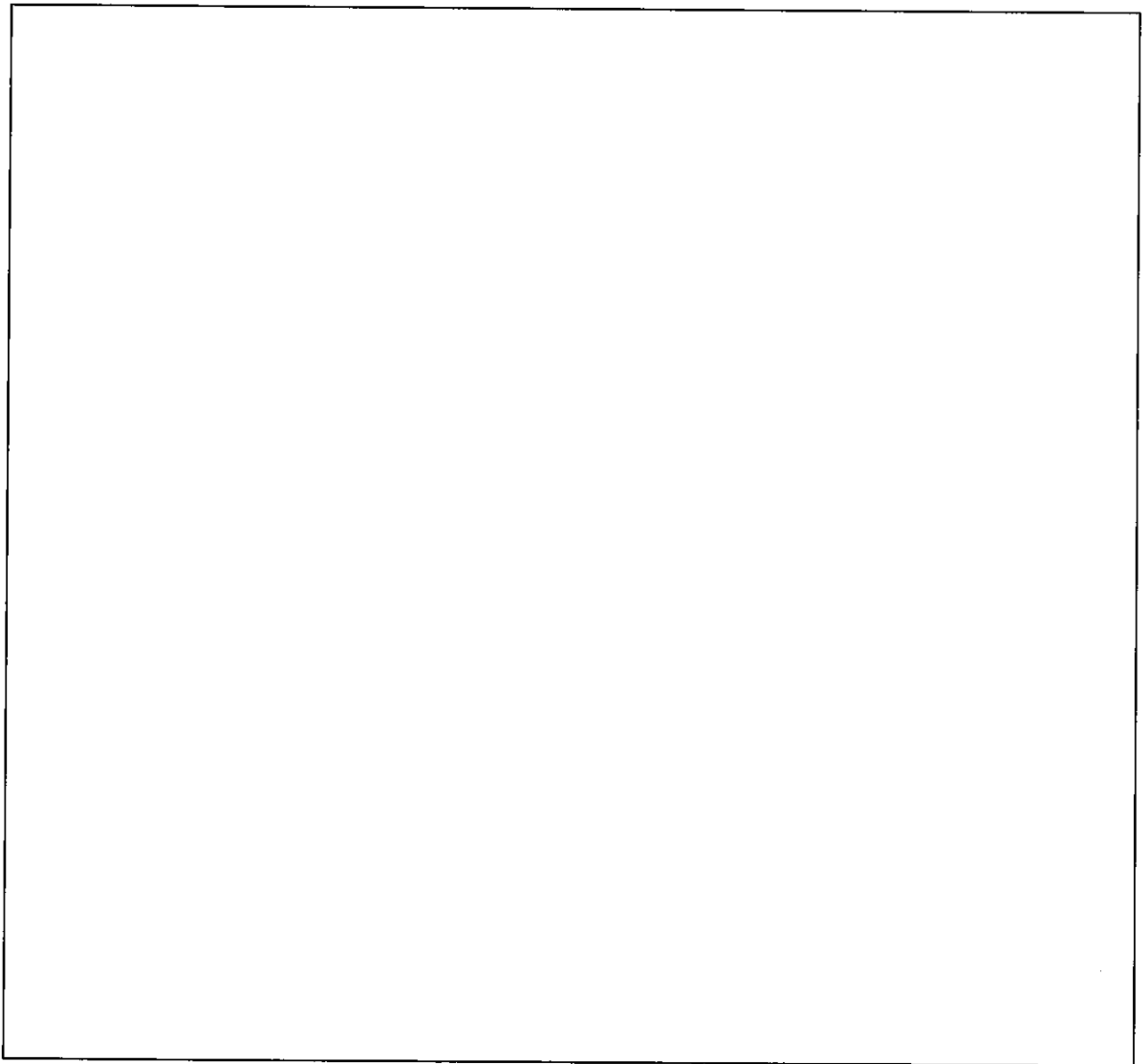
If your work is not an Invention, please go to the end of this form, sign and date it, and submit it with one full copy of your Software.

PART D: INVENTIONS

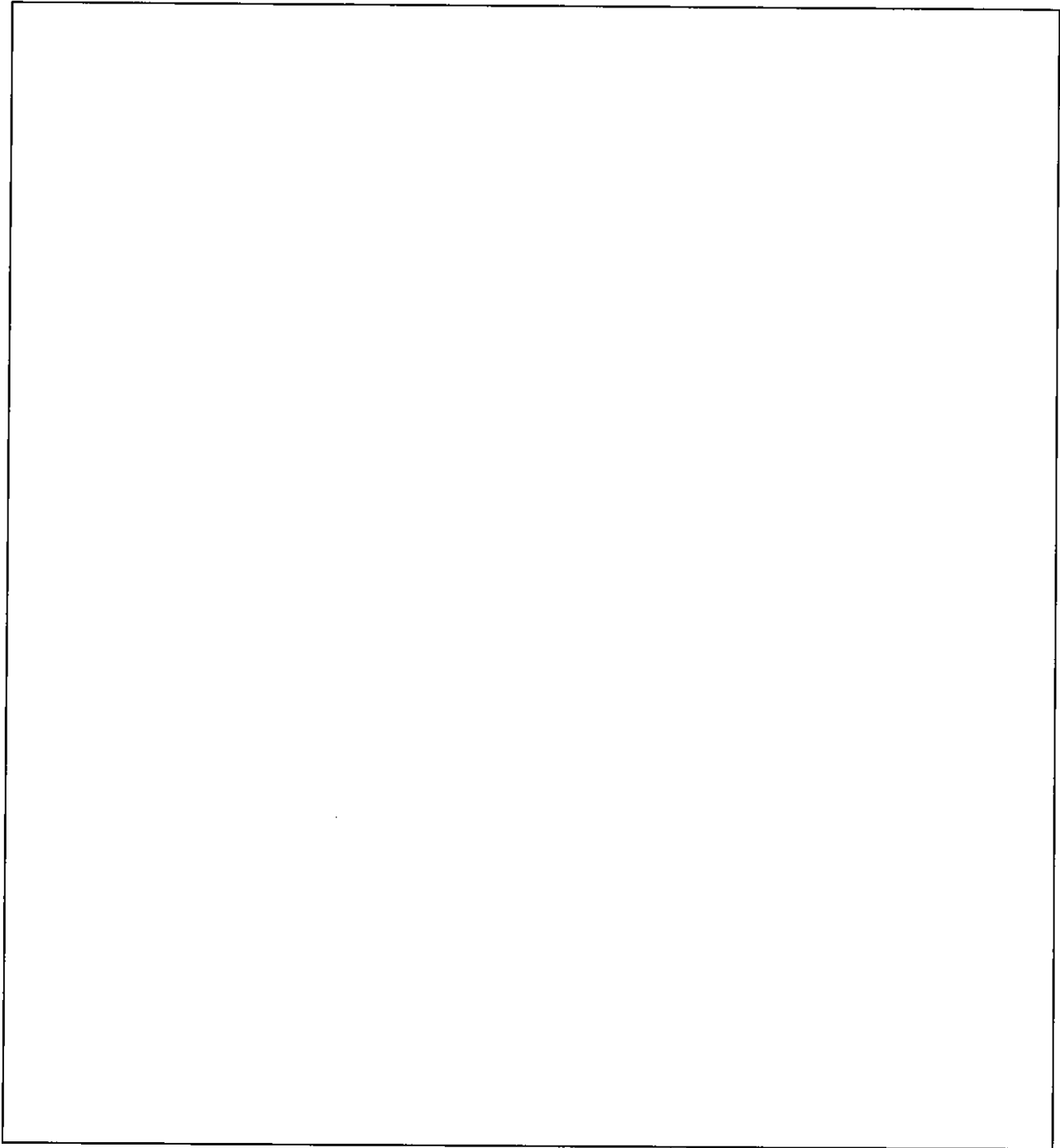
1. INVENTION DISCLOSURE:

Please use the outline below to describe the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the Invention. Attach any sketches, drawings, photos, diagrams, and manuscripts that may help describe the Invention:

A. Describe how the Invention overcomes previously existing problems.

A large, empty rectangular box with a thin black border, intended for the user to provide a detailed description of the invention as requested in the preceding text.

- B. Describe the Invention in detail, including novel features and critical components. Include relevant sketches, drawings, circuit diagrams, and/or formulas. Alternatively, you may attach a draft manuscript that provides this information.



2. **COMMERCIAL POSSIBILITIES:** To the extent known, please explain the commercial potential of the Invention. (Please include any significant commercial potential of the Invention outside of the United States and any potential licensees of the Invention.)

3. HISTORY OF THE INVENTION:

A. Please give the date of when the Invention was first conceived.

B. Please identify to whom, if anyone, the Invention has been disclosed:

Date of Disclosure

To Whom Disclosed

Affiliation of Person

C. When was the first written description or drawing of the Invention produced? Please attach a photocopy of such written description.

Date:

4. THIRD PARTY INVOLVEMENT:

A. Please list any equipment, drugs or biological materials, and identify the source thereof, that you or any co-inventor received from any non-BH party for use in the research which gave rise to the Invention. Please attach a copy of any agreement with any such party.

B. Was any proprietary information from a third party used in connection with the research that led to, or otherwise in connection with creating, the Invention?

YES

NO

i. If YES, please briefly explain the subject of the proprietary information and identify the party from whom it was received.

ii. If YES, has anyone entered into or signed a confidentiality or secrecy agreement in exchange for receiving that proprietary information?

YES

NO

If so, please describe briefly the subject of the confidentiality or secrecy agreement(s) and attach a copy of each such agreement.

5. PUBLICATION

A. Has the Invention been described in a publication or presentation?

YES

NO

If YES, please give the name and date of the publication or presentation.

B. Please describe any plans that you have for describing the Invention in a publication or presentation.

6. PRIOR ART, PATENT, AND LITERATURE SEARCH

Please provide a copy of any relevant bibliography or other research results from a patent or literature search relating to this Invention, if any. You may go to www.uspto.gov and www.google.com/patents to search with key words to find relevant prior art.

SIGNATURE OF CREATOR:

DATE: _____

Print name: _____

Signature: _____

Request for Unequal Shares: If income is received from the intellectual property disclosed by this Disclosure Form, Baystate Health (BH) normally will distribute the Creators' share of such income equally among the Creators of the intellectual property, unless a different split is requested below and signed by all Creators, and such split is subsequently approved by the BH IP Committee:

Inventor 1: Name (printed) _____ Requested Percent of Inventor share: _____

Acknowledged: _____

Inventor 2: Name (printed) _____ Requested Percent of Inventor share: _____

Acknowledged: _____

Inventor 3: Name (printed) _____ Requested Percent of Inventor share: _____

Acknowledged: _____

Add additional names as necessary:

This document contains confidential, proprietary information. The information contained herein must not be disclosed to any person for purposes other than those described in the BH Intellectual Property Policy.

Please return the completed form to:

Chair
Intellectual Property Committee
Baystate Health, Inc.
759 Chestnut Street
Springfield, MA 01199