



**COUNTY OF EL DORADO, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

<b>Subject:</b> <b>PRIVACY: GROUP HEALTH PLANS</b>	<b>Policy Number</b>	<b>Page Number:</b> <b>Page 1 of 5</b>
	<b>Date Adopted:</b>	<b>Revised Date:</b>

**BACKGROUND:**

The Health Insurance Portability and Accountability Act (“HIPAA”) mandates specific requirements for plan sponsors and health plans. A plan sponsor is defined by 29 U.S.C 1002(16)(B) as an employer for an employee benefit plan established or maintained by a single employer. A group health plan is defined as an employee welfare benefit plan (as defined in the Employee Retirement Income and Security Act of 1974 and 29 U.S.C 1002(1)) including insured and self-insured plans to the extent that the plan provides medical care including items and services paid for as medical care to employees or their dependents directly or through insurance, reimbursement, or otherwise that:

- Has 50 or more participants or,
- Is administered by an entity other than the employer that established and maintains the plan.

**NOTE: HIPAA will not supercede any contrary State law that imposes more stringent privacy protections.**

**POLICY:**

1. Group Health Plan Requirements 45CFR§164.504(f)(1)
  - a. The group health plan or a health insurance issuer or HMO may disclose summary health information to the plan sponsor such as claims history, claims expenses, or type of claims, if the plan sponsor requests the summary health information for the purposes of:
    - i. Obtaining premium bids from health plans for providing health insurance coverage under the group health plan or,
    - ii. Modifying, amending, or terminating the group health plan.
  - b. The group health plan or health insurance issuer or HMO with respect to the group health plan, may disclose whether an individual is participating in the group health plan or is enrolled in or has dis-enrolled from a health insurance issuer or HMO offered by the plan.
  - c. The group health plan must ensure plan documents restrict the uses and disclosures of protected health information to the plan sponsor by a health insurance issuer or HMO consistent with this policy unless it is permitted or required by law.



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BOARD OF SUPERVISORS POLICY**

<b>Subject:</b> <b>PRIVACY: GROUP HEALTH PLANS</b>	<b>Policy Number</b>	<b>Page Number:</b> <b>Page 2 of 5</b>
	<b>Date Adopted:</b>	<b>Revised Date:</b>

2. Notice of Privacy Practices 45CFR§164.520

- a. An individual enrolled in a group health plan has a right to notice:
  - i. From the group health plan, if, and to the extent that the individual does not receive health benefits under the group health plan through an insurance contract with a health insurance issuer or HMO or,
  - ii. From the health insurance issuer or HMO with respect to the group health plan through which such individuals receive their health benefits under the group health plan.
- b. A group health plan that provides health benefits solely through an insurance contract with a health insurance issuer or HMO, and that creates or receives health information in addition to summary health information or information on whether the individual is participating in the group health plan, or is enrolled in or has disenrolled from a health insurance issuer or HMO offered by the plan must:
  - iii. Maintain a notice under this section
  - iv. Provide the notice upon request to any person.
- c. A group health plan that provides health benefits solely through an insurance contract with a health insurance issuer or HMO, and does not create or receive health information other than summary health information or information on whether an individual is participating in the group health plan, or is enrolled in or has disenrolled from a health insurance issuer or HMO offered by the plan, is not required to maintain or provide a notice.
- d. Exception for inmates: An inmate does not have a right to notice under this section, and the requirements of this section do not apply to a correctional institution that is a covered entity.

**PROCEDURES:**

1. Group Health Plan Documents 45CFR§164.504(f)(2)

- a. Other than summary health information, plan documents of the group health plan must be amended to incorporate provisions to:
  - i. Establish the permitted and required uses and disclosure of such information by the plan sponsor, provided that such permitted and required uses and disclosures is permitted or required by law.



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	<b>Date Adopted:</b>	<b>Revised Date:</b>

- ii. Provide that the group health plan will disclose protected health information to the plan sponsor only upon receipt of a certification by the plan sponsor that the plan documents have been amended to incorporate the following provisions and the plan sponsor agrees to:
  - A. Not use or further disclose the information other than as permitted or required by law,
  - B. Ensure that any agents, including a subcontractor, to whom it provides protected health information received from the group health plan agree to the same restrictions and conditions that apply to the plan sponsor,
  - C. Not use or disclose the information for employment related actions and decisions or in connection with any other benefit or employee benefit plan of the plan sponsor,
  - D. Report to the health plan any use or disclosure of the information that is inconsistent with the uses or disclosures provided for of which it becomes aware,
  - E. Make available protected health information in accordance with an individual's right to access their health information,
  - F. Make available health information for amendment and incorporate any amendments in accordance with 45CFR§164.526,
  - G. Make available the information required to provide an accounting of disclosures,
  - H. Make its internal practices, books, and records relating to the use or disclosure of protected health information received from the group health plan available to the Secretary to determine compliance,
  - I. If feasible and when no longer needed, return or destroy all protected health information received from the group health plan that the sponsor still maintains in any form and retain no copies of such information; except that, if the return or destruction is not feasible, limit further uses and disclosures of such protected health information.
- iii. Provide adequate separation between the group health plan and the plan sponsor. The plan documents must:
  - A. Describe those employees or classes of employees or other persons under the control of the plan sponsor to be given access to the protected health for payment purposes, health care operations, or other related matters needed in the ordinary course of business.



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<b>Subject:</b> <b>PRIVACY: GROUP HEALTH PLANS</b>	<b>Policy Number</b>	<b>Page Number:</b> <b>Page 4 of 5</b>
	<b>Date Adopted:</b>	<b>Revised Date:</b>

- B. Restrict the access to and use by such employees and other persons described by this policy to the plan administration functions that the plan sponsor performs for the group health plan,
- C. Provide an effective mechanism for resolving any issues of noncompliance by persons described by this policy.

2. Group Health Plan Uses and Disclosures 45CFR§164.504(f)(3)

a. A group health plan may:

- i. Disclose protected health information to a plan sponsor to carry out plan administration functions,
- ii. Not permit a health insurance issuer or HMO with respect to the group health plan to disclose protected health information to the plan sponsor except as permitted by this policy,
- iii. Not disclose and may not permit a health insurance issuer or HMO to disclose protected health information to a plan sponsor unless a statement of such disclosure is included in the Notice of Privacy Practices, and
- iv. Not disclose protected health information to the plan sponsor for the purpose of employment related actions or decisions or in connection with any other benefit or employee benefit plan of the plan sponsor.

3. Group Health Plan Notice of Privacy Practices Requirements 45CFR§164.520(c)(1)

a. A health plan must provide notice:

- i. No later than the compliance date for the health plan to individuals then covered by the plan,
- ii. Thereafter, at the time of enrollment, to individuals who are new enrollees,
- iii. Within 60 days of a material revision to the notice, to individuals then covered by the plan.
- iv. No less frequently than once every three years, the health plan must notify individuals then covered by the plan of the availability of the notice and how to obtain the notice.
- v. The health plan must provide the notice to the named insured of a policy under which coverage is provided to the named insured and one or more dependents.
- vi. If El Dorado County has more than one notice, provide the notice that is relevant to the individual requesting the notice.



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	<b>Date Adopted:</b>	<b>Revised Date:</b>

**Primary Department:** Privacy Compliance Office

**References:** 45 CFR § 160-164