

Hennepin Healthcare System	
Title: Intellectual Property	Policy # 100764
Policy Sponsor: Compliance Officer	
Review Body(s): Medical Executive Committee, Intellectual Property Committee	
Approval Body: Executive Leadership Team	
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PURPOSE

The purpose of this policy is to facilitate the development of intellectual property (IP) created by employees of Hennepin Healthcare System (HHS) for the benefit of the public in furtherance of HHS’s mission, while protecting the interests of HHS, the creator(s), and any other concerned parties by:

1. Encouraging and fostering innovation in all aspects of its operations;
2. Providing a supportive process and infrastructure for the development of intellectual property;
3. Establishing the expectation that intellectual property created with HHS resources (such as time, materials, equipment, processes) will be disclosed to HHS;
4. Establishing ownership rights of intellectual property.

POLICY

HHS encourages and fosters innovation throughout its operations. The intellectual property created by HHS innovation should be disseminated to the local and greater health care community, while at the same time provide financial benefit to HHS from those innovations which may have commercial value. HHS is committed to developing diverse financial resources to sustain its patient care, education and research programs. Thus, it is the responsibility of all HHS employees to disclose any discovery, invention, innovation, or original work made as a part of an employee’s work at HHS, made under the auspices of HHS, or made using HHS resources, to the Hennepin Healthcare Research Institute (HHRI) or Intellectual Property Committee (IPC).

SCOPE

This policy applies to intellectual property. It is not the intent of this policy to address every situation that may arise, but rather to provide guiding principles and a process by which complex issues involving intellectual property may be addressed.

This policy does not apply to any discovery, invention, innovation, or original work for which no equipment, supplies, facility or trade secret information of HHS or HHRI know-how was used and which was developed entirely on the employee’s own time, and which does not relate directly to the business of the HHS or HHRI or to HHS or HHRI actual or demonstrably anticipated research or development, or which does not result from any work performed by the

employee for HHS or HHRI.¹ Academic works, as defined below, will remain in the ownership and control of the originator, in keeping with traditional academic freedoms.

DEFINITIONS

Academic Works: Academic works shall mean a scholarly, pedagogical, literary, or creative intellectual property fixed in a tangible medium of expression, including but not limited to an article, book, textbook, publication, novel, work of visual art, dramatic work, literature, musical composition, music composition, or course syllabus.

Creator: Any person who creates one or more items of intellectual property either on her/his//their own or with one or more co-creators.

Employee: All employees at any level, residents, students, interns, fellows, post-doctorate fellows, providers, medical staff, Hennepin County professionals, unpaid professionals, volunteers, individuals receiving training at HHS, temporary employees, independent contractors, vendors, and those individuals employed by a service provider for HHS.

Income: Income consists of cash, securities, and/or equity shares in an enterprise, commercialization, sale, or licensing of HHS IP, whether patented or not.

Hennepin Healthcare Research Institute (HHRI): The non-profit subsidiary of HHS that supports and oversees HHS research efforts.

Intellectual Property (IP): Includes, but is not limited to, inventions (whether patentable or not), copyrights, copyrightable subject matter, trademarks, software, apps, trade secret, processes, machines, and tangible property. From time to time, advances in science, medicine, and the arts may result in new structures of intellectual property protection. They shall be considered to fall within this policy to the extent practicable.

Intellectual Property Committee (IPC): A committee of HHRI and HHS that evaluates HHS IP and makes determinations regarding disposition of HHS IP, including whether further investment should be made in HHS IP.

Technology Transfer Office (TTO): This office is part of HHRI and serves as the central hub for initial evaluation of IP and innovations developed by HHS creators. Among its responsibilities, the TTO receives disclosures of IP from HHS creators and provides input and assistance to the IPC regarding further investment in HHS IP.

PROCEDURE

I. Process to Evaluate Intellectual Property

- A. The TTO will serve as a central contact point for the creators of HHS intellectual property.

¹ Notice provided in compliance with Minn. Stat. § 181.78.

1. A creator submits a complete disclosure of IP to the TTO.
2. The TTO reviews the disclosure and provides:
 - a. Recommendations to the IPC regarding completeness of disclosure,
 - b. Identification of potential shared owners (such as the government or an outside sponsor);
 - c. Identification of potential purchasers or licensees, and
 - d. Suggestions to aid the IPC in its evaluation.
3. The IPC evaluates the IP and determines what actions, if any, HHS will take regarding development of the IP. The IPC will provide a written response to the TTO and the creator(s) regarding HHS's intended actions regarding the IP. IP deemed appropriate by the IPC for further development by HHS may then be vetted for licensing or sale. The cost of obtaining legal protection of IP deemed appropriate for further development by HHS will be borne by HHS or HHS partners.
4. Creators of IP that is deemed not appropriate for further development by HHS may be given the option of licensing or purchasing the IP for private development, if so desired by all parties. The cost of obtaining legal protection of IP licensed to Creators will be borne by Creators.
5. HHS and a creator may jointly determine that certain HHS IP will be dedicated to the public domain.

II. General Statement of Ownership

Except as noted in Sections III and IV below, all right, title, and interest in and to IP created by HHS employees, including employees hired to innovate or research, or created using HHS resources shall be owned by HHS.

- A. Creators will provide, upon request by HHS, assignments or other documents (including, but not limited to, notebooks, data, research records, electronic communications, software, and tangible research property) deemed necessary or appropriate by HHS, including to perfect its ownership rights.
- B. Generally, creators will retain custody of and protect tangible research property while at HHS. The creator must ensure appropriate safeguards are in place for any IP prior to leaving HHS.
- C. Creators of IP deemed by the IPC not appropriate for further development may be granted a license to pursue private development, with the Creators being responsible for obtaining patent protection or other legal protection, as appropriate. However, HHS may retain certain rights to the IP, such as a perpetual, irrevocable, non-exclusive right to use and copy the IP, and any commercialized form of said IP, at no cost and free of charge for research, education, and patient care purposes and the right to share in any proceeds from commercialization of the IP.
- D. If a dispute regarding ownership or disposition of IP occurs, and the Creator wishes to appeal the determination, the Creator should appeal to their Department Chief and appropriate escalations will commence:
 1. Appeals involving members of the Medical Staff will first be heard by the Medical Executive Committee (MEC). If MEC rejects the appeal and asserts the determination by the IPC is appropriate, the appeal process ends. If MEC approves the appeal, the Executive Leadership Team (ELT) will determine if the new determination is acceptable or if the initial decision by the IPC must be accepted.

2. Appeals involving Non-Medical Staff will be heard by ELT. ELT will determine if the appeal is acceptable or if the initial determination by the IPC must be accepted.

E. Exceptions to the General Statement of Ownership

Ownership of IP created by HHS employees that results from HHS-approved government-or industry-sponsored research grants, contracts, or other such HHS-approved agreements will be controlled by the terms of those agreements. The creator shall retain ownership of the following:

1. IP created in which the provisions specified in Scope at paragraph 2 apply;
2. All rights in artistic, literary and scholarly intellectual property, such as scholarly books, articles, and other publications (including those in electronic form), works of art, literature and music recordings, despite the use of HHS resources so long as such works:
 - a. Are not created under the direction and control of HHS, or
 - b. Are not developed in the performance of a sponsored research or other third-party agreement; and
 - c. Do not contain HHS brand identifiers or images of HHS resources, equipment, patients, employees, or students.

III. Potential Other Ownership Options

Upon agreement between a creator and HHS:

- A. A Creator who is not otherwise obligated to assign IP to HHS, may assign IP they would otherwise own to HHS;
- B. Upon approval by the IPC, a Creator may dedicate her/his/their HHS-owned inventions or discoveries to the public domain, thereby foreclosing the possibility of patenting and/or licensing, provided there is no conflict with the desires or rights of co-Creators, associated third parties, or applicable laws and regulations;
- C. If HHS cannot, or decides not to, proceed in a timely manner to protect and/or license HHS-owned intellectual property, it may, upon written request by the Creator(s) and to the extent permitted by law and HHS-approved third party agreements, license either domestic only or domestic and foreign intellectual property rights to the Creators while retaining the perpetual right to use the IP, and any commercialized form of said IP, at no cost to HHS and free of charge to HHS for research, education, and patient care purposes. Creator will obtain protection for HHS from future disputes and litigation so as to safeguard HHS's basic functions and the academic freedoms of HHS faculty.

IV. Publication Research Results

- A. This policy shall not limit or restrict the right of HHS faculty to publish results of their research, subject to reasonable delays to preserve patent or other intellectual property rights.
- B. Delays in publication required by HHS or third parties in sponsored research agreements should not exceed 90 days from initial disclosures of the intellectual property to TTO or the external sponsor.

V. Income Sharing

- A. HHS shall share Income with the HHS Creator(s) pursuant to HHS's Income sharing formula unless prohibited or restricted by law or by third party agreement.
- B. HHS's Income sharing formula shall apply to the distribution of Income among Creators, Departments that supported the creation of the IP, and HHS, based on amounts received by HHS. Income will be distributed under the following Income sharing formula:
 - 1. Thirty-three and one third percent to be distributed to the Creator or Creators;
 - 2. Thirty-three and one third percent to be distributed to the Department or Departments that supported the development of the IP;
 - 3. Thirty-three and one third percent to be retained by HHS.
- C. HHS may, in its sole discretion, change the distribution to departments if such amounts become disproportionate compared to their budgets or if there have been administrative organizational changes, including a Creator's movement to another department.

SUPPORTIVE INFORMATION

Regulatory Statute/ Standard Reference: Minn. Stat. § 181.78
Related Policies:
References:
Communication/ Staff Education:
Patient Education: NA