## Gag Clause Prohibition Compliance Attestation

#### Presented by Corbin Granger, Senior Vice President

October 2023





The information contained in this presentation is subject to change by regulatory clarification from the IRS, DOL, HHS, or law changes. Technical corrections and future guidance may vary the information from what is discussed in this presentation.

*The information herein should not be construed as legal or tax advice in any way. This content is provided for informational purposes only*. You should seek the advice of your attorney or tax consultant for your specific situation.



- Effective December 27, 2020 under the Consolidated Appropriations Act (CAA)
- <u>Group health plans</u> and <u>health insurance carriers</u> are prohibited from entering into agreements with healthcare providers, third-party administrators, or other vendors with contracts that include "Gag Clauses."
  - Plans and issuers must attest their contracts do not contain such clauses.
  - The first attestation must be submitted by December 31, 2023 and covers the period from December 27, 2020 through December 31, 2023.

#### >This presentation is for clients that:

- o Have/had self-insured plan/plans during the 2020-2023 period and must attest or
- The group health plan used a separate vendor or network and must attest as the vendor is not doing the attestation.



#### ≻What is a Gag Clause?

A contract or service agreement that includes prohibitive or restrictive language about receiving claims, pricing, and other data for the purposes of transparency and access.

Restrictions on electronic access to de-identified member claim information (consistent with privacy laws): rates, service codes, provider names, and other claim information

Note: Healthcare providers, networks, associations of providers may place reasonable restrictions on the public disclosure of this information.



A contract between a TPA and a self-funded plan provides that the plan sponsor's access to provider cost and quality of care information is only at the discretion of the TPA. That contract provision would be considered a gag clause.

A contract between a TPA and a group health plan which states the plan will pay providers at "Point of Service Rates," but the TPA considers the rates to be proprietary and states the plan may not disclose the rates to plan participants or beneficiaries. That language prohibiting disclosure is a gag clause.

### Who Must Comply

Insurance carriers providing individual and group health plans

Group health plans covered by ERISA (including grandfathered plans)

Non-federal government Plans

Church plans

#### What Benefits are Excluded

Does not apply to:

Excepted benefits (vision, dental, fixed or hospital indemnity plans, disease-specific plans, long-term care, accident, worker's comp)

Account-based plans (HRAs, including ICHRAs and QSEHRAs)

Short-term limited duration plans



#### ➢ Fully Insured Plans

• In general, the carrier will attest as fully insured carriers are obligated to submit an attestation of their own, which will satisfy the requirement for the plan (employer).

#### ➢<u>Self-Insured Plans</u>

• Plan Sponsors must attest (some exceptions).

<u>Remember: The first attestation covered the period from December 27, 2020 through December 31, 2023</u>

➢ If an employer had a mix of fully insured and self-funded plans during this time (2020-2023), the employer may be required to attest.

Carriers Submitting on Plan's Behalf for Fully Insured Plans Anthem (Also applies to Small Group MEWA, ABF, Minimum Premium, and FEHP)

Aetna (Also filing for small group and middlemarket AFA plans)

CIGNA

Optima

#### UHC

BCBS of NC- will file for balanced funded groups unless they opted-out. Check with BCBS

Self-Funded Plans that Must Attest

The following plans (Plan Sponsor/Employer) are responsible for submitting their attestations (and those for carve-out vendors such as a PBM). This means the employer must attest:

Anthem

≻Anthem ASO

• Exception if the employer completed Anthem's online form by August 15, 2023

> Anthem JAA & MCS (Managed Care System) clients

BCBS Of NC self-funded plans must attest

>Aetna self-funded plans must attest

Allstate (waiting on response)

### Self-Funded Plans that Must Attest

#### ➢ CIGNA

- > Optima (Sentara Health Plan)
  - Exception if the employer completed the link and provided the data to Sentara Health Plan by October 1, 2023.

> UHC

- Will provide a *Confirmation of Compliance* for benefits they administer, but the employer must attest.
- Customers/plan sponsors with special arrangements such as CSP (Customer Sponsored Provider)/GSP( Group Specific Provider Network) and carve-outs (including OptumRx Direct) need to work directly with those third parties for attestation. For OptumRx Direct, check with your Optum Strategic Account Executive.
- Leased networks (Harvard Pilgrim) should provide a confirmation of compliance.

### Penalty for Failure to Attest

Plans and issuers that fail to timely submit the attestation may be subject to enforcement action and may be subject to the general penalty for violations of the health care reform provisions of the Code: \$100 per day for each day an attestation is not filed.



## Submitting the Attestation

Using the CMS Web Portal



GCPCA Platform- Gag Clause Prohibition Compliance Attestation Platform

<u>Reporting Entity</u>

- ➤A plan or issuer subject to Code 9824, ERISA section 724, and PHS Act section 2799A-9 that enters into an agreement with healthcare providers, networks, and associations of providers, third-party administrators (TPA), or other providers.
  - It is per plan and the sponsoring employer's EIN
  - It is not options under one policy such as HMO or PPO- that is one plan

>The Reporting Entity is responsible for the attestation.

• If attesting for more than one Reporting Entity, use the Reporting Entity Excel Template.



#### ≻<u>Submitter</u>

➢ An individual who completes the fields on the GCPCA Platform. This individual cannot submit electronically without the Attester's review and signature.

#### ≻<u>Attester</u>

➢ The individual responsible for the attestation on behalf of the Reporting Entity. The Attester and Submitter may be the same individual.

# How to Submit the Attestation

### Log in to: <u>https://hios.cms.gov/HIOS-GCPCA-UI</u>



Accessing the GCPCA Platform

- >An authentication code is required to access the webform to complete the attestation.
- The federal government generates the code and sends it by email to the user who requested it.
- Click" don't have a code
  - or forgot yours."
- Enter email and click "Submit."
- ➤Code should come within 10 minutes.

t Here's how you know 👻	Enter your e-mail address to access the Gag	lose
	Clause Prohibition Compliance Attestation Submission	
	Once we receive your e-mail address, a unique code will be generated and e- mailed to you. This e-mail will be from <u>submissions@cms.hhs.gov</u> . Follow the instructions in the e-mail.	
	* Enter e-mail address	Gag Clause Prohibition Compliance n Submission
	Get my unique code Cancel * Enter	r the code that was sent via email
1		Don't have a code or forgot yours?

Accessing the GCPCA Platform

- ➢ If you do not receive a code within 10 minutes you may make another request or call 1-855-267-1515.
- $\geq$  The code is active for 15 days.
- Once you have received the code, return to the landing page and select "Enter Webform Now."
- >Enter your email address and code.
- ➢When the webform is inactive for 15 minutes the session will end and only information retained as of the last time you hit "Save."
- ➢ If your code expires before the submission is complete, use the same email address, get a new code, and you will have access to saved information.



## GCPCA Dashboard

- >You will be directed to the GCPA Dashboard where you can review all in progress and complete submissions.
- ≻Under "Get Started" you can:
- Download the Instructions and User manual
- Download the Reporting Entity Excel Template (only if reporting for more than one entity).
- Click "Submit Gag Clause Prohibition Compliance Attestation."

### Enter the Submitter's Contact Information

Enter Submitter's Information (name, position, email, phone number, employer)

The question, "By what type of entity are you employed?"

GHP (Group Health Plan)

Health Insurance Issuer Third-party Administrator Pharmacy Benefit Manager Behavioral Health Manager Other Third-party Service Provider

Click "Save and Continue" or "Save and Exit."

1 Enter the Submitter's Contact Inform	ation
Enter the name and contact information of the person comple multiple Reporting Entitles). This person is the "Submitter" and	ting the required fields (and the Excel Template d will be contacted in the event we have any ques
* Submitter first and last name	1
* Submitter position title	
* Submitter e-mail address	
richard.houghton@sbd2.com	
* Submitter telephone number Enter a phone number in the following format: "(xox) xox- xoxx".	
* Submitter employer name	
By what type of entity are you employed? You should select all options that apply. For example, if you work for a health insurance issuer that also functions as a Third-Party Administrator for self-insured ERISA plans, and you are submitting an attestation for the issuer and the self- insured ERISA plans, select both "Health insurance issuer" and "Third-Party Administrator." In this example, do not select "ERISA Plan (or sponsor of ERISA plan)." As another example, if you are work for a Pharmacy Benefits Manager and you are submitting an attestation on behalf of an issuer with respect to the issuer's pharmacy benefits, select "Pharmacy Benefit Manager." In this example, do not select "Health insurance issuer." If you work for a health insurance issuer that is attesting on behalf of a fully-insured group health plan, select "Health insurance issuer." Do not select the applicable type of group health plan. If you work for a plan or issuer that is attesting on its own behalf, select either "Health plan.	
Issuer Third-party administrator	
Pharmacy benefit manager	
Behavloral health manager	
Other third-party service provider	

Save and continu

Save and exit

f attesting fo

### Enter the Attester's Information

If the Submitter and Attester are the same person, check, "Submitter is the same as Attester" and the Attester's Information will automatically be filled in.

If not, complete the Attester's Information.

Click "Save and Continue" or "Save and Exit."

e legal authority to attest for or on behalf of the Reporting E	o be the person who will electronically sign the attestation and has Entity(ies). In some cases, the Attester and the Submitter are the same
Submitter if the same as the Attenter	
additioned to the service as the Processer	
Attester first and last name	1
	]
Attester position title	_
	]
Attester e-mail address	
	]
åttester nhone number	,
ter a phone number in the following format: "(xxx) xxx-	
	1
	]
Attesting entity (attester's employer)	

### Attester Different than Submitter

If the Attester is different than the Submitter, after selecting "Save and continue," the Submitter sees the "Let's confirm the Attester's email address" popup, asking the Submitter to confirm the attester's email address so that the system can send them a unique access code, a link to the GCPCA system, and a Submission ID for reference.

Submission ID for reference.

#### Let's confirm the Attester's X Close email address.

Verify that the attester's email is correct, if not please enter the correct email address. Once verified, a unique code will be generated from submissions@cms.hhs.gov and email to your chosen attester

#### Attester email address

test2@test.com

Please notify the attester that they will be receiving an email from submissions@cms.hhs.gov. Have the attester follow the instructions in the email to complete the submission. Please have the attester check their junk mail just in case the email was not received. If for any reason the email was not received or has expired, please apply for a new code from the home page.

Send email Cancel



#### Reporting Entity Details (1 Plan)

If submitting on one plan, check "No." The Reporting Entity is the group health plan. If the group health plan does not have an EIN, put in the 9-digit EIN of the plan sponsor (employer). Do not use dashes.

Use leading zeros if the EIN is less than 9 digits. Put in the Name of the Reporting Entity Type of Reporting Entity:

Church Plan **ERISA** Plan Non-federal governmental plan Health Insurance Issuer

#### Enter Reporting Entity Details

If you are submitting on behalf of more than one plan or one issuer, select Yes.

 $\cap$ Mess.

#### Entity/organization details

Please add the entity details for the entity you are submitting this attestation on behalf of.

Note: If you are submitting on behalf of yourself, the entity details you enter will need to represent your entity.

#### Name of the Reporting Entity

Reporting Entity Type Please select an option Name of Reporting Entity Point-of-Contact Employer Identification Number Mailing Address for the Reporting Entity E-mail Address for the Reporting Entity Point-of-Contact Phone Number for the Reporting Entity Point-of-Contact bood soor-sooor or is bood soor-sooo Are you attesting for all provider agreements? Medical, PB, BHN, Other Select the specific type of provider agreement(s) that apply. If you are attesting for a specific provider agreement other than or in addition to medical, pharmacy benefit, or behavioral health, choose "other." and enter the specific provider agreement type into the text box. Medical Pharmacy Benefit manager Behavioral Health Other

Save and exit

Save and continue



- ➢ If the Reporting Entity is an ERISA Plan, provide the 3-digit Plan Number included on the plan's Form 5500.
- If the Plan is not subject to a Form 5500, the instructions say enter "N/A," but a CMS Webinar indicated put "000."\*
- \*From page 9 of the CMS Gag Clause Prohibition Compliance Attestation Annual Submission Webform Instructions.



## Reporting Entity (1 Plan)

If you are attesting to all provider agreements, select "yes." That will bring up the box that says "Other." If the option is "Other," a text box is displayed to describe the agreements. Unless a vendor is carved out, the plan attests for all agreements; for example, list the network:

UHC network and Medical, Pharmacy Benefit Manager, Behavioral Health. All agreements are compliant."

After clicking "Save and Continue," click "Next."

Are you attesting for all provider agreements? Medical, PB, BHN, Other



Select the specific type of provider agreement(s) that apply. If you are attesting for a specific provider agreement other than or in addition to medical, pharmacy benefit, or behavioral health, choose "other," and enter the specific provider agreement type into the text box.

Save and continue	Save and ex
Other	
Behavioral Health	
Pharmacy Benefit mana	ager
Medical	





>If attesting for one plan of a Reporting Entity, skip to slide 35.

> If attesting for Multiple Plans of a Reporting Entity, continue to next slide.

# Reporting Entity

Multiple Plans

## Reporting Entity (Multiple Plans)

Are you submitting on behalf of more than one plan or one issuer (Reporting Entity)?

- No (Button)
- Yes (Button) Select

Upload the completed "Reporting Entity Excel Template."

Must be in tab-delimited text format, or will not upload.

#### Enter Reporting Entity Details

If you are submitting on behalf of more than one plan or one issuer, select Yes.



#### **Reporting Entity Details**

Complete the Reporting Entity Excel Template for all Reporting Entities on whose behalf you are submitting this attestation. The GCPCA Webform Instructions provide specific guidance on creating the Reporting Entity tab-delimited text file in sections 2.3 and 2.31. If you are attesting on behalf of a Reporting Entity that you work for as well as other Reporting Entities, include the information for your entity. Only one Reporting Entity per row is permitted. Once the Reporting Entity Excel Template is complete, you must save it as a tab-delimited text file format and upload it here. After successfully uploading the text file, email your completed Reporting Entity Excel Template to the Attester for their review.

Upload Entity List The entity list must be in ter	it tab delimited format.	
	Drag files here or <u>choose from folder</u>	
Save and continue	Save and exit	

## Reporting Entity (Multiple Plans)

Complete the Reporting Entity Excel Template using the applicable information regarding each Reporting Entity.

Each Reporting Entity's information should be listed on a separate row.

The first and second rows of the Reporting Entity Excel Template contain the column names.

Do NOT make any changes to column titles or rearrange columns in the Reporting Entity Excel template. •

Inapplicable fields should be left blank and not populated with any text, including "N/A," a space, or a zero.  $\bullet$ 

Do not include apostrophe/single-quotation ('), inequality signs (>), asterisks (\*), and slashes ( $\land$ ) in the cells of your Excel file. If you do so, it will not save or upload properly (see text box below for additional information).

Marks that are placed directly over letters are allowed, such as tildes (~), umlauts ("), and accents (é) in any cells of your Excel file. •

Column data validation: Details	Column data validation: Details	Column data validation: Details	Column data validation: Details
Column A Name of the Reporting Entity This field only accepts letters, numbers, and the following special characters: $-, O(II)$ & $\sim 1; @ \# S \% + = . Characters$ placed directly over letters are also allowed, such as tildes, umlauts and accents.	Column B Employee Identification Number (EIN)	Column C Plan Number For ERISA plans, enter the 3- digit plan number the employer or plan administrator assigned to the plan (this is usually the Plan number); do not include Plan number; for the ERISA plan.	Column D Reporting Entity Type
Column E Mailing Address for the Reporting Entity This field only accepts letters, numbers, and the following special characters: - / OII & ~ !; @ # \$ % + =]. Characters also allowed, such as tildes, umlauts and accents.	Column F Name of Reporting Entity Point-of- Contact This field only accepts lette numbers, and the following special characters:	Column G E-mail Address for Reporting Entity Point-of-Contact	Column H Phone Number for Reporting Entity Point- of-Contact
Column I Attestation for All Provider Agreements	Columns J-L Medical, Pharmacy Benefits, Behavioral Health	Column M Other Types(s) or Provider Agreement(s) If you are attesting for a specific network type(s) other than or in addition to medical, pharmacy benefit, or behavioral health, write the network type(s) here.	



### Saving the File to Upload

First save your file as an Excel Workbook (\*.xlsx).

Then save your file in text, tab-delimited format.

A file that is not in tab-delimited text format cannot be uploaded and submitted.

A filename that includes the following special characters cannot be uploaded and submitted: ";", ":", ">", "<", "/", "\", 2 periods, ".", in a row, "\*", "%", or "\$".

See pages 14 – 17 of the GCPCA Annual Submission Webform **Instructions** 

Column data validation: Details	Column data validation: Details	Column data validation: Details	Column data validation: Details
Column A Name of the Reporting Entity This field only accepts letters, numbers, and the following special characters:	Column B Employee Identification Number (EIN) Enter a 9-digit number without letters or special characters. Do not include a dash with the 9-digit EIN.	Column C Plan Number For ERISA plans, enter the 3- digit plan number the employer or plan administrator assigned to the plan (this is usually the Plan number; do not include Plan number if not an ERISA plan.	Column D Reporting Entity Type Enter one of the following Reporting Entity Types Church plan, ERSA plan (includes sponsors of ERISA plans), non-Federal Governmental plan, or issuer
Column E Mailing Address for the Reporting Entity This field only accepts letters, numbers, and the following special characters:O[I] & ~_!; @ \$ \$ % + =]. Characters placed directly over letters are also allowed, such as tildes, umlauts and accents.	Column F Name of Reporting Entity Point-of- Contact This field only accepts lette numbers, and the following special characters Off ~1; @ + 5 % + = J. Characte placed directly over lettes, also allowed, such as tildes, umlauts and accents.	Column G E-mail Address for Reporting Entity Point-of-Contact	Column H Phone Number for Reporting Entity Point- of-Contact
Column I Attestation for All Provider Agreements	Columns J-L Medical, Pharmacy Benefits, Behavioral Health	Column M Other Types(s) or Provider Agreement(s) If you are attesting for a specific network type(s) other than or in addition to medical, pharmacy benefit, or behavioral health, write the network type(s) here.	

## Reporting Entity (Multiple Plans)

Create a backup copy of the multiple Entity Excel templates before you submit them by first saving an .xlsx version of the file.

Then save a .txt (tab-delimited) version of the Excel template.

	Figure 1 - Save Excel Workbook	
GCPCA-Reporting-Entity-Template (	05.19.23 (1)	
Excel Workbook (*.xlsx)		▼ Save
More options		
hen save a copy of your	file as a Text (Tab-delimited) (*.txt). Figure 2 - Save .txt file.	
hen save a copy of your	file as a Text (Tab-delimited) (*.txt). Figure 2 - Save .txt file.	
hen save a copy of your GCPCA-Reporting-Entity-Template 05.1 Text (Tab delimited) (*.txt)	file as a Text (Tab-delimited) (*.txt). Figure 2 - Save .txt file.	Save

## Example of Choosing Text (Tab delimited)

File name:	GCPCA 2022 Hlth4Us.txt	
Save as type:	Text (Tab delimited) (*.txt)	
Authors:	Excel Workbook (*,xlsx) Excel Macro-Enabled Workbook (*,xlsm)	
e Folders	Excel Binary Workbook (*.xisb) Excel 97-2003 Workbook (*.xis) CSV UTF-8 (Comma delimited) (*.csv) XML Data (*.xml)	
	Single File Web Page (*.mht;*.mhtml) Web Page (*.htm;*.html) Excel Template (*.xltx)	
int	Excel Macro-Enabled Template (*.xltm) Excel 97-2003 Template (*.xlt)	
ack	Text (Tab delimited) (*.txt) Unicode Text (*.txt) XML Spreadsheet 2003 (*.xml) Microsoft Excel 5 0/95 Workbook (*.xlr)	

### Reporting Entity (Multiple Plans)

If you upload your entity list in the correct .txt format, and there are no errors in the template itself, the file name will be highlighted in green with a checkmark displaying the date and timestamp of the upload.

You will also see a delete button if you need to delete your submission.

#### Reporting Entity Details

Complete the Reporting Entity Excel Template for all Reporting Entitles on whose behalf you are submitting this attestation. The GCPCA Webform Instructions provide specific guidance on creating the Reporting Entity tab-delimited text file in sections 2.3 and 2.31. If you are attesting on behalf of a Reporting Entity that you work for as well as other Reporting Entities, include the information for your entity. Only one Reporting Entity per row is permitted. Once the Reporting Entity Excel Template is complete, you must save it as a tab-delimited text file format and upload it here. After successfully uploading the text file, email your completed Reporting Entity Excel Template to the Attester for their review.

	Drag files here or	choose from folder	
	-		
SGCPCA Hdrs.txt	690 Bytes	12/01/2022 11:40:59 AM	🔟 Delet



## Reporting Entity (Multiple Plans- Corrections)

You will see a list of the field names that require correction. A description of the error and prompts to help resolve it, as well as the cell location and the information entered in the Excel worksheet that was saved before uploading the file, will be provided.

Errors found in EntityList	tTemplate - 0614 - w-validat	ion error.txt	X <u>Close</u>		
There were 1 errors found your uploaded file "EntityListTemplate - 0614 - w-validation error.txt". Use the table below to find and resolve the errors, then re-upload your file.					
Field Name	Field Name Error description & resolution Cell location				
Entity Email Address	Please provide valid email.				
Print errors					

You can "View Errors" or "Print Errors" as a pdf. Once the data is corrected, the template, can be uploaded for re-validation. Once uploaded, you will see a "Next" button to click.

## Review Submission and Attest



If you need to edit any of the previously entered information, you can use the edit buttons on the right side of the page to return to the appropriate step and make your changes.

If the information is correct, select "Save and Continue." The Attester is responsible for submitting the

Attestation if different than the Submitter.

#### 4 Review Submission and Attest Submitter contact information 🖉 Edit 0401 Test Submitter first and last name Submitter position title Test ubmitter e-mail addres richard.houghton@sbd2.con (214) 555-1212 name GHP Entity @ Edit Attester contact information Attester first and last 0401 Test name Test Attester position title Attester e-mail address richard.houghton@sbd2.com Attester phone number (214) 555-1212 Attesting entity Test (Attester's employer) 🖉 Edit Entity attestation detail EHA Entity name Non-federal Governmental Plan Entity type Name of reporting entity Robyn point of contact Entity EIN 999999999 Entity mailing address 7717 Roger Rabbit, Denton, TX 7620 Entity email address Bog@todd.con Entity phone number (214) 555-1212 Behavloral Health Network Types Save and exit Save and continue

#### 5 Verify the entity type(s) you are attesting on behalf of

### Verify Entity Type for Attestation

Clients with self-funded plans should check " I am attesting on behalf of group health plans, including non-federal governmental plans and health insurance issuers offering group coverage"

The Attestation Language will display

You must, at a minimum, select that you are either attesting on behalf of a group health plan or insurance issuer. If you are attesting on behalf of both a group health plan, whether fully insured or self-funded, and an issuer of individual health insurance coverage, check both boxes.

Group health plans, including non-federal governmental plans, and health insurance issuers offering group health insurance coverage

I attest that in accordance with section 9824(a)(I) of the Internal Revenue Code section 724(a)(I) of the Employee Retirement Income Security Act, and section 2799A-9(a)(I) of the Public Health Service Act, the group health plan(s) or health insurance Issuer(s) offering group health insurance coverage on whose behalf I am signing will not enter into an agreement, and has not, subsequent to December 27, 2020, entered into an agreement with a health care provider, network or association of providers, third-party administrator, or other service provider offering access to a network of providers that would directly or indirectly restrict the group health plan(s) or health insurance issuer(s) from —

- Providing provider-specific cost or quality of care information or data, through a consumer engagement tool or any other means, to referring providers, the plan sponsor, participants, beneficiaries, or enrollees, or individuals eligible to become participants, beneficiaries, or enrollees of the plan or coverage;
- Electronically accessing de-identified claims and encounter information or data for each participant, beneficiary, or enrollee in the plan or coverage, upon request and consistent with the privacy regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the amendments made by the Genetic information Nondiscrimination Act of 2008 (GINA), and the Americans with Disabilities Act of 1990 (ADA), Including, on a per claim basis —
  - a. Financial information, such as the allowed amount, or any other claim-related financial obligations included in the provider contract;
  - b. Provider Information, including name and clinical designation;
  - c. Service codes; or
  - d. Any other data element included in claim or encounter transactions; or
- 3. Sharing information or data described in items (1) or (2), or directing that such data be shared, with a business associate as defined in section 160.103 of title 45. Code of Federal Regulations (or successor regulations), consistent with the privacy regulations promultated pursuant to section 254(c) of HIPAA the amendments made by GIMA and the ADA.

I'm attesting on behalf of group health plans, including non-federal governmental plans, and health insurance issuers offering group health insurance coverage.

#### Health insurance issuers offering individual health insurance coverage

I attest that, in accordance with section 2799A-9(a)(2) of the Public Health Service Act, the health insurance issuer(s) offering individual health insurance coverage on whose behalf I am signing will not enter into an agreement, and has not, subsequent to December 27, 2020, entered into an agreement with a health care provider; network or association of providers, or other service provider offering access to a network of providers that would directly or indirectly restrict the health insurance issuer(s) from —

- Providing provider-specific price or quality of care information, through a consumer engagement tool or any other means, to referring providers, enrollees, or individuals eligible to become enrollees of the plan or coverage; or
- 2. Sharing, for plan design, plan administration, and plan, financial, legal, and quality improvement activities, data described in item (1) with a business associate as defined in section 160.103 of title 45. Code of Federal Regulations (or successor regulations), consistent with the privacy regulations promulgated pursuant to section 264(c) of Health Insurance Portability and Accountability Act of 1996 (HIPAA), the amendments made by the Genetic Information Nondiscrimination Act of 2008 (GINA), and the Americans with Disabilities Act of 1990 (ADA).

I'm attesting on behalf of health insurance issuers offering individual health insurance coverage.

#### Attest your submission

I attest that I have the authority to bind the plan(s) or issuer(s) entered/uploaded in the entity attestation details.

I attest that all information in this submission is accurate.

\* Please enter your full name to sign this attestation

Signed submission date 06/06/2023 01:30 PM



### Attestation Language

#### Group health plans, including non-federal governmental plans, and health insurance issuers offering group health insurance coverage.

I attest that, in accordance with section 9824(a)(1) of the Internal Revenue Code, section 724(a)(1) of the Employee Retirement Income Security Act, and section 2799A-9(a)(1) of the Public Health Service Act, the group health plan(s) or health insurance issuer(s) offering group health insurance coverage on whose behalf I am signing will not enter into an agreement, and has not, subsequent to December 27, 2020, entered into an agreement with a health care provider, network or association of providers, third-party administrator, or other service provider offering access to a network of providers that would be directly or indirectly restrict the group health plan(s) or health plan(s) or health insurance issuer(s) from—

- 1. Providing provider-specific cost or quality of care information or data, through a consumer engagement tool or any other means, to referring providers, the plan sponsor, participants, beneficiaries, or enrollees, or individuals eligible to become participants, beneficiaries, or enrollees of the plan or coverage.
- 2. Electronically accessing de-identified claims and encounter information or data for each participant, beneficiary, or enrollee in the plan or coverage, upon request and consistent with the privacy regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the amendments made by the Genetic Information Nondiscrimination Act of 2008 (GINA), and the Americans with Disabilities Act of 1990 (ADA), including, on a per claim basis
  - a. Financial information, such as the allowed amount, or any other claim-related financial obligations included in the provider contract.
  - b. Provider information, including name and clinical designation.
  - c. Service codes; or
  - d. Any other data element included in claim or encounter transactions; or
- 3. Sharing information or data described in items (1) or (2), or directing that such data be shared, with a business associate as defined in section 160.103 of title 45, Code of Federal Regulations (or successor regulations), consistent with the privacy regulations promulgated pursuant to section 264(c) of HIPAA, the amendments made by GINA, and the ADA.

I am attesting on behalf of group health plans, including non-federal governmental plans, and health insurance issuers offering group health insurance coverage. (Check box)



The Attester selects "I attest that all information in this submission is accurate," enter their full name, and then click the submit button.

*Note: the signature must exactly match the name of the Attester as it was entered in Step 2.* 





#### Successful Submission

Once the attestation(s) has been submitted, you will see a 'Submission successful' message. It is highly recommended that you download 'Your submission receipt.'

Selecting 'Return to dashboard' takes you to the dashboard. Selecting "Download receipt" launches a printable/savable version of the receipt.

## Submission Successful 0401 Test successfully submitted 732 - Gag Clause Prohibition Compliance Attestation on 06/06/2023 01:34 PM. Return to dashboard

## New E-Filing Requirement for 1094/1095-B Forms



## For the 2023 Reporting Year

- Self –Insured Health Plans subject to filing the 1094/1095 B must submit electronically
  - Exception is if the employer files FEWER THAN 10 returns (includes W-2s, 1099s, and other returns)
- Applicable Large Employers subject to filing the 1094/1095 C must submit electronically
  - Exception is if the employer files FEWER THAN 10 returns (includes W-2s, 1099s, and other returns)

➢ To file through the Affordable Care Act Information Return (AIR) system, must set up an account with IRS (30 days or more)



You should always consult with your legal or tax specialist for information related to your specific situation and applicable PCORI Fee filings.

Your CPA or tax specialist should always review your forms prior to submission.

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#### Have questions? Corbin Granger Senior Vice President of Compliance <u>corbingranger@townebenefits.com</u> 757-227-6167

