(h)(1) **Standard: Verification requirements.** Prior to any disclosure permitted by this subpart, a covered entity must:

(i) Except with respect to disclosures under §164.510, verify the identity of a person requesting protected health information and the authority of any such person to have access to protected health information under this subpart, if the identity or any such authority of such person is not known to the covered entity; and

(ii) Obtain any documentation, statements, or representations, whether oral or written, from the person requesting the protected health information when such documentation, statement, or representation is a condition of the disclosure under this subpart.

(2) **Implementation specifications: Verification.**

(i) **Conditions on disclosures.** If a disclosure is conditioned by this subpart on particular documentation, statements, or representations from the person requesting the protected health information, a covered entity may rely, if such reliance is reasonable under the circumstances, on documentation, statements, or representations that, on their face, meet the applicable requirements.

(A) The conditions in §164.512(f)(1)(ii)(C) may be satisfied by the administrative subpoena or similar process or by a separate written statement that, on its face, demonstrates that the applicable requirements have been met.

(B) The documentation required by §164.512(1)(2) may be satisfied by one or more written statements, provided that each is appropriately dated and signed in accordance with §164.512(1)(2)(i) and (v).

(ii) **Identity of public officials.** A covered entity may rely, if such reliance is reasonable under the circumstances, on any of the following to verify identity when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:

(A) If the request is in person, presentation of an agency identification badge, other official credentials, or other proof of government status;

(B) If the request is in writing, the request is on the appropriate government letterhead; or

(C) If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government’s authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the person is acting on behalf of the public official.

(iii) **Authority of public officials.** A covered entity may rely, if such reliance is reasonable under the circumstances, on any of the following to verify authority when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:

(A) A written statement of the legal authority under which the information is requested, or, if a written statement would be impracticable, an oral statement of such legal authority;

(B) If a request is made pursuant to legal process, warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal is presumed to constitute legal authority.

(iv) **Exercise of professional judgment.** The verification requirements of this paragraph are met if the covered entity relies on the exercise of professional judgment in making a use or disclosure in accordance with §164.510 or acts on a good faith belief in making a disclosure in accordance with §164.512(j).

§164.520 Notice of privacy practices for protected health information.

(a) **Standard: Notice of privacy practices—(1) Right to notice.** Except as provided by paragraph (a)(2) or (3) of this section, an individual has a right to adequate notice of the uses and disclosures of protected health information that may be made by the covered entity, and of the individual’s rights and the covered entity’s legal duties with respect to protected health information.
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(2) Exception for group health plans. (i) An individual enrolled in a group health plan has a right to notice:  

(A) 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 HMO; or  

(B) 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.  

(ii) 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 protected health information in addition to summary health information as defined in §164.504(a) 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:  

(A) Maintain a notice under this section; and  

(B) Provide such notice upon request to any person. The provisions of paragraph (c)(1) of this section do not apply to such group health plan.  

(iii) 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 protected health information other than summary health information as defined in §164.504(a) 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 under this section.  

(3) 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.  

(b) Implementation specifications: Content of notice—(1) Required elements. The covered entity must provide a notice that is written in plain language and that contains the elements required by this paragraph.  

(i) Header. The notice must contain the following statement as a header or otherwise prominently displayed:  

"THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY."  

(ii) Uses and disclosures. The notice must contain:  

(A) A description, including at least one example, of the types of uses and disclosures that the covered entity is permitted by this subpart to make for each of the following purposes: treatment, payment, and health care operations.  

(B) A description of each of the other purposes for which the covered entity is permitted or required by this subpart to use or disclose protected health information without the individual’s written authorization.  

(C) If a use or disclosure for any purpose described in paragraphs (b)(1)(ii)(A) or (B) of this section is prohibited or materially limited by other applicable law, the description of such use or disclosure must reflect the more stringent law as defined in §160.202 of this subchapter.  

(D) For each purpose described in paragraph (b)(1)(ii)(A) or (B) of this section, the description must include sufficient detail to place the individual on notice of the uses and disclosures that are permitted or required by this subpart and other applicable law.  

(E) A description of the types of uses and disclosures that require an authorization under §164.508(a)(2)–(a)(4), a statement that other uses and disclosures not described in the notice will be made only with the individual’s written authorization, and a statement that the individual may revoke an authorization as provided by §164.508(b)(5).  

(iii) Separate statements for certain uses or disclosures. If the covered entity intends to engage in any of the following activities, the description required by paragraph (b)(1)(ii)(A) of this section must include a separate statement informing the individual of such activities, as applicable:  

(A) In accordance with §164.514(f)(1), the covered entity may contact the individual to raise funds for the covered
entity and the individual has a right to opt out of receiving such communications; (B) In accordance with §164.504(f), the group health plan, or a health insurance issuer or HMO with respect to a group health plan, may disclose protected health information to the sponsor of the plan; or (C) If a covered entity that is a health plan, excluding an issuer of a long-term care policy falling within paragraph (1)(viii) of the definition of health plan, intends to use or disclose protected health information for underwriting purposes, a statement that the covered entity is prohibited from using or disclosing protected health information that is genetic information of an individual for such purposes.

(iv) Individual rights. The notice must contain a statement of the individual’s rights with respect to protected health information and a brief description of how the individual may exercise these rights, as follows:

(A) The right to request restrictions on certain uses and disclosures of protected health information as provided by §164.522(a), including a statement that the covered entity is not required to agree to a requested restriction, except in case of a disclosure restricted under §164.522(a)(1)

(B) The right to receive confidential communications of protected health information as provided by §164.522(b), as applicable;

(C) The right to inspect and copy protected health information as provided by §164.524;

(D) The right to amend protected health information as provided by §164.526;

(E) The right to receive an accounting of disclosures of protected health information as provided by §164.528; and

(F) The right of an individual, including an individual who has agreed to receive the notice electronically in accordance with paragraph (c)(3) of this section, to obtain a paper copy of the notice from the covered entity upon request.

(v) Covered entity’s duties. The notice must contain:

(A) A statement that the covered entity is required by law to maintain the privacy of protected health information, to provide individuals with notice of its legal duties and privacy practices with respect to protected health information, and to notify affected individuals following a breach of unsecured protected health information;

(B) A statement that the covered entity is required to abide by the terms of the notice currently in effect; and

(C) For the covered entity to apply a change in a privacy practice that is described in the notice to protected health information that the covered entity created or received prior to issuing a revised notice, in accordance with §164.530(1)(2)(ii), a statement that it reserves the right to change the terms of its notice and to make the new notice provisions effective for all protected health information that it maintains. The statement must also describe how it will provide individuals with a revised notice.

(vi) Complaints. The notice must contain a statement that individuals may complain to the covered entity and to the Secretary if they believe their privacy rights have been violated, a brief description of how the individual may file a complaint with the covered entity, and a statement that the individual will not be retaliated against for filing a complaint.

(vii) Contact. The notice must contain the name, or title, and telephone number of a person or office to contact for further information as required by §164.530(a)(1)(ii).

(viii) Effective date. The notice must contain the date on which the notice is first in effect, which may not be earlier than the date on which the notice is printed or otherwise published.

(2) Optional elements. (i) In addition to the information required by paragraph (b)(1) of this section, if a covered entity elects to limit the uses or disclosures that it is permitted to make under this subpart, the covered entity may describe its more limited uses or disclosures in its notice, provided that the covered entity may not include in its notice a limitation affecting its right to make a use or disclosure that is required by law or permitted by §164.512(j)(1)(ii).

(ii) For the covered entity to apply a change in its more limited uses and
disclosures to protected health information created or received prior to issuing a revised notice, in accordance with §164.520, (2), the notice must include the statements required by paragraph (b)(1)(v)(C) of this section.

(3) Revisions to the notice. The 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.

(c) Implementation specifications: Provision of notice. A covered entity must make the notice required by this section available on request to any person and to individuals as specified in paragraphs (c)(1) through (c)(3) of this section, as applicable.

(1) Specific requirements for health plans: 

(i) A health plan must provide the notice:

(A) No later than the compliance date for the health plan, to individuals then covered by the plan;

(B) Thereafter, at the time of enrollment, to individuals who are new enrollees.

(ii) 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.

(iii) The health plan satisfies the requirements of paragraph (c)(1) of this section if notice is provided to the named insured of a policy under which coverage is provided to the named insured and one or more dependents.

(iv) If a health plan has more than one notice, it satisfies the requirements of paragraph (c)(1) of this section by providing the notice that is relevant to the individual or other person requesting the notice.

(v) If there is a material change to the notice:

(A) A health plan that posts its notice on its web site in accordance with paragraph (c)(3)(i) of this section must prominently post the change or its revised notice on its web site by the effective date of the material change to the notice, and 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.

(B) A health plan that does not post its notice on a web site pursuant to paragraph (c)(3)(i) of this section must provide the revised notice, 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.

(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 reason 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 main-
tains a web site that provides informa-
tion about the covered entity’s cus-
tomer services or benefits must promi-
nently post its notice on the web site and make the notice available elec-
trically 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 sat-
isfy the provision requirements of
paragraph (c) of this section when
timely made in accordance with para-
graph (c)(1) or (2) of this section.

(iii) For purposes of paragraph
(c)(2)(i) of this section, if the first serv-
dice delivery to an individual is deliv-
ered electronically, the covered health
care provider must provide electronic
notice automatically and contempora-
neously in response to the individual’s
first request for service. The require-
ments in paragraph (c)(2)(ii) of this sec-
tion apply to electronic notice.

(iv) The individual who is the recipi-
ent of electronic notice retains the
right to obtain a paper copy of the no-
tice from a covered entity upon re-
quest.

(d) Implementation specifications: Joint
notice by separate covered entities. Cov-
ered entities that participate in orga-
nized health care arrangements may
comply with this section by a joint no-
tice, provided that:

(1) The covered entities participating
in the organized health care arrange-
ment agree to abide by the terms of the
notice with respect to protected health
information created or received by the
covered entity as part of its participa-
tion in the organized health care ar-
range ment;

(2) The joint notice meets the imple-
mentation specifications in paragraph
(b) of this section, except that the
statements required by this section
may be altered to reflect the fact that
the notice covers more than one cov-
ered entity; and

(i) Describes with reasonable speci-
ficity the covered entities, or class of
entities, to which the joint notice ap-
plies;

(ii) Describes with reasonable speci-
ficity the service delivery sites, or
classes of service delivery sites, to
which the joint notice applies; and

(iii) If applicable, states that the cov-
ered entities participating in the orga-
nized health care arrangement will
share protected health information
with each other, as necessary to carry
out treatment, payment, or health care
operations relating to the organized
health care arrangement.

(3) The covered entities included in
the joint notice must provide the no-
tice to individuals in accordance with
the applicable implementation speci-
fications of paragraph (c) of this sec-
tion. Provision of the joint notice to an
individual by any one of the covered
entities included in the joint notice
will satisfy the provision require-
ment of paragraph (c) of this section with
respect to all others covered by the joint
notice.

(e) Implementation specifications: Docu-
mentation. A covered entity must docu-
ment compliance with the notice re-
quirements, as required by §164.530(j),
by retaining copies of the notices
issued by the covered entity and, if ap-
plicable, any written acknowledgments
of receipt of the notice or documentation
of good faith efforts to obtain such
written acknowledgment, in accord-
ance with paragraph (c)(2)(ii) of this
section.

§164.522 Rights to request privacy
protection for protected health in-
formation.

(a)(1) Standard: Right of an individual
to request restriction of uses and disclo-
sures. (i) A covered entity must permit
an individual to request that the cov-
ered entity restrict:

(A) Uses or disclosures of protected
health information about the indi-
vidual to carry out treatment, pay-
ment, or health care operations; and

(B) Disclosures permitted under
§164.510(b).