

OFFICE OF THE ~~SUPERINTENDENT~~DIRECTOR PROFESSIONAL STAFF
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REVISED GUIDELINE – VOL. 26, NO. 1

PRIVACY PROTECTIONS OF SELF-FUNDED GROUP HEALTH PLANS

~~The Privacy Protection Officer shall abide by the following procedures which are established to comply with the requirements of Federal law:~~

The following administrative guidelines apply to the self-funded group health plans maintained by the Board:

- A. Training: The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule requires the group health plan to train all members of the plan's workforce on the policies and procedures with respect to Protected Health Information. The Privacy ~~Official~~~~Protection Officer~~ shall ensure that the members of the plan's workforce receive adequate and appropriate training regarding the Privacy Rule.
- B. Business Associate Agreements: The Privacy Rule requires a group health plan to enter into business associate agreements with its third party vendors. The Privacy ~~Official~~~~Protection Officer~~ shall retain counsel to draft and negotiate these business associate agreements. ~~The Privacy Protection Officer shall subsequently execute these agreements with existing business associates prior to April 14, 2004. In the event that the plan contracts with new business associates, the Privacy Protection Officer~~ **The Privacy Official will oversee the review of existing business associate agreements to ensure compliance with current laws. The Privacy Official** shall ensure that business associate agreements are entered into ~~by these~~ **with** new vendors.

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C. Notice of Privacy Practices: The Privacy Rule requires the group health plan to distribute a Notice of Privacy Practices to participants in the plan. ~~The notice shall be distributed to:~~**The Privacy Official shall retain counsel to draft the Notice of Privacy Practices. The Privacy Official shall subsequently distribute these notices to existing group health plan participants. If there is a material change to the Notice, then the Notice shall be distributed as follows:**

1. ~~each new participant in the health plan upon enrollment; and~~**If the group health plan posts its Notice on its website, then the plan may post the revised Notice on its website by the effective date of the material change, and then provide a hard copy of the Notice (or information about the material change and how to obtain the revised Notice) in its next annual mailing; or**
2. ~~every participant in the plan within sixty (60) days of a material revision to the notice.~~**If the group health plan does not have a website, then the plan may provide the revised Notice (or information about the material change and how to obtain the revised Notice) to individuals covered by the plan within sixty (60) days of the material revision to the Notice.**

[NOTE: The Privacy Rule requires that the plan advise covered individuals of the availability of the privacy notice and how to obtain a copy at least once every three (3) years. NEOLA recommends that Corporations establish the practice of notifying covered individuals annually on a date certain so that this triennial notification requirement is not overlooked. The Corporation MUST select one (1) of the two (2) choices provided.]

The Privacy ~~Official~~**Protection Officer** shall notify all participants in the Plan of the availability of the ~~notice~~**Notice** and how to obtain the ~~notice~~**Notice**

- () annually.
- () no less frequently than once every three (3) years.

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- D. Safeguards: The Privacy Rule requires the group health plan to implement appropriate administrative, technical, and physical safeguards to protect the privacy of Protected Health Information. The Privacy ~~Official~~~~Protection Officer~~ shall implement these safeguards in a reasonable and appropriate manner.

The Security Official shall seek the services of a third party to perform an information technology risk analysis to identify and protect against reasonably anticipated threats to the security or integrity of electronic Protected Health Information, if applicable.

- E. Amendment of Plan Documents: The Privacy Rule provides that plan documents be made to permit information sharing between the plan and the plan sponsor. The Privacy ~~Official~~~~Protection Officer~~ shall assist other school personnel in determining whether and how plan documents should be amended.

- F. Participant Rights: The Privacy Rule grants health plan participants extensive rights with respect to their Protected Health Information. The Privacy ~~Protection Officer~~~~Official~~ shall timely respond to participant requests to exercise rights afforded by the Privacy Rule.

- G. **Participant Rights: The Privacy Official shall develop a breach notification policy. A breach occurs when there has been an acquisition, access, use or disclosure of Protected Health Information in a manner not permitted under the Privacy Rule, which compromises the security or privacy of the Protected Health Information. The Privacy Official shall train workforce members on the breach notification policy.**

C.F.R. 160.502(e)(2), 164.308(a)(1), 164.308(b), 164.402, 164.414(a)
C.F.R. 164.520 et seq., 164.520(c)(1), 164.520(c)(1)(v),
C.F.R. 164.530(b), 164.530(c)

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