

Blue Choice PPOSM and Blue High Performance Network[®] (BlueHPN)[®] Provider Manual - Privacy of Health Information

Important note:

Throughout this provider manual there will be instances when there are references unique to Blue Choice PPO, Blue High Performance Network, Blue Edge, EPO and the Federal Employee Program. These specific requirements will be noted with the plan/network name. If a Plan/network name is not specifically listed or "Plan" is referenced, the information will apply to all PPO products.

In this Section

The following topics are covered in this section.

Topic	Page
Privacy of Health Information Overview <ol style="list-style-type: none"> 1. Consent and Authorization 2. Use, Disclosure and Minimum Necessary 3. Individual's Rights 4. Business Associates 5. Administrative Requirements 	L - 2
Blue Cross and Blue Shield of TX (BCBSTX) Corporate Privacy Policies <ol style="list-style-type: none"> 1. Documentation of Privacy Policies and Procedures 2. Privacy Complaints 3. Safeguarding Protected Health Information (PHI) 4. Training of Privacy Policies and Procedures 5. Disclosure Tracking 6. Authorizations 7. Minimum Necessary PHI 8. Business Associates 9. Disclosure Accounting 10. Requests to Receive PHI by Alternative Confidential Means 11. Requests to Access PHI) 12. Personal Representatives 13. De-Identification of PHI 14. Verification of Identity and Authority 15. Disclosure of PHI in Group Market Situations 16. Notice of Privacy Practices 17. Requests to Restrict PHI 18. Requests to Amend PHI 19. Privacy Practical Guidelines 	L - 3 L - 3 L - 3 L - 3 L - 4 L - 4 L - 4 L - 5 L - 5 L - 5 L - 6 L - 6 L - 6 L - 7 L - 7 L - 7 L - 7 L - 7 L - 7 L - 8

Blue Choice PPO and BlueHPN Provider Manual - Privacy of Health Information

Privacy of Health Information Overview

The following information provides a summary of Blue Cross and Blue Shield of Texas (BCBSTX) Privacy Policies and Procedures:

The regulations are long and complex, but they can be grouped into five main topics:

1. **Consent and Authorization:** This refers to the permission a person must give for us to use or disclose his or her Protected Health Information (PHI). BCBSTX will be dealing mostly with authorizations.
 2. **Use, Disclosure and Minimum Necessary:** These rules talk about when and how to use or disclose PHI. In most cases, we must use or disclose only the least amount, the minimum necessary, of PHI needed to do a certain task.
 3. **Individual's Rights:** The person who is the subject of PHI has five major rights.
 - The right to ask for access to his/her PHI and receive a copy or view it on location
 - The right to ask for an amendment to his/her PHI
 - The right to receive a listing of all recorded disclosures of his/her PHI
 - The right to ask for further restrictions on the use and disclosure of his/her PHI
 - The right to ask that any communication with the person regarding his/her PHI be carried out through confidential means that differ from the normal methods of contact, such as mail to the home address.
 4. **Business Associates:** Outside persons or entities that carry out a function on behalf of BCBSTX are our business associates. They must follow the privacy regulations, too, and be allowed to access only certain PHI, as outlined in their contract.
 5. **Administrative Requirements:** There are several things that BCBSTX must do to oversee compliance with the privacy regulations. They include such activities as naming a privacy officer, creating a privacy office, writing privacy policies and procedures, sending out a notice of privacy practices and training its workers about its privacy policies.
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Blue Choice PPO and BlueHPN Provider Manual - Privacy of Health Information

Blue Cross and Blue Shield of Texas Corporate Privacy Policies

BCBSTX's Corporate Privacy Policies are listed below. Authorized management in the division is responsible for implementing these policies and associated procedures, except where noted.

Policy #1: Documentation of Privacy Policies and Procedures

Each affected BCBSTX operational area shall develop, implement and maintain its own policies and procedures that are in accordance with the BCBSTX Corporate Privacy Policies and Procedures.

Each BCBSTX operational area shall provide written assurance to the Privacy Office regarding the accuracy of its privacy policies and procedures annually. These policies and procedures are subject to Privacy Office review.

Policy #2: Privacy Complaints

The Privacy Office shall evaluate privacy complaints and respond in writing to an individual or an individual's personal representative in a timely manner following receipt of a complete, written complaint, as required by law and in accordance with approved corporate procedures.

Policy #3: Safeguarding Protected Health Information (PHI)

Each BCBSTX operational area shall develop, implement and maintain appropriate administrative, technical, and physical safeguards to prevent inappropriate use or disclosure of Protected Health Information (PHI).

Policy #4: Training of Privacy Policies and Procedures

BCBSTX shall train its workforce on the Corporate Privacy Policies and Procedures, and the privacy policies and procedures of operational areas as required by law and in accordance with approved corporate procedures.

Business Associates (BA) will, upon execution of the agreement, be provided with information about BCBSTX's Corporate Privacy Policies and Procedures. In addition, those BAs that work directly with a particular operational area will be provided with that area's specific privacy policies and procedures when they begin work for the department.

Blue Choice PPO and BlueHPN Provider Manual - Privacy of Health Information

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Texas
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cont.

Policy #5: Disclosure Tracking

This policy addresses BCBSTX as a Covered Entity (an entity that must comply with the Federal privacy regulations). BCBSTX shall record and track its disclosures of PHI as required by law and in accordance with approved corporate procedures. Each affected BCBSTX operational area shall identify each disclosure of PHI that must be recorded. All required disclosure information will be entered in the BCBSTX Tracking Database in a timely manner.

When BCBSTX acts as a Business Associate, there may be situations in which disclosure tracking will need to be done in accordance with both the law and a specific Business Associate Agreement.

Policy #6: Authorizations

BCBSTX shall obtain a signed authorization form from an individual or the individual's personal representative in situations required by law and in accordance with approved corporate procedures.

Policy #7: Minimum Necessary Protected Health Information (PHI)

This policy assumes a disclosure of PHI is not as a result of an authorization, or that de-identification of the information will not provide the needed information.

BCBSTX workforce and BCBSTX Business Associates (BA) that have executed BA agreements shall be permitted access to and use of only the minimum PHI reasonably necessary for the performance of their duties. Unless otherwise permitted by the terms of a BA agreement, BCBSTX BAs shall only be permitted access to and use of PHI in accordance with their BA agreement..

BCBSTX workforce members or BAs will not use, disclose or request an entire medical record without the department manager's written approval that this is the minimum necessary PHI needed for the stated purpose.

Authorized management in each affected BCBSTX operational area shall be responsible for determining and documenting the minimum necessary information required to fulfill routine/recurring and non-

Blue Choice PPO and BlueHPN Provider Manual - Privacy of Health Information

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Policy #8: Business Associates

BCBSTX as a Covered Entity - BCBSTX shall require its Business Associates to enter into a written BA agreement. Any person or entity determined to be a BA without an executed BA agreement shall not receive PHI unless the subject of the PHI or their authorized representative signs an authorization. Any member of the BCBSTX workforce who has a good faith belief that a BA has possibly violated their BA agreement shall orally report such information to their management. Authorized management shall document this report in writing, and send a copy to the Privacy Office. Potential violations of the terms of a BA agreement by a BA shall be resolved according to corporate procedures and applicable law.

BCBSTX as a Business Associate - When BCBSTX serves as a BA to another Covered Entity, BCBSTX will enter into a written BA agreement with the Covered Entity. As a BA, BCBSTX will use or disclose PHI as permitted by state and federal law and the BA agreement with the Covered Entity. The standard BCBSTX BA agreement shall be used. Any exceptions should follow approved corporate procedures.

Policy #9: Disclosure Accounting

This policy addresses BCBSTX as a Covered Entity. When BCBSTX acts as a Business Associate, there may be situations in which disclosure accounting will need to be done in accordance with both the law and a specific BA agreement. BCBSTX shall provide an individual or an individual's personal representative with an accounting of BCBSTX's disclosures as required by law and in accordance with approved corporate procedures.

Each request for an accounting of PHI disclosures shall be entered into the BCBSTX Tracking Database in a timely manner. The Privacy Office shall be responsible for implementing this policy and the associated disclosure accounting corporate procedures.

Policy #10: Requests to Receive Protected Health Information (PHI) by Alternative Confidential Means

BCBSTX shall consider granting a written request from an individual or an individual's personal representative to receive PHI by alternative confidential means or at an alternative location as required by law and in accordance with approved corporate procedures. Each written request to receive PHI by alternative confidential means or at an alternative location shall be documented in a timely manner. BCBSTX shall update corporate, divisional and operational area records as required by law to reflect requests accepted by BCBSTX.

Blue Choice PPO and BlueHPN Provider Manual - Privacy of Health Information

**Blue Cross and
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Texas Corporate
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cont.

Policy #11: Requests to Access Protected Health Information (PHI)

BCBSTX shall consider requests from an individual or an individual's personal representative to inspect and obtain a copy of the requesting individual's PHI as permitted by state or federal law and in accordance with approved corporate procedures.

BCBSTX shall evaluate the request and issue a written response as required by law.

Policy #12: Personal Representatives

BCBSTX will disclose appropriate PHI to personal representatives of an individual when the personal representative follows the same procedures as the individual. The designation of a person as a personal representative will be documented according to appropriate law, and corporate procedures.

Policy #13: De-Identification of PHI

Except as otherwise permitted by law, BCBSTX will de-identify PHI released externally. The de-identification of PHI shall be accomplished in accordance with applicable law and approved corporate procedures. PHI that has been de-identified is health information that may be released without minimum necessary determinations. There are several ways to de-identify PHI. One way involves removing individually identifiable health information that may link the data to a specific person. This information includes, but is not limited to:

- Name
- Address
- Date of birth/death
- Telephone number
- Fax number
- Date of admission/discharge
- E-mail address
- Social security number
- Medical record number
- Health plan beneficiary number
- Account number
- Vehicle identifiers
- Certificate/license number
- Web universal resource locator (URL)
- Internet protocol (IP) address number
- Biometric ID, such as finger or voice prints
- Full face or comparable photo images
- Other unique ID number, code or characteristic

Blue Choice PPO and BlueHPN Provider Manual - Privacy of Health Information

**Blue Cross and
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Texas Corporate
Privacy Policies,**
cont.

Policy #14 Verification of Identity and Authority

BCBSTX shall verify the identity and authority of any person requesting PHI as may be required by law and in accordance with approved corporate procedures.

Policy #15: Disclosure of PHI in Group Market Situations

BCBSTX will release PHI to self-funded group health plans, insured group health plans, and plan sponsors or their Business Associates as permitted by law and in accordance with approved procedure.

Policy #16: Notice of Privacy Practices

BCBSTX shall issue a Notice of Privacy Practices to persons as required by law and in accordance with approved corporate procedures.

Revisions shall be made to the Notice of Privacy Practices if there is any material change to BCBSTX's legal duties with respect to its privacy practices, individuals' privacy rights or other privacy practices that would need to be reflected in the Notice. The revised Notice will be distributed to insured members as required by law and made available to any other person upon request.

The Privacy Office shall be responsible for implementing this policy and the associated corporate procedures.

Policy #17: Requests to Restrict PHI

This policy addresses BCBSTX as a Covered Entity. Individuals may submit requests to restrict use or disclosure of their PHI to BCBSTX. Each request to restrict PHI must be entered in the BCBSTX Tracking Database in a timely manner.

BCBSTX shall not grant a request from an individual or a personal representative of an individual to place any additional restrictions on the use and disclosure of the individual's PHI, unless required by law or the restriction is approved by the Privacy Officer. The Privacy Office shall be responsible for implementing this policy and the approved corporate procedures.

Policy #18: Requests to Amend PHI

This policy addresses BCBSTX as a Covered Entity. BCBSTX shall consider amending an individual's PHI upon receipt of a completed Amendment Request Form from the individual making the request or his/her personal representative as permitted by law and in accordance with approved corporate procedures. Notification of the disposition of the amendment request will be sent to the individual or his/her personal representative. BCBSTX shall take reasonable steps as required by law to communicate amended PHI to appropriate BAs.

Blue Choice PPO and BlueHPN Provider Manual - Privacy of Health Information

Blue Cross and Blue Shield of Texas Corporate Privacy Policies, cont.

Policy #19: Privacy Practical Guidelines

The following privacy guidelines represent the philosophy and practices that BCBSTX follows in its day-to-day operations:

BCBSTX will not disclose PHI for the purpose of reporting abuse, neglect or domestic violence, unless required by law. Then, only the minimum necessary information will be disclosed and entered into the BCBSTX Tracking Database.

PHI may be requested or disclosed for deceased persons without obtaining an authorization if it goes to persons with authority to act on behalf of the deceased or as permitted by law.

No PHI will be used for fundraising, but BCBSTX may solicit its employees for charitable fundraising purposes.

Workforce members must verify identity and authority of the recipient before making such disclosure.

Requests for PHI must go to the Legal Department if they involve law enforcement, averting a serious threat to health or safety, judicial and administrative proceedings or disaster relief activities.

An authorization must be obtained before using or disclosing PHI for marketing purposes. The Marketing Decision Guidance must be used to determine if a communication is a Marketing Communication.

1. PHI will not be disclosed for organ or tissue donation purposes unless required by law.
 2. BCBSTX will not request, use or disclose psychotherapy notes. Such notes will be returned immediately if they are received.
 3. All records, including electronic and hard copies, will be maintained according to the BCBSTX Record Retention Policy.
 4. PHI will not be disclosed for research purposes.
 5. Requests for disclosure of PHI for special government purposes will be forwarded to the BCBSTX Legal Department.
 6. Only the minimum necessary PHI will be disclosed in accordance with state worker's compensation law.
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