

# HIPAA Notice of Privacy Practices Regulation Requirements for Health Care Practitioners [45 CFR § 164.520(c)]

## Providing Notice

*The United States Department of Health and Human Services explanation of the updated HIPAA privacy notice regulations:*

“For health care providers, the final rule does not modify the current requirements to distribute revisions to the NPP. As such, § 164.520(c)(2)(iv) requires that when a health care provider with a direct treatment relationship with an individual revises the NPP, the health care provider must make the NPP available upon request on or after the effective date of the revision and must comply with the requirements of § 164.520(c)(2)(iii) to have the NPP available at the delivery site and to post the notice in a clear and prominent location. In response to several comments expressing concern about printing costs for new NPPs, we clarify that providers are not required to print and hand out a revised NPP to all individuals seeking treatment; providers must post the revised NPP in a clear and prominent location and have copies of the NPP at the delivery site for individuals to request to take with them. Providers are only required to give a copy of the NPP to, and obtain a good faith acknowledgment of receipt from, new patients. As a result, we do not believe that the current requirement is overly burdensome to providers, nor is it overly costly.

We also clarify that while health care providers are required to post the NPP in a clear and prominent location at the delivery site, providers may post a summary of the notice in such a location as long as the full notice is immediately available (such as on a table directly under the posted summary) for individuals to pick up without any additional burden on their part. It would not be appropriate, however, to require the individual to have to ask the receptionist for a copy of the full NPP.

To the extent that some covered entities have already revised their NPPs in response to the enactment of the HITECH Act or State law requirements, we clarify that as long as a covered entity’s current NPP is consistent with this final rule and individuals have been informed of all material revisions made to the NPP, the covered entity is not required to revise and distribute another NPP upon publication of this final rule.

Finally, we note that to the extent a covered entity is required to comply with Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, the covered entity has an obligation to take steps that may be necessary to ensure effective communication with individuals with disabilities, which could include making the revised NPP or notice of material changes to the NPP available in alternate formats, such as Braille, large print, or audio.”

**2. Specific requirements for certain covered health care providers.** A covered health care provider that has a direct treatment relationship with an individual must:

- i. Provide the notice:



A. No later than the date of the first service delivery, including service delivered electronically, to such individual after the compliance date for the covered health care provider; or

B. In an emergency treatment situation, as soon as reasonably practicable after the emergency treatment situation.

II. Except in an emergency treatment situation, make a good faith effort to obtain a written acknowledgment of receipt of the notice provided in accordance with paragraph (c)(2)(i) of this section, and if not obtained, document its good faith efforts to obtain such acknowledgment and the reasons why the acknowledgment was not obtained.

III. If the covered health care provider maintains a physical service delivery site:

A. Have the notice available at the service delivery site for individuals to request to take with them; and

B. Post the notice in a clear and prominent location where it is reasonable to expect individuals seeking service from the covered health care provider to be able to read the notice; and

iv. Whenever the notice is revised, make the notice available upon request on or after the effective date of the revision and promptly comply with the requirements of paragraph (c)(2)(iii) of this section, if applicable.

### ***3. Specific requirements for electronic notice.***

i. A covered entity that maintains a web site that provides information about the covered entity's customer services or benefits must prominently post its notice on the web site and make the notice available electronically through the web site.

ii. A covered entity may provide the notice required by this section to an individual by e-mail, if the individual agrees to electronic notice and such agreement has not been withdrawn. If the covered entity knows that the e-mail transmission has failed, a paper copy of the notice must be provided to the individual. Provision of electronic notice by the covered entity will satisfy the provision requirements of paragraph (c) of this section when timely made in accordance with paragraph (c)(1) or (2) of this section.

iii. For purposes of paragraph (c)(2)(i) of this section, if the first service delivery to an individual is delivered electronically, the covered health care provider must provide electronic notice automatically and contemporaneously in response to the individual's first request for service. The requirements in paragraph (c)(2)(ii) of this section apply to electronic notice.

iv. The individual who is the recipient of electronic notice retains the right to obtain a paper copy of the notice from a covered entity upon request.

