



# HIPAA Privacy Notice Clause (Summary Plan Description)

A Lexis Practice Advisor® Practice Note by  
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## FORM SUMMARY

This language can be inserted into a group health plan's summary plan description to fulfill the required notice of privacy practices disclosure under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule for such plans that are HIPAA "covered entities." Covered entities include almost all employer-sponsored group health plans, with a narrow exception for self-funded plans that do not use a third-party administrator and have fewer than 50 employees eligible to participate in the plan. The notice informs individuals about the plan's handling of protected health information (PHI) and the individuals' PHI rights. The Privacy Rule establishes content, delivery, and maintenance conditions for the notice at 45 C.F.R. § 164.520. This language is based in part on the sample notice, available at the [Department of Health and Human Services website](#), but has been modified for use in an employer's health plan SPD. The notice must be furnished to plan participants at least once every three years in addition to at the time of enrollment. Note that this can be more frequent than SPD distribution requirements under the Employee Retirement Income Security Act (ERISA). This form includes optional language and drafting notes.

For more information on the Privacy Rule notice requirement and HIPAA generally, see [HIPAA Privacy, Security, Breach Notification, and Other Administrative Simplification Rules](#). For a stand-alone notice, see [HIPAA Notice of Privacy Practices](#).

## HIPAA NOTICE OF PRIVACY PRACTICES

This section of the SPD describes how medical information about you may be used and disclosed and how you can get access to this information. Please review it carefully.

The following information is effective as of the date of delivery of the SPD. For further information on the contents of this section, please contact *[contact person]* at *[contact information]*.

### Drafting Note to Second Paragraph in “HIPAA Notice of Privacy Practices” Section

Provide the applicable address, website (if applicable), telephone number, e-mail address, and any other desired contact information for the privacy official or other relevant person.

### Drafting Note to “HIPAA Notice of Privacy Practices” Section

The notice must be furnished to all plan participants at the time of their enrollment. The plan is responsible for satisfying this requirement for self-funded plans, and the issuer or administrator is responsible for fully insured plans. The plan generally must maintain a copy of the notice (unless it is a hands-off plan) and, no less frequently than once every three years, plan participants must be notified of the availability of the notice and how to obtain a copy. In addition, a copy must be available on the plan’s website if it has one.

Privacy practices, and consequently HIPAA notices, vary from employer to employer or plan to plan, so you may need to customize the language in this form.

## Notice Summary:

- Your Rights.** You have the right to:
- Get a copy of your health and claims records
  - Correct your health and claims records
  - Request confidential communication
  - Ask us to limit the information we share
  - Get a list of those with whom we’ve shared your information
  - Get a copy of this privacy notice
  - Choose someone to act for you
  - File a complaint if you believe your privacy rights have been violated

**Your Choices.** You have some choices in the way that we use and share information as we:

- Answer coverage questions from your family and friends
- Provide disaster relief
- Market our services and sell your information

**Our Uses and Disclosures.** We may use and share your information as we:

- Help manage the health care treatment you receive
- Administer the plan
- Pay for your health services
- Administer your health plan
- Help with public health and safety issues
- Do research
- Comply with the law
- Respond to organ and tissue donation requests
- Work with a medical examiner or funeral director
- Address workers' compensation, law enforcement, and other government requests
- Respond to lawsuits and legal actions

**YOUR RIGHTS** When it comes to your health information, you have certain rights. This section explains your rights and some of our responsibilities to help you.

#### **Get a copy of your health and claims records**

- You can ask to see or get a copy of your health and claims records and other health information we have about you. Ask us how to do this.
- We will provide a copy or a summary of your health and claims records, usually within 30 days of your request. We may charge a reasonable, cost-based fee.

#### **Ask us to correct your health and claims records**

- You can ask us to correct your health and claims records if you think they are incorrect or incomplete. Ask us how to do this.

- We may say “no” to your request, but we’ll tell you why in writing within 60 days.

#### **Request confidential communications**

- You can ask us to contact you in a specific way (for example, home or office phone) or to send mail to a different address.
- We will consider all reasonable requests, and must say “yes” if you tell us you would be in danger if we do not.

#### **Ask us to limit what we use or share**

- You can ask us not to use or share certain health information for treatment, payment, or our operations. We are not required to agree to your request, and we may say “no” if it would affect your care.

#### **Get a list of those with whom we’ve shared information**

- You can ask for a list (accounting) of the times we’ve shared your health information for six years prior to the date you ask, who we shared it with, and why.
- We will include all the disclosures except for those about treatment, payment, and health care operations, and certain other disclosures (such as any you asked us to make). We’ll provide one accounting a year for free but will charge a reasonable, cost-based fee if you ask for another one within 12 months.

**Get a copy of this privacy notice** You can ask for a paper copy of this HIPAA Notice of Privacy Practices at any time, even if you have agreed to receive the notice electronically. We will provide you with a paper copy promptly.

#### **Choose someone to act for you**

- If you have given someone medical power of attorney or if someone is your legal guardian, that person can exercise your rights and make choices about your health information.
- We will make sure the person has this authority and can act for you before we take any action.

#### **File a complaint if you feel your rights are violated**

- You can complain if you feel we have violated your rights by contacting us using the information provided at the beginning of this HIPAA Notice of Privacy Practices section.
- You can file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights by sending a letter to 200 Independence Avenue, S.W., Washington, D.C. 20201, calling 1-877-696-6775, or visiting [www.hhs.gov/ocr/privacy/hipaa/complaints/](http://www.hhs.gov/ocr/privacy/hipaa/complaints/).
- We will not retaliate against you for filing a complaint.

#### **YOUR CHOICES**

**For certain health information, you can tell us your choices about what we share.** If you have a clear preference for how we share your information in the situations described below, talk to us. Tell us what you want us to do, and we will follow your instructions.

In these cases, you have both the right and choice to tell us to:

- Share information with your family, close friends, or others involved in payment for your care
- Share information in a disaster relief situation

*If you are not able to tell us your preference, for example if you are unconscious, we may go ahead and share your information if we believe it is in your best interest. We may also share your information when needed to lessen a serious and imminent threat to health or safety.*

In these cases, we **never** share your information unless you give us written permission:

- Marketing purposes
- Sale of your information

## OUR USES AND DISCLOSURES

**How do we typically use or share your health information?** We typically use or share your health information in the following ways.

**Help manage the health care treatment you receive.** We can use your health information and share it with professionals who are treating you.

*Example: A doctor sends us information about your diagnosis and treatment plan so we can arrange additional services.*

**Run our organization.** We can use and disclose your information to run our organization and contact you when necessary.

*Example: We use health information about you to develop better services for you.*

**Note regarding genetic information:** We are not allowed to use genetic information to decide whether to give you coverage or determine the price of that coverage. This rule does not apply to long-term care plans.

### Drafting Note to “Note regarding genetic information” Paragraph in “Our Uses and Disclosures” Section

PHI that constitutes “genetic information” cannot be used or disclosed for “underwriting purposes” under the Genetic Information Nondiscrimination Act. This prohibits, for example, family medical history from being used as a basis for eligibility decisions or the determination of insurance premiums or contribution rates. If **any** PHI is used for underwriting purposes (including rate setting or other activities related to the creation, renewal, or replacement of health insurance), this statement is required (except for issuers of certain long-term care policies). For more information, see [GINA Compliance for Welfare Plan Sponsors](#).

**Pay for your health services.** We can use and disclose your health information as we pay for your health services.

*Example: We share information about you with your dental plan to coordinate payment for your dental work.*

**Administer the Plan.** We may disclose your health information to the Plan sponsor for plan administration.

*Example: Your company contracts with us to provide a health plan, and we provide your company with certain statistics to explain the premiums we charge.*

**How else can we use or share your health information?** We are allowed or required to share your information in other ways – usually in ways that contribute to the public good, such as public health and research. We have to meet many conditions in the law before we can share your information for these purposes. For more information, see [www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/index.html](http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/index.html).

**Help with public health and safety issues.** We can share health information about you for certain situations such as:

- *Preventing disease*
- *Helping with product recalls*
- *Reporting adverse reactions to medications*
- *Reporting suspected abuse, neglect, or domestic violence*
- *Preventing or reducing a serious threat to anyone's health or safety*

**Do research.** We can use or share your information for health research.

**Comply with the law.** We will share information about you if state or federal laws require it, including with the Department of Health and Human Services if it wants to see that we're complying with federal privacy law.

**Respond to organ and tissue donation requests.** We can share health information about you with organ procurement organizations.

**Work with a medical examiner or funeral director.** We can share health information with a coroner, medical examiner, or funeral director when an individual dies.

**Address workers' compensation, law enforcement, and other government requests.** We can use or share health information about you:

- *For workers' compensation claims*
- *For law enforcement purposes or with a law enforcement official*
- *With health oversight agencies for activities authorized by law*
- *For special government functions such as military, national security, and presidential protective services*

**Respond to lawsuits and legal actions.** We can share health information about you in response to a court or administrative order, or in response to a subpoena.

## OUR RESPONSIBILITIES

Our responsibilities include:

- We are required by law to maintain the privacy and security of your protected health information.
- We will let you know promptly if a breach occurs that may have compromised the privacy or security of your information.
- We must follow the duties and privacy practices described in this notice and give you a copy of it.
- We will not use or share your information other than as described here unless you tell us we can in writing. If you tell us we can, you may change your mind at any time. Let us know in writing if you change your mind.

**Optional Clauses** [Describe any state or other laws that require greater limits on disclosures].

**CHANGES TO THE TERMS OF THE HIPAA NOTICE OF PRIVACY PRACTICES** We can change the terms of this notice, and the changes will apply to all information we have about you. The new notice will be available upon request, and a copy will be provided to you.

### Drafting Note to “Changes to the Terms of the HIPAA Notice of Privacy Practices” Section

Material changes to the terms of the notice must be communicated to plan participants within 60 days of the modification (and in advance of the modification for a notice posted on a plan website) 45 C.F.R. § 164.520(c)(1)(v).

**FOR MORE INFORMATION** For more information, contact the plan representative noted above or see [www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/noticepp.html](http://www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/noticepp.html) .

**ACKNOWLEDGMENT** Please sign and date the Acknowledgment of Receipt on the following page and deliver it as instructed on the form.

**Acknowledgment of Receipt: HIPAA Notice of Privacy Practices** *Please sign, date, and return this acknowledgement form to [recipient of form].*

I acknowledge that I received a copy of the *[name of employer plan sponsor]* Group Health Plans HIPAA Notice of Privacy Practices.

[\_\_\_\_\_]

Print name

\_\_\_\_\_

Signature

[\_\_\_\_\_]

Date

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Gabriel Marinaro serves as special counsel in the Employee Benefits and Executive Compensation group. His practice focuses on all aspects of employee benefits and executive compensation. He regularly counsels publicly traded and privately held companies, tax-exempt organizations, and governmental entities on a variety of employee benefits and executive compensation matters. Gabe regularly advises both employers and executives on a wide range of executive compensation matters, including drafting employment agreements, equity compensation arrangements, severance agreements and bonus plans. Gabe provides guidance on nonqualified deferred compensation plans both for for-profit companies and tax-exempt clients. Gabe regularly drafts nonqualified deferred compensation arrangements, including supplemental executive retirement plans, and change in control agreements. Additionally, Gabe advises employers and executives on issues under Code Sections 409A, 457(f), 457A, 162(m), 280G and 83 regarding compensation arrangements for executives.

Gabe assists both publicly traded and privately held companies with equity compensation matters, including drafting equity incentive plans, securities filings, award agreements, and other documentation surrounding the implementation of an equity incentive plan and the underlying awards. Gabe also has drafted and advised on profits interests plans and unit appreciation rights plans for limited liability companies.

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