

WAC 284-04-120 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Affiliate" means any company that controls, is controlled by or is under common control with another company.

(2) "Clear and conspicuous" means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

Examples.

(a) Reasonably understandable. A licensee makes its notice reasonably understandable if it:

(i) Presents the information in the notice in clear, concise sentences, paragraphs, and sections;

(ii) Uses short explanatory sentences or bullet lists whenever possible;

(iii) Uses definite, concrete, everyday words and active voice whenever possible;

(iv) Avoids multiple negatives;

(v) Avoids legal and highly technical business terminology whenever possible; and

(vi) Avoids explanations that are imprecise and readily subject to different interpretations.

(b) Designed to call attention. A licensee designs its notice to call attention to the nature and significance of the information in it if the licensee:

(i) Uses a plain-language heading to call attention to the notice;

(ii) Uses a typeface and type size that are easy to read;

(iii) Provides wide margins and ample line spacing;

(iv) Uses boldface or italics for key words; and

(v) In a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

(c) Notices on web sites. If a licensee provides a notice on a web page, the licensee designs its notice to call attention to the nature and significance of the information in it if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the web site (such as text, graphics, hyperlinks or sound) do not distract attention from the notice, and the licensee either:

(i) Places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or

(ii) Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature, and relevance of the notice.

(3) "Collect" means to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

(4) "Commissioner" means the insurance commissioner of the state.

(5) "Company" means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

(6) "Consumer" means an individual who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes and about whom the licensee has nonpublic personal information, or that individual's legal representative.

Examples.

(a) An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

(b) An applicant for insurance prior to the inception of insurance coverage is a licensee's consumer.

(c) An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

(d) An individual is a licensee's consumer if:

(i) The individual is a beneficiary of a life insurance policy underwritten by the licensee;

(ii) The individual is a claimant under an insurance policy issued by the licensee;

(iii) The individual is an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

(iv) The individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and

(v) The licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under WAC 284-04-400, 284-04-405, and 284-04-410.

(e) Provided that the licensee provides the initial, annual and revised notices under WAC 284-04-200, 284-04-205, and 284-04-220 to the plan sponsor, group or blanket insurance policy holder or group annuity contract holder, workers' compensation plan participant and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under WAC 284-04-400, 284-04-405, and 284-04-410, an individual is not the consumer of such licensee solely because he or she is:

(i) A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary;

(ii) Covered under a group or blanket insurance policy or annuity contract issued by the licensee; or

(iii) A beneficiary in a workers' compensation plan.

(f) The individuals described in (e)(i) through (iii) of this subsection are consumers of a licensee if the licensee does not meet all the conditions of (e) of this subsection.

(g) In no event shall such individuals, solely by virtue of the status described in (e)(i) through (iii) of this subsection, be deemed to be customers for purposes of this chapter.

(i) An individual is not a licensee's consumer solely because he or she is a beneficiary of a trust for which the licensee is a trustee.

(ii) An individual is not a licensee's consumer solely because he or she has designated the licensee as trustee for a trust.

(7) "Consumer reporting agency" has the same meaning as in section 603(f) of the Federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(8) "Control" means:

(a) Ownership, control or power to vote twenty-five percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(b) Control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or

(c) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the commissioner determines.

(9) "Customer" means a consumer who has a customer relationship with a licensee.

(10) "Customer relationship" means continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes.

Examples.

(a) A consumer has a continuing relationship with a licensee if:

(i) The consumer is a current policyholder of an insurance product issued by or through the licensee; or

(ii) The consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.

(b) A consumer does not have a continuing relationship with a licensee if:

(i) The consumer applies for insurance but does not purchase the insurance;

(ii) The licensee sells the consumer airline travel insurance in an isolated transaction;

(iii) The individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

(iv) The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;

(v) The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

(vi) The customer's policy is lapsed, expired, paid up or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve consecutive months, other than annual privacy notices, material required by law or regulation, communication at the direction of state or federal authority or promotional materials;

(vii) The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

(viii) For the purposes of this chapter, if the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(11) "Covered member" means the person who is the subject of protected health information.

(12+) "Financial institution" means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(a) Financial institution does not include:

(i) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(ii) The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servic-

ing rights) or similar transactions related to a transaction of a consumer, as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(13~~2~~) "Financial product or service" means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

Financial service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

(14~~3~~) "Health care" means: Preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures, tests or counseling that:

(a) Relates to the physical, mental or behavioral condition of an individual; or

(b) Affects the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs or any other tissue; or

(c) Prescribing, dispensing or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.

(154) "Health care provider" means a physician or other health care practitioner licensed, accredited or certified to perform specified health services consistent with state law or a health care facility.

(165) "Health information" means any information or data, except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:

(a) The past, present or future physical, mental or behavioral health or condition of an individual;

(b) The provision of health care to an individual; or

(c) Payment for the provision of health care to an individual.

(176) "Insurer" includes health care service contractor, HMO, and fraternal benefit society.

(178) "Insurance product or service" means any product or service that is offered by a licensee pursuant to the insurance laws of this state.

Insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

(199) "Licensee" means all licensed insurers, health care service contractors, HMO's, and fraternal benefit societies, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the insurance law of this state.

(a) A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in WAC 284-04-100 through 284-04-400 or the notice and policy development and implementation procedures of WAC 284-04-500 if the licensee is an employee, agent or other representative of another licensee ("the principal") and:

(i) The principal otherwise complies with, and provides the notices required by, the provisions of this regulation; and

(ii) The licensee complies with the principal's privacy policies and does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this regulation.

(b)(i) Subject to (b)(ii) of this subsection, "licensee" shall also include an unauthorized insurer that accepts business placed through a licensed excess lines broker in this state, but only in regard to the excess lines placements placed pursuant to section [insert section] of this state's laws.

(ii) An excess lines broker or excess lines insurer shall be deemed to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in WAC 284-04-100 through 284-04-400 provided:

(A) The broker or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under WAC 284-04-405, except as permitted by WAC 284-04-410 and 284-04-415; and

(B) The broker or insurer delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16-point type:

PRIVACY NOTICE
"NEITHER THE U.S. BROKERS THAT HANDLED THIS
INSURANCE NOR THE INSURERS THAT HAVE
UNDERWRITTEN THIS INSURANCE WILL DISCLOSE
NONPUBLIC PERSONAL INFORMATION CONCERNING THE
BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS
EXCEPT AS PERMITTED BY LAW"

~~(2019)~~ "Licensee" shall also include an unauthorized insurer that places business through a licensed excess line broker in this state,

but only in regard to the excess line placements placed pursuant to of this state's laws.

(21~~+~~) "Nonaffiliated third party" means any person except:

(a) A licensee's affiliate; or

(b) A person employed jointly by a licensee and any company that is not the licensee's affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

Nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in section 4 (k) (4) (H) or insurance company investment activities of the type described in section 4 (k) (4) (I) of the Federal Bank Holding Company Act (12 U.S.C. 1843 (k) (4) (H) and (I).)

(22) "Non-essential information" means protected health information as defined under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule (45 C.F.R. 160.103).

(23~~+~~) "Nonpublic personal information" means nonpublic personal financial information and nonpublic personal health information.

(24~~+~~) (a) "Nonpublic personal financial information" means:

(i) Personally identifiable financial information; and

(ii) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.

(b) Nonpublic personal financial information does not include:

(i) Health information;

(ii) Publicly available information, except as included on a list described in (a)(i) of this subsection; or

(iii) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available.

Examples of lists.

Nonpublic personal financial information includes any list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

Nonpublic personal financial information does not include any list of individuals' names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly avail-

able, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

(253) "Nonpublic personal health information" means health information:

(a) That identifies an individual who is the subject of the information; or

(b) With respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

(264) "Personally identifiable financial information" means any information:

(a) A consumer provides to a licensee to obtain an insurance product or service from the licensee;

(b) About a consumer resulting from any transaction involving an insurance product or service between a licensee and a consumer; or

(c) The licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

Examples.

(i) Information included. Personally identifiable financial information includes:

(A) Information a consumer provides to a licensee on an application to obtain an insurance product or service;

(B) Account balance information and payment history;

(C) The fact that an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee;

(D) Any information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee's consumer;

(E) Any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;

(F) Any information the licensee collects through an internet "cookie" (an information collecting device from a web server); and

(G) Information from a consumer report.

(ii) Information not included. Personally identifiable financial information does not include:

(A) Health information;

(B) A list of names and addresses of customers of an entity that is not a financial institution; and

(C) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.

(27~~5~~) (a) "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(i) Federal, state or local government records;

(ii) Widely distributed media; or

(iii) Disclosures to the general public that are required to be made by federal, state or local law.

(b) Reasonable basis. A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:

(i) That the information is of the type that is available to the general public; and

(ii) Whether an individual can direct that the information not be made available to the general public and, if so, that the licensee's consumer has not done so.

(c) Examples.

(i) Government records. Publicly available information in government records includes information in government real estate records and security interest filings.

(ii) Widely distributed media. Publicly available information from widely distributed media includes information from a telephone

book, a television or radio program, a newspaper or a web site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an internet service provider or a site operator requires a fee or a password, so long as access is available to the general public.

(iii) Reasonable basis.

(A) A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

(B) A licensee has a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed you that the telephone number is not unlisted.

[Statutory Authority: RCW 48.02.060, 48.18.120, 48.20.450, 48.20.460, 48.30.010, 48.44.050, 48.46.100, 48.46.200, 48.43.505, Gramm-Leach-Bliley Act (Public Law 102-106) sections 501(b) and 505 (b)(2). WSR 02-08-019 (Matter No. R 2001-12), § 284-04-120, filed 3/25/02, effective 4/25/02. Statutory Authority: RCW 48.43.505 and Gramm-Leach-

Bliley Act, Public Law 102-106, sec. 501(b), sec. 505 (b)(2). WSR 01-03-034 (Matter No. R 2000-08), § 284-04-120, filed 1/9/01, effective 2/9/01.]

WAC 284-04-500 Health information privacy policies and procedures. All licensees ~~shall~~must develop and implement written policies, standards and procedures for the management of health information, including policies, standards and procedures to guard against the unauthorized collection, use or disclosure of nonpublic personal health information by the licensee consistent with regulations adopted by the U.S. Department of Health and Human Services governing health information privacy (45 C.F.R. 160 through 164). The policies must ~~which shall~~ include:

- (1) Limitation on access to health information by only those persons who need to use the health information in order to perform their jobs;
- (2) Appropriate training for all employees;
- (3) Disciplinary measures for violations of the health information policies, standards and procedures;

(4) Identification of the job titles and job descriptions of persons that are authorized to disclose nonpublic personal health information;

(5) Procedures for authorizing and restricting the collection, use or disclosure of nonpublic personal health information;

(6) Methods for exercising the right to access and amend incorrect nonpublic personal health information;

(7) Methods for handling, disclosing, storing and disposing of health information;

(8) Periodic monitoring of the employee's compliance with the licensee's policies, standards and procedures in a manner sufficient for the licensee to determine compliance and to enforce its policies, standards and procedures; and

(9) Methods for informing and allowing ~~an individual~~ covered member who is the subject of nonpublic personal health information to request specialized disclosure or nondisclosure of nonpublic personal health information as required in this chapter, ~~and~~

(10) Information about the availability of the address confidentiality program offered by the Washington secretary of state and described in chapter 434-840 WAC.

(11) A licensee ~~shall~~must make the health information policies, standards and procedures developed pursuant to this section available for review by the commissioner.

(12) A licensee must make the health information policies, standards, and procedures developed pursuant to this section available to covered members:

(a) Upon enrollment,

(b) Upon request,

(c) In an area of the licensee's website where the information is accessible to covered members, including individuals who are not customers of the health plan, and

(d) In the materials that the licensee provides to covered members to summarize the health plan benefits. These materials may include, but are not limited to, the certificate of coverage or a plan summary.

[Statutory Authority: RCW 48.43.505 and Gramm-Leach-Bliley Act, Public Law 102-106, sec. 501(b), sec. 505 (b) (2). WSR 01-03-034 (Matter No. R 2000-08), § 284-04-500, filed 1/9/01, effective 2/9/01.]

WAC 284-04-505 Right of covered members to limit disclosure of information ~~Nonpublic personal health information~~ ~~When authorization~~

~~required.~~ (1) A licensee must not disclose any information, including but not limited to nonpublic health information, about a covered member to entities or individuals specified by the covered member, if the covered member clearly states through a request to the licensee that disclosing all or part of the information could jeopardize the covered member's safety.

(2) A licensee ~~shall~~ must not disclose nonpublic personal health information about a ~~consumer~~ covered member to any entity or individual, or customer unless:

(a) The licensee obtains an authorization is obtained from the ~~consumer covered member or customer~~ whose ~~nonpublic personal health information is sought to be disclosed~~ the licensee seeks to disclose, or

(b) The disclosure is necessary for the licensee to perform its insurance functions as described in subsection 2(c) of this section, and the covered member does not have an enhanced right to limit disclosure, as described in subsections (3), (4), (5) and (6) of this section, that prevents disclosure despite the licensee's insurance function.

(c) For the purpose of this subsection, insurance functions are activities permitted under RCW 70.02.050 and health information privacy regulations adopted by the U.S. Department of Health and Human Services.

(d) Nothing in this section prevents a licensee from sharing information with the Washington office of the insurance commissioner in response to a request by the commissioner.

(3) Enhanced protection for covered member's information:

(a) A licensee has an obligation to provide enhanced protection to a covered member's information if the licensee has actual knowledge that:

(i) The information that the licensee seeks to disclose involves health care services for reproductive health, sexually transmitted diseases, substance use, or mental health;

(ii) The covered member is a minor who has a lawful right under state or federal law to consent to health care services without the consent of a parent or guardian; or

(iii) Disclosure of all or part of the information could jeopardize the covered member's safety.

(b) For the purpose of this section, a licensee has actual knowledge if:

(i) The covered member or their health care provider clearly states a basis for the enhanced protection for the covered member's information through a request to the licensee. Such a request may include but is not limited to a notice from a provider to the licensee that in the provider's judgment, the covered member is a mature minor who has lawfully consented to the health care services without the consent of a parent or guardian;

(ii) The authorization request or claim for health care services is for a minor and the service involves reproductive health, sexually transmitted diseases, substance use, or mental health;

(iii) The authorization request or claim for health care services is for a minor and the health care service is one that a minor may lawfully consent to under federal or state law, including but not limited to:

(A) RCW 9.02.100;

(B) RCW 70.24.110;

(C) RCW 71.34.530;

(D) RCW 71.34.500;

(E) RCW 70.96A.096 and 70.96A.230; and

(F) RCW 70.96A.096.

(4) When a licensee has an obligation to provide enhanced protection to a covered member's information, the licensee must limit disclosure consistent with subsection (5) and (6) of this section.

(5) When a licensee has an obligation to limit the disclosure of a covered member's information, upon receipt of the request, the licensee must not:

(a) Require the covered member or their provider to obtain the policyholder's or certificate holder's authorization for the covered

member to receive health care services or for the covered member or their provider to submit a claim;

(b) Mail or display information about a claim to a policyholder or certificate holder, unless:

(i) The licensee sends the information to a physical or electronic address that the covered member provided, or through a confidential website accessible only by the covered member, or

(ii) The policyholder or certificate holder has requested the information and the licensee has taken all reasonable steps to protect the privacy of the covered member. Examples include but are not limited to notifying the covered member or redacting HIPAA-protected information from the information that the licensee will disclose;

(iii) The information contains a notice of an adverse benefit determination and the licensee has taken all reasonable steps to protect the privacy of the covered member. Examples include but are not limited to notifying the covered member or redacting non-essential information.

(6) Nothing in this section prohibits or restricts a licensee from disclosing a covered member's information to someone who is involved in the covered member's care, and notification to the extent permitted under 45 CFR 164.510.

(7) When requesting nondisclosure, the covered member or covered member's health care provider should include in the request:

(i) The name and address of the covered member or the covered member's health care provider;

(ii) A description of the type of information for which the covered member or covered member's health care provider requests nondisclosure;

(iii) In the case of reproductive health information, the type of services subject to nondisclosure;

(iv) The identity or description of the types of persons from whom the covered member or covered member's health care provider requests nondisclosure;

(v) Information regarding how the covered member will pay for cost sharing for the health care service, if the service includes such cost sharing;

(vi) The covered member's or their provider's phone number or e-mail address so that the licensee can request additional information or clarification, if necessary. If the licensee needs additional information, while the request is pending the license must not disclose the information for which the covered member or their provider is requesting non-disclosure.

(8) Licensees must accept oral nondisclosure requests from covered members or their health care providers. However, licensees may require covered members or their health care providers to submit a written request within twenty-four hours of submitting an oral request. Written requests may include requests submitted by email or fax, but do not include requests submitted by text messaging or voicemail.

(9) Licensees may accept incomplete requests at their discretion.

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~~(2) Except as provided in WAC 284-04-510, nothing in this section shall prohibit, restrict or require an authorization for the disclosure of nonpublic personal health information by a licensee for the performance of insurance functions by or on behalf of the licensee, for activities permitted under RCW 70.02.050, and for activities permitted under health privacy regulations adopted by the U.S. Department of Health and Human Services governing health information privacy.~~

~~[Statutory Authority: RCW 48.43.505 and Gramm Leach Bliley Act, Public Law 102-106, sec. 501(b), sec. 505 (b) (2). WSR 01-03-034 (Matter No. R 2000-08), § 284-04-505, filed 1/9/01, effective 2/9/01.]~~

~~**WAC 284-04-510 Right to limit disclosure of health information.**~~

~~(1) Notwithstanding other provisions of this chapter, a licensee shall limit disclosure of any information, including health information, about an individual who is the subject of the information if the individual clearly states in writing that disclosure to specified individuals of all or part of that information could jeopardize the safety of the individual. Disclosure of information under this subsection shall be limited consistent with the individual's request, such as a request for the licensee to not release any information to a spouse to prevent domestic violence.~~

~~(2) Notwithstanding any insurance law requiring the disclosure of information, a licensee shall not disclose nonpublic personal health information concerning health services related to reproductive health, sexually transmitted diseases, chemical dependency and mental health, including mailing appointment notices, calling the home to confirm appointments, or mailing a bill or explanation of benefits to a policyholder or certificate holder, if the individual who is the subject of the information makes a written request. In addition, a licensee shall not require an adult individual to obtain the policyholder's or other covered person's authorization to receive health care services or to submit a claim.~~

~~(3) (a) A licensee shall recognize the right of any minor who may obtain health care without the consent of a parent or legal guardian pursuant to state or federal law, to exclusively exercise rights granted under this section regarding health information; and~~

~~(b) Shall not disclose any nonpublic personal health information related to any health care service to which the minor has lawfully consented, including mailing appointment notices, calling the home to confirm appointments, or mailing a bill or explanation of benefits to a policyholder or other covered person, without the express authorization of the minor. In addition, a licensee shall not require the minor~~

~~to obtain the policyholder's or other covered person's authorization to receive health care services or to submit a claim as to health care which the minor may obtain without parental consent under state or federal law.~~

~~(4) When requesting nondisclosure, the individual shall include in the request:~~

~~(a) Their name and address;~~

~~(b) Description of the type of information that should not be disclosed;~~

~~(c) In the case of reproductive health information, the type of services subject to nondisclosure;~~

~~(d) The identity or description of the types of persons from whom information should be withheld;~~

~~(e) Information as to how payment will be made for any benefit cost sharing;~~

~~(f) A phone number or e-mail address where the individual may be reached if additional information or clarification is necessary to satisfy the request.~~

~~[Statutory Authority: RCW 48.43.505 and Gramm-Leach-Bliley Act, Public Law 102-106, sec. 501(b), sec. 505 (b) (2). WSR 01-03-034 (Matter No. R 2000-08), S 284-04-510, filed 1/9/01, effective 2/9/01.]~~

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WAC 284-04-515 Authorizations. (1) A valid authorization to disclose nonpublic personal health information pursuant to this Article V ~~shall must~~ be in written, telephonic, or electronic form. Consumers may send such authorizations by email, telephone, or fax, but not by text messaging or voicemail. ~~and~~ These authorizations shall must contain all of the following:

(a) The identity of the ~~consumer~~ covered member or customer who is the subject of the nonpublic personal health information.

(b) A general description of the types of nonpublic personal health information to be disclosed.

(c) General descriptions of the parties to whom the licensee discloses nonpublic personal health information, the purpose of the disclosure and how the information will be used.

(d) The signature of the ~~consumer~~ covered member or customer who is the subject of the nonpublic personal health information or the individual who is legally empowered to grant authority and the date signed.

(e) Notice of the length of time for which the authorization is valid and that the ~~consumer~~ covered member or customer may revoke the authorization at any time and the procedure for making such a revocation.

(2) An authorization for the purposes of this Article V ~~shall~~ must specify a length of time for which the authorization ~~shall~~will remain valid, which in no event ~~shall~~will be for more than twenty-four months.

(3) A covered member ~~consumer~~ or customer who is the subject of nonpublic personal health information may revoke an authorization provided pursuant to this Article V at any time, subject to the rights of any individual who acted in reliance on the authorization prior to notice of the revocation.

(4) A licensee ~~shall~~must retain the authorization or a copy ~~thereof~~of the authorization in the record of the ~~individual~~covered member who is the subject of nonpublic personal health information.

(5) Notwithstanding the provisions of this section, a licensee complying with regulations adopted by the U.S. Department of Health and Human Services governing authorization for the release of health information satisfies the provisions of this section.

[Statutory Authority: RCW 48.43.505 and Gramm-Leach-Bliley Act, Public Law 102-106, sec. 501(b), sec. 505 (b) (2). WSR 01-03-034 (Matter No. R 2000-08), § 284-04-515, filed 1/9/01, effective 2/9/01.]

WAC 284-04-520 Authorization request delivery. A request for authorization and an authorization form may be delivered to a ~~consumer~~ covered member or a customer as part of an opt-out notice pursuant to WAC 284-04-225, provided that the request and the authorization form are clear and conspicuous. An authorization form is not required to be delivered to the ~~consumer~~ covered member or customer or included in any other notices unless the licensee intends to disclose protected health information pursuant to WAC 284-04-500(1).

[Statutory Authority: RCW 48.43.505 and Gramm-Leach-Bliley Act, Public Law 102-106, sec. 501(b), sec. 505 (b) (2). WSR 01-03-034 (Matter No. R 2000-08), § 284-04-520, filed 1/9/01, effective 2/9/01.]

WAC 284-04-525 Relationship to state and federal laws. In the event of a conflict between this chapter and the state or federal laws, licensees ~~shall~~ must comply with the state and federal laws governing privacy, as such laws relate to the business of insurance, except as expressly required by this chapter.

[Statutory Authority: RCW 48.43.505 and Gramm-Leach-Bliley Act, Public Law 102-106, sec. 501(b), sec. 505 (b) (2). WSR 01-03-034 (Matter No. R 2000-08), § 284-04-525, filed 1/9/01, effective 2/9/01.]