

n00280

## Business Information Protection

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### *Values*

Accountability • Integrity • Service Excellence • Innovation • Collaboration

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#### **Abstract Purpose:**

For the protection of Network Health, Inc./Network Health Plan/Network Health Insurance Corporation/Network Health Administrative Services, LLC (NHI/NHP/NHIC/NHAS) (hereafter Network Health) and its beneficiaries, its clients, and its providers, Network Health and its employees, directors, consultants, contractors, temporary or voluntary staff and agents or brokers must prevent the unauthorized dissemination or misuse of confidential or proprietary business information. Proprietary information, also known as trade secret, is information the company wishes to keep confidential. Proprietary information can include secret formulas, processes, and methods used in production. It can also include business and marketing plans, salary structure, customer lists, contracts and details of its computer systems. In some cases, the special knowledge and skills that an individual has learned on the job are considered to be a company's proprietary information. For purposes of the Policy, confidential and proprietary information does not include "protected health information" (PHI) as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the regulations promulgated thereunder (collectively, the "Privacy Rule").

#### **Policy Detail:**

Network Health policies prohibit directors, employees, contractors, consultants, agents or brokers, temporary and volunteer staff from disclosing confidential or proprietary information outside the company for personal gain or otherwise, without proper written company authorization to do so.

Improper or unauthorized use, removal or disclosure of confidential or proprietary business information will result in disciplinary action and will be just cause for immediate termination of employment or relationship. Persons who use or disclose confidential or proprietary business information, without authorization, may also be subject to civil judicial actions, damages, and penalties enforced by injured parties and state licensing agencies, including in Wisconsin, the Office of the Commissioner of Insurance.

#### **Procedure Detail:**

- I. Confidential Information
  - A. In the course of their work, employees, directors, agents and brokers, consultants, contractors, temporary or volunteer staff may be given access to generate, or otherwise come in contact with confidential and/or proprietary

business information relating to the organization, its beneficiaries, its clients, and/or providers. Confidential and proprietary business information may include, but is not limited to information from the following sources:

1. "Clients"- Network Health has proprietary interest in any and all confidential information relating to clients, including but not limited to, individuals, corporations, institutions, government agencies, and any and all other entities doing business with Network Health. "Doing business" includes, but is not limited to, all forms and types of insurance, insurance policies, insurance coverage, brokerage and agent services, third party administration (TPA) services for self-funded customers, consulting services, writers, claims, inquiries, leads, bids, and contracts of any nature with Network Health. Client information may include, but is not limited to, subscriber/member/participant data and lists that do not contain PHI as that term is defined under the Privacy Rule, reports, any information provided by a client or prospective client, contract expiration dates, contract terms, conditions and rates, the customer risk characteristics and any other information provided by the client about their business and/or employees.
  2. "Business Methods" - Network Health has sole proprietary interest in all of its business methods and of the work product of its employees except that the work product that NHAS provides to self-funded plans as a third-party administrator may have elements that will be shared with the self-funded customer as described in the Administrative Services Agreement. "Business methods" include but are not limited to, the administrative policies and procedures, information about Network Health's insurance markets, TPA services for self-funded plans, marketing strategies, or marketing plans; information relating to Network Health's utilization management and quality assurance programs, and any other object, document, or process developed by Network Health's business.
  3. "Copyrights and Trade Secrets" - Network Health has sole proprietary interest in any and all copyrights, trade secrets and other improvements, processes or innovations developed or owned by the company.
  4. "Employee's Work Product" - Network Health has sole proprietary interest in the work product of its employees. Network Health's interest includes any work product, developed either solely or jointly with others, whose development utilizes Network Health time, materials, facilities or confidential or proprietary information, and which relates to any current, planned, or prior business activity of Network Health. As a condition of employment, employees are required to notify Network Health of, and assign to Network Health or its designee all rights to and title and interest in, any and all copyrights, trade secrets, improvements, processes, innovations and any other work product as defined above, whenever developed.
- B. Unless instructed otherwise, Network Health employees, directors, agents and brokers, consultants, contractors, temporary and volunteer staff should assume that any business information (including Network Health's internal policies and procedures) are confidential and proprietary unless they possess a copy of the identical information published by a third party or the information has been prepared, printed, and authorized by the President, Compliance Officer or General Counsel for public distribution by Network Health or its marketing or public relations departments.

- C. Exceptions to Non-Disclosure:
1. Subject to the terms of this policy, confidential and proprietary business information may be shared with:
    - a. Network Health employees, directors, consultants, contractors, agents and brokers, temporary or volunteer staff when it is necessary for the performance of the duties of those involved.
    - b. Members of Network Health Utilization Management, Credentialing, Peer Review, Medical Policy, Pharmacy & Therapeutics, and Grievance Committees to the extent that the information relates specifically to that individual's current utilization management and quality assurance responsibilities.
    - c. Beneficiaries or their Legal Guardians as required by Ins 3.60 et. seq. to provide an explanation of benefits if the appropriate authorization has been provided to Network Health.
    - d. Other Insurance Companies or Legal Counsel as required for coordination of benefits or subrogation to the extent required by Ins 3.40 et. seq.
    - e. Insurance Support Organizations (e.g., Equifax) to the extent required to prevent fraud, waste and abuse or to assist the organization in performing its functions related to a request from Network Health. Business information may also be shared with insurance support organizations to cooperate with the requests of other insurance companies; provided Network Health receives evidence of coverage of the beneficiary.
    - f. All Others: Only with the prior authorization of Network Health's President, Compliance Officer or General Counsel in response to requests from or submissions required by law for:
      - i. Government agencies, the Office of the Commissioner of Insurance.
      - ii. Network providers.
      - iii. Subpoenas or court orders for a subscriber/member/participant or a subscriber/member/participant's attorney.
      - iv. An accrediting organization.
      - v. Subscriber/Member/Participant or subscriber/member/participant's attorney or authorized personal representative.
      - vi. Any other person or organization.
- D. Information that consists of PHI may be disclosed only as permitted under the Privacy Rule and in accordance with Network Health's HIPAA Privacy policies. Prior to releasing any confidential or proprietary business information to third parties, including, but not limited to, beneficiaries, clients, providers, persons or organizations contracting with NHP/NHIC/NHAS, accrediting agencies and/or government agencies information, Network Health employees, director or agent shall:
1. Review the contract(s) language under Confidential Business Information for direction; in the event Confidential Business Information is not addressed in the contract(s), or there is no contract with the third-party, the employee must secure a Non-Disclosure Agreement (NDA) with the third-party (refer to policy n05560). Obtain required written authorization or request, and

2. Obtain the appropriate department's supervisor and/or manager's review and approval of the authorization or request.
- II. Protection of Confidential and Proprietary Business Information
- A. Except as expressly provided in this policy, Network Health employees, directors, contractors, consultants, agents and brokers, temporary or volunteer staff must never release confidential or proprietary business information to others. Except as so authorized, no record of any confidential or proprietary business information in any form (e.g., original, reproduced documents, or documents or electronic records containing information derived from confidential or proprietary sources) may be removed from Network Health offices. Network Health must make reasonable efforts to ensure that any proprietary notice contained on or included in any Client document is replicated on any translation, modification or reproduction of such document made by Network Health. Network Health must also make reasonable efforts to add a proprietary notice or indication of confidentiality to any tangible material within its possession that contains Confidential and Proprietary Business Information of the State of Wisconsin - Employee Trust Fund.
  - B. Network Health employees, directors, contractors, consultants, agents and brokers, temporary or volunteer staff must never release confidential or proprietary business information to the media, consumer groups, or associations (such as the Better Business Bureau) who release information to the public.
  - C. If the release of PHI and/or business information is expressly allowed for within this policy and the information will be provided via electronic mail outside of the Network Health network, the information must be transmitted using secure methods.
  - D. The information that requires transmittal using certified (secure) mail outside of the Network Health network is listed as follows:
    1. All information containing PHI.
    2. Business information that pertains to trade secret information in terms of Network Health 's contracts with agents; the terms of Network Health 's contracts with providers, and information relating to reimbursement rates.
  - E. Other types of business information to consider sending as certified mail may include marketing plans and other business or technical related information relating to the current, future, and proposed products and services which provides Network Health with a competitive advantage in the marketplace.

### Definitions:

Individually Identifiable Health Information: As defined by 45 C.F.R. 160.103, Information that is a subset of health information, including demographic information collected from an individual, and:

1. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
  - a. That identifies the individual; or
  - b. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Protected health information: Means individually identifiable health information, as defined by 45 C.F.R. 160.103:

1. Except as provided in paragraph (2) of this definition, that is:
  - a. Transmitted by electronic media;
  - b. Maintained in electronic media; or
  - c. Transmitted or maintained in any other form or medium.
2. Protected health information excludes individually identifiable health information:
  - a. In education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g;
  - b. In records described at 20 U.S.C. 1232g(a)(4)(B)(iv);
  - c. In employment records held by a covered entity in its role as employer; and
  - d. Regarding a person who has been deceased for more than 50 years.

**Related Policies:**

[n00220 - Privacy & Confidentiality of Member/Participant Information & Records](#)

[n00230 - Notice of Privacy Practices - Availability, Content, and Distribution to NHP/NHIC Members](#)

[n05560 – Non-Disclosure Agreements](#)

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