

Myth Busters

MYTH: Health plans and providers have satisfied HIPAA's notice requirements once they have provided individuals with a Notice of Privacy Practices.

FACT: Notices of Privacy Practices must be redistributed whenever a material modification is made.

Covered entities (CEs), such as health plans and most providers, are required to provide individuals with a notice clearly explaining its privacy practices and informing individuals of certain privacy rights. Certain covered entities, such as health care clearinghouses acting as business associates, are exempt from this requirement. Some providers may believe that the notice need only be given at the beginning of the relationship with a patient or only once per year. In fact, the notice must be revised and redistributed any time there is a material change.

Revisions. A CE must revise its Notice of Privacy Practices (NPP) any time there is a material change to the following:

- The uses or disclosures the entity is required or permitted to make under the Privacy Rule;
- An individual's rights under the Privacy Rule with respect to the privacy of their PHI;
- The covered entity's legal duties under the Privacy Rule; or
- Any other privacy practice specified in the NPP.

Redistributions. Any time the CE revises its NPP to reflect a material change, the CE must promptly redistribute the revised NPP:

- *Health Plans.* If the plan posts its NPP on its website, it must prominently post the material change or the revised NPP on the site by the effective date of the change, and must provide the revised notice (or information about the change and how to obtain the revised NPP) in its next annual mailing to covered individuals. If the plan does not post its NPP on its web site, it must provide the revised NPP or information about change to covered individuals within 60 days of the revision.
- *Covered Health Care Providers.* Providers must make the revised NPP available on request on or after the effective date of the revision and promptly post the revised NPP at its physical service delivery site.

HIPAA Omnibus Changes. The January 17, 2013 HIPAA Omnibus Final Rule (modifying the HIPAA Privacy Rule) required CEs to revise and redistribute their NPPs by September 23, 2013¹ to include the following, as applicable:

- Statement that uses and disclosures of protected health information (PHI) for marketing purposes and disclosures that constitute the sale of PHI require authorization;
- Statement that uses and disclosures of psychotherapy notes require authorization;
- Statement that an individual may opt out of receiving fundraising communications;
- Notification of an individual's right to restrict disclosure of certain PHI to health plans when the individual pays out of pocket for the care;
- Notification of an individual's right to be notified of a breach of the individual's unsecured PHI;
- Notification of an individual's right to electronically access their PHI;
- Statement that a health plan may not use or disclose genetic information for underwriting purposes.

For More Information:

- [Learn](#) about state and federal privacy laws.
- [Read](#) an overview of HIPAA & related resources.
- [Review](#) OCR's and ONC's model NPPs

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¹ Certain laboratories are exempt from this deadline and subject to an enforcement delay as of 09/19/2013.