



### **Background on HIPAA Privacy**

The HIPAA Privacy Rule gave individuals a right to be informed of the privacy practices of their health plans and their health care providers, as well as to be informed of their privacy rights with respect to their personal health information. The Privacy Rules were initiated in 2003, but this coming April, many employers will be required to remind employees of their rights under HIPAA Privacy.

### ***What were employers required to do?***

Employers sponsoring small health plans (premiums under \$5 million) were required to develop and distribute a **HIPAA Privacy Notice** that provides a clear explanation of these rights and practices by **April 14, 2004**. The notice was intended to explain how protected health information would be used and safeguarded by the plan.

### ***Were all employers required to provide the HIPAA Privacy Notice?***

The Privacy Rules do NOT require group health plans that provide benefits through insured health plans or HMOs AND that do not create or receive protected health information (other than summary health information or enrollment information) to provide this notice. As such, if you do not receive any protected health information on your employees from your health plan, you were NOT required to provide this notice.

### ***Is there a new requirement for compliance with HIPAA Privacy?***

As a part of the Privacy Rules, groups are required to remind their employees how they can receive a copy of the HIPAA Privacy Notice every three years. **April 14, 2007** is the deadline for providing this **reminder** to your employees- known as the **Notice of Availability**. Again, if you don't receive PHI for your employees, you don't have a Privacy Notice obligation, so you don't need to send the reminder.

### ***What do I have to do?***

If you do receive your employees' PHI, then you should take one of the following actions:

- Re-send your **HIPAA Privacy Notice** to your employees by April 14, 2007 or;
- Remind your employees that the **HIPAA Privacy Notice** is available if by sending a **Notice of Availability** by April 14, 2007.

### ***Can I send the reminder electronically to my employees?***

The Department of Health and Human Services (HHS) has informally commented that employers may send the Notice of Availability and/or the Privacy Notice via email. To send the Notice via email you must ensure that:

- Employees have waived their rights to a paper notice and have agreed to receive the Notice electronically;
- A paper copy must be provided if the email transmission fails;
- Employees' waivers of rights to a paper notice must be kept on file (this can be kept electronically, as well).

Lastly, HHS has also commented that employers can remind employees of their HIPAA Privacy Rights by including the information in a newsletter or other publication generated by the employer.

### ***Where can I get a HIPAA Privacy Notice or a Notice of Availability?***

RSI has prepared the following Notices as templates for our clients to use to satisfy their HIPAA Privacy requirements:

HIPAA Privacy Notice: [http://www.rsionline.com/pdf/RSI\\_SAMPLE\\_HIPAA\\_PRIVACY\\_Notice.doc](http://www.rsionline.com/pdf/RSI_SAMPLE_HIPAA_PRIVACY_Notice.doc)

Notice of Availability: [http://www.rsionline.com/pdf/NOTICE\\_Availability\\_of\\_Privacy\\_Practices.doc](http://www.rsionline.com/pdf/NOTICE_Availability_of_Privacy_Practices.doc)

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