

D – Notice of Privacy Practices (NPP) – Frequently Asked Questions (FAQ)

Subject	Question	Answer
Acknowledgment of Receipt in Emergencies	<i>When is it okay to not offer the NPP and collect the Acknowledgment of Receipt of the Notice from a patient?</i>	In an emergency treatment situation, the NPP must be provided as soon as it is reasonably practical to do so after the emergency situation has ended. Each covered entity (CE) should describe what constitutes a health emergency in its policies and procedures.
Contact Information on the Notice of Privacy Practices	<i>Is it okay to use an individual's name and a direct phone number for the NPP contact?</i>	It is not advised due to the potential for personnel changes, vacations and potential for phone number modifications. The phone number should be one that is regularly monitored (daily) and is established for the sole purpose of privacy-related functions of the entity to ensure patient concerns are addressed through prompt response to inquiries. As a reminder, the notice must contain the title of a person or office to contact for further information and a telephone number of such person or office.
Coordinating the Website Notices and Paper Notices	<i>When the NPP is updated is it okay to do the paper version separate from the website version?</i>	No. Both paper and electronic notices should match in content and effective date. Coordination of paper notices and electronic notices often requires a separate set of resources. In planning for an update to the NPP, be sure to communicate the importance of coordinating the timing of paper and website notices.
Electronic Notices	<i>When is electronic notice required?</i>	A covered entity that maintains a website that provides information about the covered entity's customer services or benefits must prominently post its notice on the website and make the notice available electronically through the website. 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this section to an individual by e-mail, if the individual agrees to electronic notice and such agreement has not been withdrawn.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 in a timely fashion. If the first service delivery to an individual is electronic, the covered health care provider must provide electronic notice in response to the individual's first request for service in a timely fashion.

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		<p>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.</p>
<p>Group Health Plans</p>	<p><i>What requirements must group health plans meet?</i></p>	<p>An individual enrolled in a group health plan has a right to a notice:</p> <p>From the group health plan, if, and to the extent that, such an individual does not receive health benefits under the group health plan through an insurance contract with a health insurance issuer or Health Maintenance Organization (HMO); or <i>[45 C.F.R. § 164.520(a)(2)(i)(A)]</i></p> <p>From the health insurance issuer or HMO with respect to the group health plan through which the individuals receive her/his health benefits under the group health plan. <i>[45 C.F.R. § 164.520(a)(2)(i)(B)]</i></p> <p>A group health plan is required to maintain a notice or provide the notice to any person upon request when health benefits are provided solely through an insurance contract with a health insurance issuer or HMO, and</p> <ul style="list-style-type: none"> ▪ Create or receive Protected Health Information (PHI) in addition to summary health information, ▪ Create or receive information on whether the individual is participating in the group health plan, ▪ Create or receive information on whether the individual is enrolled in, or ▪ Create or receive information on whether the individual has dis-enrolled from a health insurance issuer or HMO offered by the plan. <i>[45 C.F.R. § 164.520(a)(2)(ii)]</i>

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		<p>If a health plan intends to use or disclose PHI for underwriting purposes, a statement that the covered entity is prohibited from using or disclosing PHI that is genetic information of an individual for such purposes. <i>[45 C.F.R. § 164.520(b)(1)(iii)(c)]</i></p>
Method of Distribution	<p><i>What method of distribution will your organization use?</i></p>	<p>If a covered entity maintains a website, then the NPP must be posted on that website and the Covered Entity (CE) must make the NPP available electronically through the website. The NPP may be provided by email as long as the recipient has agreed to receive an electronic notice. The notice may be included with a summary plan description or with open enrollment materials as long as either is distributed timely and properly. The notice may also be distributed by first-class, second-class, or third-class mail.</p>
Notice of Privacy Practices	<p><i>Can Substance Use Disorder (SUD) programs use the HIPAA Notice of Privacy Practices (NPP)?</i></p>	<p>No. There is a separate NPP for SUD patients. A Part 2 SUD program, that is also governed by HIPAA, may decide to send both NPPs to the patient. For additional information regarding the SUD NPP, see SHIPM policy 2.3.4 – Substance Use Disorder Treatment.</p>
Notice Exceptions	<p><i>Do inmates have the right to a notice?</i></p>	<p>An inmate does not have a right to receive a Notice of Privacy Practices. However, a provider may give an inmate a copy of the NPP if they wish to do so. <i>[45 C.F.R. § 164.520(a)(3)]</i> Each entity will need to determine if there are covered functions for which a notice is not required.</p>
Notice Format	<p><i>What format should we use?</i></p>	<p>CDII offers templates for the full NPP on our website.</p>

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Plain Language	<i>Are there current standards that you adhere to for vital documents that you distribute to plan members or patients?</i>	<p>State and federal laws require forms be made available to patients in languages other than English in certain circumstances. Each entity will need to determine what laws apply and standardize language practices as part of policies and procedures. The applicable laws include but are not limited to:</p> <ul style="list-style-type: none"> • Title VI of the Civil Rights Act of 1964, the covered entity must take reasonable steps to ensure meaningful access for Limited English Proficiency persons to services of the covered entity, which could include translating the Notice of Privacy Practice into frequently encountered languages. [78 Fed. Reg. § 5566, § 5625 (Jan. 25, 2013)] • Section 504 of the Rehabilitation Act of 1973 • The Americans with Disabilities Act of 1990 <p>In addition, 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 Notice available in alternative formats, such as Braille, large print, or audio. [78 Fed. Reg. § 5566, § 5625 (Jan. 25, 2013)]</p>
Reserving the Right to Revise	<i>Will you reserve the right to change your uses and disclosures of health information in your notice?</i>	It is recommended that covered entities include a statement that the covered entity has the right to change the way a patient’s health information is used and given out and that, if any changes to the way an patient’s health information is used and given out, the patient she/he will be given a new notice (via the distribution method selected by the covered entity) within 60 days of the change.

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Revised Notice	<i>Is it necessary to send the revised notice to each patient who received a prior version?</i>	<p>A covered entity must promptly revise and distribute its notice whenever there is a material change to the uses or disclosures, the individual's rights, the covered entity's legal duties, or other privacy practices stated in the notice. Except when required by law, a material change to any term of the notice may not be implemented prior to the effective date of the notice in which such material change is reflected.</p> <p><i>[45 C.F.R. § 164.520 (b)(3)]</i></p> <p>http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=69c69101690b6b7b324bc70ff6d716c2&r=PART&n=45y1.0.1.3.78#45:1.0.1.3.78.5.27.10</p> <p>A health plan must provide the revised notice, or information about the material change and how to obtain the revised notice, in its next annual mailing to individuals then covered by the plan, such as at the beginning of the plan year or during open enrollment. If a health plan does not have a customer service website, then the health plan must provide the revised NPP or information about the material change and how to obtain the revised notice, to individuals then covered by the plan within 60 days of the material revision to the notice.</p> <p><i>[45 C.F.R. § 164.520(c)(1)(v)]</i></p>