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INTRODUCTION

Healthcare fraud and abuse remains a growing topic of concern in the U.S. Health System. According to the U.S. Sentencing Commission, healthcare fraud has increased by 1.4 percent since Fiscal Year 2018.[1] Although the tangible monetary impact is difficult to discern, the FBI has estimated that fraud alone accounts for 3-10% of health expenditures.[2] For example, the U.S. Department of Justice reports their "settlements and judgments under the False Claims Act exceeded $2.68 billion in the fiscal year ending Sept. 30, 2023."[3] While the impact of cost on the health system is troubling, the effect of fraud and abuse extends into concerns of deteriorating quality of care provided to patients in addition to contributing to the erosion of trust in the U.S. health system. One aspect of fraud and abuse which deteriorates trust is violations of individual's privacy related to their protected health information. Deterioration of trust, regardless of its cause, has the potential to adversely impact the delivery of healthcare in an equitable manner.[4] This article considers the way in which high performing healthcare organizations may contribute to bolstering trust in the healthcare system, and the resulting quality of healthcare provided, through models of trust-building behaviors. Part I briefly considers trust in the U.S. health system. Part II briefly considers methods for determining high performing healthcare organizations. Finally, Part III

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[1] *Quick Facts Health Care Fraud Offenses*, U.S. SENTENCING COMM'N (2022), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Health_Care_Fraud_FY22.pdf.

[2] *Financial Crimes Report to the Public: Fiscal Years 2010-2011*, FED. BUREAU OF INVESTIGATION, www.fbi.gov/stats-services/publications/financial-crimes-report-2010-2011 (last visited Apr. 15, 2024).

[3] *False Claims Act Settlements and Judgments Exceed $2.68 Billion in Fiscal Year 2023*, U.S. DEP'T OF JUST. OFF. OF PUB. AFF.'S (Feb. 22, 2024), https://www.justice.gov/opa/pr/false-claims-act-settlements-and-judgments-exceed-268-billion-fiscal-year-2023.

[4] *See* Sara Heath, *How Healthcare Is Starting to Heal Damaged Black Patient Trust*, PATIENT ENGAGEMENT HIT (Dec. 4, 2020), https://patientengagementhit.com/features/how-healthcare-is-starting-to-heal-damaged-black-patient-trust (noting that historical mistrust in Black patients impacts health disparities).

analyzes and makes recommendations for ways in which high performing healthcare organizations may model implementation of relevant health laws with the goal of trust-building organizational behavior, ultimately thwarting the adverse effects of fraud and abuse by bolstering trust and quality of care in the U.S. health system by using mandated laws as the vehicle, not an impediment.

PART I: TRUST IN THE U.S. HEALTH SYSTEM

The importance of trust is often identified as a central pillar of the healthcare provider-patient relationship in the U.S. health system.[5] Although there is much work to be done in our understanding of the impact and criterion for measuring trust, reputable studies have identified "that patients report more beneficial health behaviors, less symptoms, higher quality of life, and more satisfaction with treatment when they have higher trust in their healthcare professional."[6] In contrast, experts acknowledge that the metrics for measuring trust are not well-settled.[7] More recent studies aim to use qualitative analysis to discern signals of trust in the patient-healthcare provider relationship.[8] Physicians facilitated more trusting interactions when they expressed empathy, demonstrated that patients' best interest was central to the interaction, praised patient efforts, or relating on a personal level.[9]

In 2021, an initial, large-scale study focused on evaluating trust in government during the Covid-19 pandemic.[10] Improving understandings of trust, the erosion of trust in the U.S. health system, and strategies for bolstering trust in the system have become of primary importance for certain well-established healthcare organizations. For example, a collaboration between Academy Health and the American Board of Internal Medicine (ABIM) foundation is currently prioritizing research on improving trust in the healthcare system.[11] This current endeavor

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[5] Johanna Birkhauer et al., *Trust in the Health Care Professional and Health Outcome: A Meta-analysis*, 12 PLOS ONE 2, 2 (2017).
[6] *Id.* at 2.
[7] Steven D. Pearson & Lisa H. Raeke, *Patients' Trust in Physicians: Many Theories, Few Measures, and Little Data*, 15 J. GEN. INTERNAL MED., 509, 510 (2000).
[8] Temi A. Adekunle et al., *A Qualitative Analysis of Trust and Distrust Within Patient-clinician Interactions*, 3 PEC INNOVATION 3 (2023).
[9] *Id.*
[10] Qing Han et al., *Trust in Government Regarding COVID-19 and Its Associations with Preventative Health Behaviour and Prosocial Behaviour During the Pandemic: A Cross-sectional and Longitudinal Study*, 53 PSYCH. MED. 149 (2021).
[11] Lisa Simpson et al., *Advancing Research on Trust*, ACADEMYHEALTH, https://academyhealth.org/about/programs/advancing-research-trust (last visited Mar. 13, 2024).

"recognizes a limited evidence base for strategies in building trust."[12] Thus far, the partnership has yielded the establishment of "a trust research agenda; conducted key informant interviews," and is in the process of reviewing current trust research in progress."[13] This work includes engaging individuals with expertise in trust research, convening discussions among individuals with expertise in establishing trust, and initiating efforts to build consensus to determine best practices in trust-building throughout the health sector. In the next phase of their work, they intend to engage a scholar-in-residence, develop, and support a research community to share strategies for addressing trust in healthcare, and publish commentaries and blogs to raise the visibility of trust issues more broadly.[14]

The elements required to rebuild and bolster trust are varied and context specific. For example, there are initiatives aimed at increasing transparency within healthcare and health research by sharing relevant health information with patients, including diminishing "information blocking" if a patient is unable to access or is denied health information.[15] Further, behaviors including community engagement, demonstrated respect for autonomy and transparency increase trust and establish credibility.[16] Ensuring patients are fully informed using understandable language to explain treatment risks, benefits, and alternatives is a fruitful path toward trust building efforts.

The importance of paying attention to trust as an aspect of organizational professionalism in the U.S. health system has been thoughtfully considered for some time. For example, Egener, et al., developed the Charter on Professionalism for Health Care Organizations (Charter) in 2017.[17] The Charter suggests four domains encompassing the competencies necessary to sustain and enhance a professional environment that supports professional behavior.[18] These domains include patient partnerships, organizational culture, community partnerships, and operations and business practices.[19] The Charter describes patient

[12] *Id*.
[13] *Id.*
[14] *Id.*
[15] The U.S. Department of Health and Human Services, Office of the National Coordinator for Health IT addresses Information Blocking as a practice interfering with a patient's access to medical information. *See Information Blocking*, HEALTHIT.GOV, https://www.healthit.gov/curesrule/.
[16] Monica C. Skewes et al., *Health Disparities with American Indian Communities: The Importance of Trust and Transparency*, AM. J. CMTY PSYCH. 302, 302 (2020).
[17] Barry E. Egener et al., *The Charter on Professionalism for Health Care Organizations*, 92 ACAD. MED. 1091, 1091-99 (2017).
[18] *Id.*
[19] *Id.*

partnerships as the fostering of relationships between the organization and individual patients, such as making care decisions.[20] The Charter organizational culture is mutual trust among individuals within the organization.[21] The Charter describes community partnerships as the relationship between health care organizations and the community, including concepts like benefit and engagement.[22] Finally, the Charter describes operations and business practices as fair business practices intended to build relationships of trust with vendors and other business partners as well as with patients.[23]

Although the system remains in the preliminary stages of formally adopting a consensus-based charter or the domains within such a proposed guide, elements of the domains described in the Charter emerge in current trust-bolstering efforts, such as bolstering patient-centered care and better encouraging community involvement in patient care.[24] Therefore, it would be reasonable to consider these domains as a guideline for purposes of this article, while also providing trust-bolstering recommendations related to reducing the potential adverse impacts of fraud and abuse.

PART II: IDENTIFYING HIGH PERFORMING HEALTHCARE ORGANIZATIONS

When identifying professionalism in healthcare, we often focus on an examination at the individual level.[25] While understanding the patient-healthcare provider relationship at the individual level is a critical endeavor, the notion and importance of establishing healthcare organizations that host environments conducive to behaving professionally continue to be of interest.[26]

Many healthcare organizations commit to quality improvement processes, such as healthcare team effectiveness, to strive beyond the baseline standards required for authorization to treat patients.[27] In other words, certain healthcare organizations recognize the need to go beyond the minimum legal and regulatory requirements for healthcare accreditation or certification and have attempted innovative efforts to do

[20] *Id.*
[21] *Id.*
[22] Egener et al., *supra* note 17, at 1091-99.
[23] *Id.*
[24] *The Physician Charter*, ABM FOUND., https://abimfoundation.org/what-we-do/physician-charter (last visited Apr. 22, 2024).
[25] *Id.*
[26] Egener et al., *supra* note 17, at 1091-99.
[27] Martina Buljac-Samardzic et al., *Interventions to improve team effectiveness within health care: a systematic review of the past decade,* 18 HUM. RESOUR. HEALTH 1 (2020), https://doi.org/10.1186/s12960-019-0411-3.

so. Such lofty efforts require significant commitment from organizational leadership, both monetarily and from a human resources perspective.

One way in which healthcare organizations demonstrate their commitment to a heightened degree of excellence is through recognition from the Malcolm Baldrige National Quality Award (MBNQA) or Baldrige-based state quality awards. The MBNQA is the highest level of national recognition for performance excellence that a U.S. organization can receive.[28] These award processes facilitate a thoughtful way to identify healthcare organizations with a commitment to the delivery of high-quality care, including demonstrated efforts related to health equity.[29] MBNQA began to recognize healthcare organizations in 1999. Only 28 healthcare organizations have received the award,[30] indicating the difficulty to achieve this status and the selectivity used to determine whether a healthcare organization qualifies as high performing.

Although the MBNQA criterion does not mirror those of the Charter, similar themes can be identified between the suggested criterion to identify high-performing healthcare organizations. For example, similarities may be found between the Charter patient partnership domain and Baldrige Criterion: Strategy and concept of "Patient-focused excellence."[31] These criteria similarly weigh the importance of a patient-centered approach to the delivery of healthcare. Similarly, the organizational culture domain of the Charter may have similarities to the implementation of Baldrige Criterion 2: Strategy, Criterion 5: Workforce or Criterion 6: Operations.[32] These criteria similarly weigh the importance of strategy that contemplates the role of workforce and operations in the delivery of high-quality healthcare. Identifying these similarities is not necessarily critical in this examination in this article as these common themes emerge even without a detailed matching of one criterion to another. Rather, the analysis of the similarities and differences between the Charter and MBNQA criteria may be helpful in the development and continued establishment of best practices in determining which organizations are high performing

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[28] *Baldrige Performance Excellence Program, Malcolm Baldrige National Quality Award,* NAT'L INST. OF STANDARDS & TECH. (NIST), https://www.nist.gov/baldrige/baldrige-award.
[29] *The Baldrige Enterprise: Working together to promote and recognize performance excellence in the United States and the world.* BALDRIGE FOUND., https://baldrigefoundation.org/who-we-are/the-baldrige-enterprise.html.
[30] *Baldrige Performance Excellence Program, Baldrige award recipients listing*, NAT'L INST. OF STANDARDS & TECH. (NIST), https://www.nist.gov/baldrige/award-recipients (select "Health Care" in "Sector" dropdown menu) (last visited Jan. 27, 2024).
[31] *Baldrige Criteria Commentary (Health Care),* NAT'L INST. OF STANDARDS & TECH. (NIST), https://www.nist.gov/baldrige/baldrige-criteria-commentary-health-care (last visited Jan. 27, 2024); David A. Garvin, *How the Baldridge Award Really Works,* HARV. BUS. REV. (Dec. 1991), https://hbr.org/1991/11/how-the-baldrige-award-really-works.
[32] *Id.*

healthcare organizations with the potential to model trust-bolstering behaviors in their implementation of mandated laws. See Table 2 for a listing of all healthcare organizations recognized by MBNQA and the year of their recognition since 2016.

To avoid adding additional administrative burdens with the implementation of new legal requirements in an already taxed healthcare system, one strategy for bolstering trust in healthcare organizations is to identify areas of the law that healthcare organizations have already implemented. For example, all U.S. health care organizations have implemented 45 § CFR 164.520, which outlines notice of privacy practices for protected health information. However, the manner in which these important legal provisions have been implemented are not addressed thoroughly in the literature. Therefore, the time is ripe to revisit such provisions and others which are rooted in efforts to bolster trust in the health system but may not have been implemented with such a focus during initial policy development processes.

The remainder of this article suggests revisiting the previously implemented mandated legal requirements with an aim toward adopting a high performing healthcare organization mindset. An effort to re-implement the law while including a trust-focused and transparency-based approach has the potential to build trust, enhance health equity, and ultimately improve the quality of healthcare delivered.

PART III: THE POTENTIAL TO BOLSTER TRUST-BUILDING INITIATIVES IN HIGH PERFORMING AND OTHER HEALTHCARE ORGANIZATIONS' PRIVACY PRACTICES

The field would benefit from more definitive metrics to determine whether healthcare fraud and abuse deteriorates trust in the health system. The creation of definitive metrics has the potential to clarify whether certain behaviors characterized as fraud and abuse are adversely impacting patient trust in the health sector. If so, such deterioration has the potential to interfere with the delivery of high quality, equitable healthcare.[33] Further, it is difficult to determine whether and how high performing healthcare organizations are measuring the imperative trust-building criterion to serve as models.[34] To explore this issue further, this section

[33] *See* Katrice Bridges Copeland, *Health Care Fraud & the Erosion of* Trust, 118 NW. U. L. REV. 89 (2023) (examining the importance of the government's role in building and maintaining trust in the health sector).

[34] Hatem H. Alsaqqa, *Healthcare Organizations Management: Analyzing Characteristics, Features & Factors to Identify Gaps "Scoping Review"*, 16 HEALTH SERV. INSIGHTS 1, 1-10 (2023) (suggesting gaps in management practices and studies that focus on healthcare organizations).

attempts to make some assumptions to move toward a case study of the potential to bolster trust-building initiatives in healthcare privacy practices.

Healthcare organization privacy practices are a strategic place to start this examination as the Health Insurance Portability and Accountability Act (HIPAA)[35] has been well-rooted throughout the health system for almost two decades. HIPAA continues to be a binding, federal legal mandate for the majority of healthcare providers, and is arguably a staple in the health law field. In other words, as healthcare organizations are already required to implement HIPAA provisions, those organizations with an interest in focusing on trust-building initiatives already have a vehicle to move directly to a closer examination of implementation and potential strategies to bolster trust without establishing any novel statute, regulations, or dramatically new implementation burdens. This article suggests a shift in mindset, while using the existing law as its conduit, could begin to produce the trust-bolstering behaviors being sought in the healthcare system today.

Revisiting the preamble language of the Notice of Proposed Rulemaking reveals much concern related to the implementation of the HIPAA Notice of Privacy Practices (NPP). This document was meant to notify individuals of their right to privacy related to healthcare information. Preamble concerns focused on the cost to distribute the document, the logistics of its distribution, and the administrative burden this new regulatory provision would impose on healthcare entities.[36] The relevant section ends with "the total burden associated with this requirement is calculated to be 7,122,152 hours."[37] It is not difficult to discern why the NPP has been implemented as it has as it has been deemed a "burden" from the outset.[38] Healthcare organizations interpreted these legal provisions as an unfunded mandate and, from an outsider looking in, checked the required boxes, but missed the spirit of the regulation.[39] Now

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[35] *Summary of the HIPAA Privacy Rule*, U.S. DEP'T OF HEALTH & HUM. SERVS. (Oct. 19, 2022), https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html. The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, was enacted on August 21, 1996. Sections 261 through 264 of HIPAA require the Secretary of HHS to publicize standards for the electronic exchange, privacy and security of health information. Collectively these are known as the *Administrative Simplification* provisions.

[36] Standards for Privacy of Individually Identifiable Health Information, 64 Fed. Reg. 59918, 60046 (Nov. 3, 1999), https://www.govinfo.gov/content/pkg/FR-1999-11-03/pdf/99-28440.pdf.

[37] *Id.*

[38] *Id.*

[39] Donald M. Berwick & Martha E. Gaines, *How HIPAA Harms Care, and How to Stop It*, 320 JAMA 229, 230 (2018).

is an opportune time to revisit and review whether implementation of healthcare privacy practices with a burden mindset led to opportunities missed for meaningful implementation of laws that were meant to bolster trust and enhance quality of care in the patient-healthcare provider relationship. To determine whether a reexamination of NPP implementation in healthcare organizations may be an opportunity, the time is ripe to revisit the NPP provisions and their potential.

The HIPAA Notice of Privacy Practices: A Trust Builder in Concept, An Opportunity Missed in Implementation?

The HIPAA NPP provisions were meant to serve as a trust-building device.[40] According to the preamble,

> "In HIPAA, Congress did not provide such enforcement authority. There is no private right of action for individuals to enforce their rights, and we are concerned that the penalty structure does not reflect the importance of these privacy protections and the need to maintain individuals' trust in the system. For these and other reasons, we continue to call for federal legislation to ensure that privacy protection for health information will be strong and comprehensive."[41]

The drafters expressed the goal to "'maintain individuals' trust in the system",

which presumes that trust already existed.[42] As current literature suggests, trust in the healthcare system should not be universally assumed.[43]

The purpose of a provision in the law requiring notification to patients of the privacy practices observed, respected, and understood by healthcare entities is a trust-building effort mandated by law.[44] If the core of the law was meant to "maintain individuals' trust in the system," then a preliminary step to accomplishing that goal would be to notify patients of the organizational privacy practices that recognize patient rights to privacy related to their protected health information.

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[40] Standards for Privacy of Individually Identifiable Health Information, *supra* note 36, at 59924.
[41] *Id.* at 59923-24.
[42] *Id.* at 59924.
[43] *See* Sara Heath, *How Healthcare Is Starting to Heal Damaged Black Patient Trust*, PATIENT ENGAGEMENT HIT (Dec. 4, 2020), https://patientengagementhit.com/features/how-healthcare-is-starting-to-heal-damaged-black-patient-trust (discussing racism in the medical field and the effect of making Black Americans more hesitant to trust the healthcare system).
[44] Standards for Privacy of Individually Identifiable Health Information, *supra* note 36, at 59924.

However, in practice, the HIPAA NPP has become much less than it was meant to be or had the potential to be. The provision has been implemented just as the preamble language seemed to consider it—an administrative burden. In general, healthcare entities covered by the Privacy Rule seem to treat compliance with the law as another administrative process with which they must comply. This is an understandable approach due to the overwhelming numbers of administrative burdens the law places on healthcare providers and the organizations supporting them. It is common practice for healthcare organizations to simply have patients sign an acknowledgement that they have "received" their HIPAA NPP without physically providing such NPP. Even if the actual NPP is provided, patients rarely read the document in its entirety, if at all. Further, the concept of an individual with healthcare expertise, such as a healthcare provider with specialized training and an understanding of the importance of trust-building efforts, being involved in the HIPAA NPP process is not commonly adopted by healthcare organizations. Healthcare organizations are not incentivized to focus on meaningful implementation of the NPP provision as there is little to no enforcement of the law related to this particular provision.[45] Without strict enforcement, the NPP provision has generally not been implemented in a meaningful way and healthcare organizations have minimal incentive to address the issue in a comprehensive manner.

Therefore, there is a reasonable argument to be made that with each patient request to acknowledge notification of important rights about which they have not been meaningfully informed is a sign that the system does not in fact respect those rights. Each signature attesting to a receipt of something amorphous arguably indicates that healthcare organizations do not understand the duty owed to patients, or even worse, understand but do not intend to respect those rights. With each strong-armed signature attesting to the understanding of a healthcare organizations privacy practices is an opportunity missed to demonstrate care, interest, and curiosity of a person. With each request healthcare organizations make of patients to attest to something they have not adequately explained, they are committing a type of fraud and abuse in the health system. Without attention to the meaning and potential to demonstrate trust-building behaviors in the NPP process, healthcare organizations are missing critical opportunities to bolster trust and improve care. The implementation of the HIPAA NPP provision in its current form could be contributing to, not bolstering, as intended, the breach of patient trust in the U.S. health system.

[45] *HIPAA Enforcement*, U.S. DEP'T OF HEALTH & HUM. SERVS. (July 25, 2017), https://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/index.html.

Without trust, individuals will not seek care and health inequities will continue to persist.

Refreshing the HIPAA Notice of Privacy Practices Implementation to Support Efforts to Bolster Trust in Healthcare

In this section, our attention turns to recommendations on the way in which healthcare organizations may leverage the HIPAA NPP process to bolster trust in the healthcare system by using identified high performing healthcare organizations for guidance. The HIPAA NPP is the focus because it is an example of one mandated legal provision, with public-facing requirements, that if implemented well, may have the potential to support trust-building efforts in the healthcare industry. Healthcare organizations have the potential to demonstrate the way in which they value trust and equity in their entities by becoming models of trust building through their HIPAA NPP implementation.

For examination and ease of reference, the relevant regulatory text for HIPAA NPPs has been included in Table 1. Table 2 identifies the nine healthcare organizations identified as high performing healthcare organizations by receiving Baldrige recognition between 2016 to the present. Tables 3 through 11 provide a sampling of the headings from each of the nine high performing healthcare organizations' NPPs. The actual text of the NPP is not included herein, but is available online, as required by law, on each healthcare organization's website. Sampling NPPs from these particular high performing healthcare organizations is strategic in an effort to determine how organizations that strive to reach the highest standards are managing privacy practices for their patients. Table 12 provides a comparison of the NPP provisions across the selected high performing healthcare organizations, identifies similarities and differences, and makes specific observable notations among the documents.

When comparing NPPs from high performing healthcare organizations side by side, opportunities for learning and potential improvement emerge. While all identified high performing healthcare organizations are in substantial compliance with the law according to the materials posted for the public (*See* Table 12), some high performing organizations seem to have committed to the importance of the NPP process more than others.

Length and Accessibility of NPPs

As Table 12 illustrates, the NPPs of high performing healthcare organizations vary greatly in length. Documents range from 1 printed poster-like page to 12 pages filled with narrative. Other organizations only

post their document on their website via links to broad headings requiring a click and read for each provision, while obtaining an actual .pdf of such document requires contacting a representative within the healthcare organization. While these documents seem to meet the minimum requirements of making the document available, the degree of care and the tenor of the documents vary from organization to organization. For example, some organizations seem to have made a concerted effort to format their NPPs to make them inviting to the eye, easily readable, and making the information provided digestible. Such non-mandated, but extra efforts are notable, do not cost additional resources, and demonstrate a desire for individuals to understand their rights while simultaneously sending the message that the organization respects those rights. These gestures are notable in trust-building and trust-maintaining efforts.

Plain Language of the NPP

The NPPs of high performing healthcare organizations seem to demonstrate an understanding of the importance of going beyond regurgitating regulatory language in the NPP if a layperson is to understand the document. Some organizations do a better job of this than others. For example, one organization substitutes more understandable language, using parentheses, to provide synonyms for words. For example, the Greater Baltimore Medical Center writes "Right to Amend (Update) Your Health Record and Right to and Accounting (List) of Disclosures We Have Made.[46]

This approach gently demonstrates the organization's implied desire to convey important messages to patients in an understandable manner. Such efforts are examples of messages that could be sent to individuals without any additional cost but could demonstrate sincere care and potential trustworthiness.

Required Header of the NPP

All high performing healthcare organization NPP's had the header required by regulation.[47] However, one organization with an NPP that was only available on their webpage, not in a separate, downloadable document, was formatted in a miniscule font in the top header of the webpage. While this was likely a formatting issue, and not meant to circumvent the regulation, it does suggest a potential benefit in revisiting a mandate to write a header in all capital letters at the outset of a document.

[46] *Notice of Privacy Practices,* GREATER BALT. MED. CTR. (Jan. 2, 2021), https://www.gbmc.org/assets/documents/nopp.pdf.
[47] 45 C.F.R. § 164.520(b)(1)(i) (2013).

On one hand, healthcare organizations want to bring the reader's attention to the important words that follow. In current times, writing words in all capitalized letters could be interpreted as a warning, not a message of kindness, caring, and trust-building. While the regulation does not specify that the letters should be written in all capitalized letters, the sample header in the regulation text is written in all capitalized letters. Therefore, many healthcare organizations seem to have duplicated the regulatory text, resulting in many NPP documents beginning with a sentence in all capitalized letters. Such an approach may be off-putting to some readers and should be reconsidered. A trust-building approach would attempt to be as inclusive and welcoming as possible. Therefore, a misinterpretation of all capitalization may interfere with that approach and should arguably be avoided.

Fundraising Provision of the NPP

Interestingly, not all high performing healthcare organizations include a statement about the ability of the organization to contact them for fundraising purposes with an opt out provision included. Being contacted for fundraising purposes without specifically permitting identifying health information to be used for such purposes has the potential to be offensive and contribute to the deterioration of trust. Such a questionable use of information could lead patients to experience concern regarding the way in which their healthcare providers and organizations are potentially inappropriately using their healthcare information. Some high performing healthcare organizations chose not to address fundraising at all in their NPPs. Healthcare organizations should reexamine whether this is an oversight and significant point of non-compliance with the law.[48] If so, healthcare organizations may simply be contacting patients, using their protected health information, despite the provision not being part of their NPP. Alternatively, healthcare organizations may have eliminated the provision from their NPP because they have made the specific business decision not to contact patients for fundraising purposes. Such decisions may have been made specifically to avoid any appearance of misusing patient information.

Assuming the high performing healthcare organization that did not include the fundraising provision purposefully refrains from contacting patients for these purposes, this may be another area in which these organizations serve as models. To be contacted by a healthcare organization for fundraising purposes without giving specific permission for that contact has the potential to confuse patients about the relationship

[48] 45 C.F.R. § 164.520(b)(iii)(A) (2013).

between healthcare providers and their patients. Unless such a contact is made with express permission, it arguably has the potential to be off-putting and deteriorate trust that is meant to be bolstered by the NPP.

Optional Elements Included in the NPP

Optional elements were the most significant area in which the NPPs of selected high performing healthcare organizations differed. Some NPPs listed numerous areas in which a patients' protected health information may be used or disclosed. The specific differences can be examined in each organization's NPP or through Tables 3 through 11 herein. One important question for high performing healthcare organizations is whether the detailed description of every potential use or disclosure tends to bolster the impact of the NPP or diminish it. In other words, the more complex an NPP, the more likely it is to not be read thoroughly. High performing healthcare organizations are likely listing and explaining each of these optional elements with deep specificity for compliance purposes. For purposes of advancing these implementation efforts, a broader question should be posed to the U.S. Department of Health and Human Services (HHS) for guidance—at what point does too much information in an NPP move the document from assisting with achieving the goal of "maintain[ing] individuals' trust in the system,"[49] to making the document so difficult to understand, it has no trust-bolstering affect at all. With guidance from HHS on this point, perhaps healthcare organizations would feel more confident in keeping their documents less loaded with legalese and more understandable for the layperson.

Effective Date of the NPP

The effective dates of the NPPs ranged from 2013 to 2023. While there is no requirement that the NPP be updated on a regular basis, the wide range of effective dates among high performing healthcare organization NPPs does raise some questions. Are high performing healthcare organizations revisiting their privacy practices on a periodic basis? Are they thinking about the potential meaningful impact of keeping the importance of patient's privacy at the forefront and potential trust-bolstering effects of delivering these messages in a meaningful way? The range of effective dates in this sample suggests that some high performing healthcare organizations are paying closer attention to the way in which they convey the importance of privacy practices. The more attention being

[49] Standards for Privacy of Individually Identifiable Health Information, 64 Fed. Reg. 59918, 59924 (Nov. 3, 1999), https://www.govinfo.gov/content/pkg/FR-1999-11-03/pdf/99-28440.pdf (to be codified at 45 C.F.R. § 160-164).

given to revisiting these important documents, such as an NPP, on a regular basis, the more likely an organization's workforce is to have the importance of privacy practices top of mind, a refreshed recollection of the details of the healthcare organizations' privacy practices, and a more meaningful understanding of those practices. Also, a healthcare organization that is frequently revisiting the contents of its core documents likely has support from the organization's leadership because respect for privacy is core to their mission and exhibited through the organization's behavior.

Areas in Need of Further Exploration

A better understanding of the internal processes surrounding the administration, understanding, and acknowledgment of NPPs would bring even greater opportunities for comparison and potential modeling for other healthcare organizations striving to implement more trust-building behaviors into their organizational cultures.

Execution and Acknowledgement of the NPP

As one of the first points of contact a patient has with a healthcare organization, the way in which a healthcare organization's NPP has the potential to set the tone and tenor of the patient-professional relationship is profound. A better understanding of the way those processes are administered in these organizations would be helpful for guidance.

For example, do high performing healthcare organizations physically distribute the NPP in paper format, only electronically, neither, with human support? If individual support is provided, what is the training, background, and understanding of the individual who is providing that support?

Understanding of the NPP

The preamble of the HIPAA Privacy Rule orients us to the originating goal of the regulation.[50] If the true goal of this complex regulation is to "maintain individuals' trust in the system,"[51] then healthcare organizations should be asking the question of whether this purpose has actually been achieved. The concept of enunciating detailed privacy provisions, in plain language, to ensure understanding at all levels of literacy seems to be an opportunity filled with the potential for trust-building interactions between professionals and their patients. The privacy provisions are arguably

[50] *Id.*
[51] *Id.*

educated healthcare providers' genuine attempts to convey their respect for the patients they treat. At the root of each enunciated right is the potential for acknowledging an individuals' autonomy and health care providers' and organizations' respect for that autonomy. Training individuals to understand and be able to articulate these important concepts requires education and attention to detail. In addition, understanding the importance of each of these privacy rights is a multi-layered organizational imperative. In other words, even if the individuals who are actually providing direct care are well-versed in the privacy provisions and their ability to convey that an organization is trustworthy or has the potential to be trustworthy, the workforce at all levels of the organization also need to have a similar understanding. Therefore, any individual who is tasked with answering questions about a healthcare organization's privacy provisions should have a deep understanding of them and their potential to instill, support, and maintain trust in the patient-provider relationship.

Administration of the NPP

The administration of the NPP in high performing healthcare organizations is critical. The NPP is a living document. The contents of these important, guiding principles should be active in the daily work of providing healthcare to patients. The application of the privacy provisions in the delivery of care at every level of an organization and throughout the continuum of patients' interactions with the health system is imperative. The document should be revisited, evaluated, and determinations should be made as to whether the NPP is achieving its purposed goal— "to maintain individuals' trust in the system."[52] To ensure meaningful implementation of the NPP and its embedded provisions and principles, non-treating individuals must be equally educated on the trust-building potential of the NPP. Administrators, lawyers, and compliance officers in the health sector would benefit from a deeper understanding of NPP's embedded provisions. Further, healthcare organizations have the potential to benefit from drafting, amending, and revising relevant internal governing policies with an aim toward building and maintaining trust throughout the healthcare organization.

Recommendations for Healthcare Organizations

Healthcare organizations play a critical role in our health system. For all the good they provide, the potential to diminish attention to the positives is heightened in an age of questions related to the trustworthiness

[52] *Id.*

of healthcare organizations. Acts of fraud and abuse, including the delivery of an NPP without thoughtful execution, acknowledgment, understanding, and administration of the important provisions within those documents, have the potential to deteriorate trust, inhibit the delivery of high-quality care, and ultimately thwart efforts to provide health care in an accessible and equitable manner.

Healthcare organizations bristle at the mandates triggered by laws, such as the HIPAA Privacy Rule. Therefore, healthcare organizations should strive to implement the already existing mandates in a way that demonstrates the important concepts at the root of those laws. If one of the central purposes of a mandate, such as the HIPAA Privacy Rule, is — "to maintain individuals' trust in the system,"[53] then attention should be paid to achieve those when implementing legal mandates. If implementation of the NPP has been relegated to a checkbox, regulatory requirement in a healthcare organization, the time has come to revisit those policies and processes.

In most, if not all healthcare organizations, the infrastructure is already in place to reorient the importance of the privacy provisions. As demonstrated herein, most healthcare organizations are already in substantial compliance with the HIPAA Privacy Rule NPP provisions. Therefore, a reorientation of the NPP execution, understanding, and administration should not be an insurmountable task. If a revisiting of the manner in which patients are notified of their rights and the importance the health care organization places on the importance of those rights could support efforts to bolster deteriorating trust in the healthcare system, the return on investment would be great. Healthcare organizations should conduct holistic reviews of the way they inform and respect patients of their privacy rights. An evaluation and re-implementation of the NPP provisions of the HIPAA Privacy Rule could require some retooling of current practices to be more meaningful, but reaping the benefits of bolstering trust, and simultaneously reducing disparities in care, would be well worth the return on the organizational investment made if patients begin to trust healthcare providers and organizations going forward.

CONCLUSION

Acts of healthcare fraud and abuse have the potential to adversely affect patients beyond fiscal impacts. The relationship between healthcare fraud and abuse and the erosion of trust in the health system remains a concern with potential long-term effects on the delivery of healthcare in a high-quality, equitable manner. To thwart the potential negative impacts of

[53] *Id.*

fraud and abuse on the delivery of high-quality, equitable care, healthcare organizations have the potential to implement organizational professionalism, bolster trust-building efforts, and ultimately practice implementation of mandated laws with thoughtful attention to the importance of these approaches. Bridging communication among medicine and law, specifically in health privacy laws, has the potential to model trust-building initiatives at the healthcare organization level, implement laws that were meant to bolster trust more closely to their intended purpose, and ultimately improve health quality and equity. With education and intentionality, healthcare organizations, and their leaders within, are poised to contribute to the restoration of trust and promotion of health equity in the U.S. health system.

Table 1. Notice of Privacy Practices for Protected Health Information Regulatory Text

Notice of Privacy Practices for Protected Health Information Provisions[54]	**Regulation Text**
Right to Notice[55]	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.[56]
Content of Notice[57]	The covered entity must provide a notice that is written in plain language and that contains the elements required by this paragraph.[58]
Required Header	*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."[59]
	The notice must contain:
Specific Uses and Disclosures Examples for Treatment, Payment, and Healthcare Operations Required	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.[60]
Most Stringent Law Prevails	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,

[54] Notice of Privacy Practices for Protected Health Information, 45 C.F.R. § 164.520 (2013).
[55] 45 C.F.R. § 164.520(a)(1).
[56] *Id.*
[57] 45 C.F.R. § 164.520(b) (2013).
[58] *Id.*
[59] 45 C.F.R. § 164.520(b)(i) (2013).
[60] 45 C.F.R. § 164.520(b)(1)(ii)(A) (2013).

	the description of such use or disclosure must reflect the more stringent law as defined in § 160.202 of this subchapter.[61]
Specificity Requirement	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.[62]
Uses and Disclosures for which Authorization is required and Permitted Revocation	A description of the types of uses and disclosures that require an authorization under § 164.508(a)(2)-(a)(4), a statement that the 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).[63]
Separate statements for certain uses and disclosures.	*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:[64]
Fundraising statement permitted, right to opt out	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;[65]
Special protection of genetic information for underwriting purposes in certain circumstances	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.[66]
Individual Rights	*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:[67]
Right to Request Restrictions	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 the case of a disclosure restricted under § 164.522(a)(1)(vi);[68]
Right to receive Confidential Communication	The right to receive confidential communications of protected health information as provided by 164.522(b), as applicable;[69]
Right to Inspect and Copy	The right to inspect and copy protected health information as provided by 45 CFR § 164.524;[70]
Right to Amend	The right to amend protected health information as provided by § 164.526;[71]

[61] 45 C.F.R. § 164.520(b)(ii)(C) (2013).
[62] 45 C.F.R. § 164.520(b)(ii)(D) (2013).
[63] 45 C.F.R. § 164.520(b)(ii)(E) (2013).
[64] 45 C.F.R. § 164.520(b)(iii) (2013).
[65] 45 C.F.R. § 164.520(b)(iii)(A) (2013).
[66] 45 C.F.R. § 164.520(b)(iii)(C) (2013).
[67] 45 C.F.R. § 164.520(b)(iv) (2013).
[68] 45 C.F.R. § 164.520(b)(iv)(A) (2013).
[69] 45 C.F.R. § 164.520(b)(iv)(B) (2013).
[70] 45 C.F.R. § 164.520(b)(iv)(C) (2013).
[71] 45 C.F.R. § 164.520(b)(iv)(D) (2013).

Right to Accounting of Disclosures	The right to receive an accounting of disclosures of protected health information as provided by § 164.528;[72]
Right to Receive a Copy of Notice	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.[73]
Covered Entity's Duties	*Covered entity's duties.* The notice must contain:[74]
Required to Protect Privacy by Law Statement and Breach Notification	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;[75]
Required to abide by terms of notice statement	A statement that the covered entity is required to abide by the terms of the notice currently in effect;[76] and
Reservation of the right to modify the notice	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(i)(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 it maintains. The statement must also describe how it will provide individuals with a revised notice.[77]
Notice of Complaints	*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.[78]
Notice of 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).[79]
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.[80]
Optional Elements[81]	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)(i).[82]

[72] 45 C.F.R. § 164.520(b)(iv)(E) (2013).
[73] 45 C.F.R. § 164.520(b)(iv)(F) (2013).
[74] 45 C.F.R. § 164.520(b)(v) (2013).
[75] 45 C.F.R. § 164.520(b)(v)(A) (2013).
[76] 45 C.F.R. § 164.520(b)(v)(B) (2013).
[77] 45 C.F.R. § 164.520(b)(1)(v)(C) (2013).
[78] 45 C.F.R. § 164.520(b)(1)(vi) (2013).
[79] 45 C.F.R. § 164.520(b)(1)(vii) (2013).
[80] 45 C.F.R. § 164.520(b)(viii) (2013).
[81] 45 C.F.R. § 164.520(b)(2)(i) (2013).
[82] 45 C.F.R. § 164.520(b)(2)(i) (2013).

Statements to be included if more limited uses and disclosures created	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 § 164.530(i)(2)(ii), the notice must include the statements required by paragraph (b)(1)(v)(C) of this section.[83]

[83] 45 C.F.R. § 164.520(b)(2)(ii) (2013).

Table 2. Health Sector Baldrige Award Recipients from 2016-present

Baldrige Award Recipient	**Award Year**
GBMC HealthCare, Inc.[84]	2020
Wellstar Paulding Hospital[85]	2020
Adventist Health White Memorial[86]	2019
Mary Greeley Medical Center[87]	2019
Memorial Hospital and Health Care Center[88]	2018
Adventist Health Castle[89]	2017
Southcentral Foundation[90]	2017
Memorial Hermann Sugar Land Hospital[91]	2016
Kindred Nursing and Rehabilitation – Mountain Valley (now Mountain Valley of Cascadia)[92]	2016

[84] *See GBMC HealthCare System*, NAT'L INST. OF STANDARDS & TECH. (NIST), Malcom Balbridge National Quality Award Recipient, Health Care (Apr. 14, 2021), https://www.nist.gov/baldrige/gbmc-healthcare-system ("GBMC HealthCare System (GBMC) provides inpatient and outpatient care through the Greater Baltimore Medical Center, an acute care community hospital, and GBMC Health Partners, which includes 43 primary and specialty care medical practices; and Gilchrist which provides advanced care, elder care, post-acute care, and in-home and facility hospice, as well as inpatient hospice in three locations. With a net patient revenue of $581 million and a workforce of 4,388 employees and 1,140 volunteers, GBMC has a main hospital campus in Towson, MD; 32 of its GBMC Health Partners practices on the main campus and 11 in Baltimore City and county; and one inpatient hospice on the main campus, one in Baltimore City, and one in Columbia, MD.").

[85] *See Wellstar Paulding Hospital*, NAT'L INST. OF STANDARDS & TECH. (NIST) (Apr. 14, 2021), https://www.nist.gov/baldrige/wellstar-paulding-hospital ("Wellstar Paulding Hospital (WPH) is a community hospital providing inpatient and outpatient care and emergency services through an acute care hospital and two connected medical office buildings. It is part of Wellstar Health System (WHS), one of the largest and most integrated health systems in Georgia. With a net patient revenue of $160 million and a workforce of 997 employees (742 clinical, 255 non-clinical/support), 400 physicians, and 105 volunteers, WPH is located in Hiram, GA.").

[86] *See Adventist Health White Memorial*, NAT'L INST. OF STANDARDS & TECH. (NIST) (Mar. 2, 2020), https://www.nist.gov/baldrige/adventist-health-white-memorial ("Adventist Health White Memorial (AHWM) is a private, faith-based, nonprofit, teaching hospital that provides a full range of inpatient, ambulatory (outpatient), emergency, and diagnostic services. Six service lines include general medicine, cardiovascular, surgical, orthopedic, women's services, and emergency services. AHWM, which is deeply committed to its East Los Angeles community, is the only "safety-net" hospital serving more than 2 million people in a densely populated area where most residents live below the Federal poverty level. AHWM's service area is a federally designated medically underserved area; the payor mix is 97% Medicaid and Medicare.").

[87] *See Mary Greeley Medical Center*, NAT'L INST. OF STANDARDS & TECH. (NIST) (Mar. 2, 2020) https://www.nist.gov/baldrige/mary-greeley-medical-center ("Opened in 1916 and now the largest independent medical center in its primary and secondary markets, Mary Greeley Medical Center (MGMC) is a public, nonprofit, 220-bed hospital offering inpatient, outpatient, emergency department, home health care, and hospice services. The hospital, which was gifted to the city of Ames by a Union Army officer in the Civil War in memory of his beloved wife, provides health care to the residents of a 14-county area in central Iowa. Inpatient and outpatient services support a continuum of care for patients, including surgery, cancer care, cardiac care, diabetes and nutrition care, orthopedics, obstetrics and gynecology, gastroenterology, mental health services, palliative care, home health care, hospice care, rehabilitation, and more.").

[88] *See Memorial Hospital and Health Care Center*, NAT'L INST. OF STANDARDS & TECH. (NIST) (May 19, 2020) https://www.nist.gov/baldrige/memorial-hospital-and-health-care-center ("Based in Jasper, Indiana, and sponsored by the Sisters of the Little Company of Mary, Memorial Hospital and Health Care Center (MHHCC) provides inpatient and outpatient care through an acute care community hospital, which includes 32 outpatient primary and specialty care clinics and medical practices, and an ambulance service. Memorial Hospital, which opened its doors in 1951, employs more than 1,700 people and provides medical care for 6,600 inpatients; 254,000 outpatients; and 29,000 emergency department visits annually. Nearly 950 babies are born at Memorial Hospital each year.").

[89] *See Adventist Health Castle,* NAT'L INST. OF STANDARDS & TECH. (NIST) (May 19, 2020) https://www.nist.gov/baldrige/adventist-health-castle ("Adventist Health Castle (AHC) is a community hospital system that provides inpatient and outpatient care to people who primarily live on the windward side of the Hawaiian island of O'ahu. It is one of 20 hospitals within the nonprofit, faith-based, Adventist Health system headquartered in Roseville, CA. Employing 1,046 people, AHC's main hospital is in Kailua, HI, with two professional centers and a rural health clinic also located on the windward side of the island. The Center's services include 24-hour emergency care, inpatient acute care, the Vera Zilber Birth Center, a Joint Care Center, inpatient behavioral health services, multi-specialty surgical services, cardiovascular services, neurological services, the Hawaii Center for Metabolic and Bariatric Surgery, outpatient services, chemotherapy clinic, imaging services, and the Wellness and Lifestyle Medicine Center.").

[90] *See Southcentral Found. 2017* NAT'L INST. OF STANDARDS & TECH. (NIST) (2020), https://www.nist.gov/baldrige/southcentral-foundation-2017 ("Southcentral Foundation (SCF) is an Alaska Native nonprofit 501c(3) health care system, which provides health care and related services to Alaska Native and American Indian people. SCF operates the Nuka System of Care, a customer-driven, relationship-based health care system. SCF provides a wide range of programs to address the physical, mental, emotional, and spiritual wellness for about 65,000 Alaska Native and American Indian people. SCF collaborates with its partner Alaska Native Tribal Health Consortium to ensure a seamless continuum of care by providing consultation and specialty services at the Alaska Native Medical Center. SCF uses a wide range of delivery mechanisms to provide health care service offerings, including ambulatory office visits, home visits, learning circles, email and telephone visits, health information and education, outpatient services, behavioral services, and day and residential treatment. Clinical teams regularly travel to rural villages to deliver family medicine, dentistry, pediatrics, obstetrics/gynecology (OB/GYN), audiology, and behavioral services. Southcentral Foundation, with 33 facilities in and around Anchorage, also provides care to 55 remote village sites, many of which are accessible only by plane. It employs 2,200 employees, of whom 54 percent are Alaska Native or American Indian people.").

[91] *See Mem'l Hermann Sugar Land Hosp*., NAT'L INST. OF STANDARDS & TECH. (NIST) (2020), https://www.nist.gov/baldrige/memorial-hermann-sugar-land-hospital ("Memorial

Hermann Sugar Land Hospital is part of the Memorial Hermann Health System, the largest not-for-profit health system in Southeast Texas. Memorial Hermann Sugar Land is a 149-bed, full-service acute care community hospital located in Sugar Land, Texas, and serves Fort Bend County, a populous region of nearly 700,000 just southwest of Houston. The organization excels by "bringing together quality, safety, and a family-caring-for-family approach" that "sets the pace for the hospital of tomorrow." Memorial Hermann Sugar Land also is the anchor for more than 20 associated care centers in the Sugar Land area that provide primary and specialty care services in cardiology, diagnostics, emergency care, imaging, occupational therapy, oncology, physical therapy, rehabilitation, sleep disorders, speech therapy, sports medicine, surgery, and urgent care. Staffed by 641 employees, Memorial Hermann Sugar Land operates with a revenue of $135 million.").

[92] *See Kindred Nursing & Rehab. – Mountain Valley,* NAT'L INST. OF STANDARDS & TECH. (NIST), (2020), https://www.nist.gov/baldrige/kindred-nursing-and-rehabilitation-mountain-valley ("Providing hope and promoting healing and recovery: that is the mission of Kindred Nursing and Rehabilitation - Mountain Valley, a 68-bed skilled nursing center in Kellogg, Idaho, a rural community set in the foothills of the Rocky Mountains. Kindred - Mountain Valley is operated by Kindred Healthcare Inc., a for-profit corporation with approximately 90 centers across the nation. Kindred - Mountain Valley provides skilled nursing and rehabilitation services for patients who require short-term (six months or less) and long-term (longer than six months) care. The center has 92 employees on staff and reports a total net revenue of $6.4 million.").

Table 3. GBMC HealthCare, Inc. Notice of Privacy Practices Provisions

Notice of Privacy Practices Sections	**Subsections**	**Notes**
Our Pledge Regarding Your Medical Information		
To Whom This Notice Applies		
How We May Use and Disclose Your Medical Information	Treatment Payment Run Our Organization Health Information Exchanges Fundraising Activities Patient Information Directory Research Additional Uses and Disclosures of Your Medical Information	
Other Uses of Health Information		
Your Rights Regarding Your Health Information	Right to See and Copy Your Health Record Right to Amend (Update) Your Health Record Right to an Accounting (List) of Disclosures We Have Made Right to Request Confidential Communications Right to Request Restrictions Right to Notification following a Breach of PHI Right to File a Complaint Right to a Paper Copy of This Notice	*PHI not defined
Future Changes to GBMC's Private Practices and This Notice		
Use of Unsecure Electronic Communications		
Contact Information for Privacy Officer		

Table 4. Wellstar Paulding Hospital Notice of Privacy Practices Provisions ("Wellstar Joint Notice of Privacy Practices")

Notice of Privacy Practices Sections	**Subsections**	**Notes**
Notice of Privacy Practices	We are required by law to protect the privacy of your health information…	

How We Use and Disclose Information	We must… We have the right to… For Treatment. For Payment. For Health Care Operations. To Provide You Information on Health Related Programs or Products… For Reminders. We may… As required by Law. To Persons Involved With Your Care. For Public Health Activities… For Reporting Victims of Abuse, Neglect or Domestic Violence… For Health Oversight Activities… For Judicial or Administrative Proceedings… For Law Enforcement Purposes. To Avoid a Serious Threat to Health or Safety…. For Specialized Government Functions… For Workers' Compensation… For Research Purposes… To Request Your Support… To Provide Information Regarding Decedents. For Organ Procurement Purposes. To Correctional Institutions or Law Enforcement Officials… To Business Associates… For Data Breach Notification Purposes. Special Legal Protections for Certain Health Information.	
Uses with your authorization	Any sharing of your health information…	
What are your rights	You have the right to review and obtain a copy… You have the right to request certain restrictions… We are not legally required to agree to your request. You have the right to request… You have the right to request confidential communications… You have the right to request an amendment to… You have the right to receive an accounting… You have the right to a paper copy of this notice. You have the right to report a privacy concern.	

Table 5. Adventist Health White Memorial Notice of Privacy Practices Provisions

Notice of Privacy Practices Sections	**Subsections**	**Notes**
Adventist Health Notice of Privacy Practices		
Our Pledge Regarding Medical Information		
Who Will Follow This Notice		
Overview Our Uses and Disclosures		
Your Rights		
How We May Use and Disclose Your Medical Information		
Disclosure at Your Request.		
For Treatment.		
For Payment.		
For Health Care Operations.		
To Business Associates.		
For Appointment Reminders, Test Results, Treatment Alternatives, etc.		
For Health-Related Benefits and Services.		
For Fundraising Activities.		
Hospital Directory.		
Marketing and Sale.		
Individuals Involved in Your Care.		
Research.		
As Required By Law.		
To Avert a Serious Threat to Health or Safety.		
Health Information Exchange.		
Special Situations		
Organ and Tissue Donation.		
Military Veterans.		
Public Health Safety.		
Health Oversight Activities.		
Lawsuits and Disputes.		
Law Enforcement.		
Coroners, Medical Examiners and Funeral Directors		
National Security and Intelligence Activities.		
Inmates.		
Multidisciplinary Personnel Teams.		
Special Categories of Information.		
Your Rights Regarding Your Medical Information		
Right to Request Information About You.		
Right to Amend.		

Right to an Account of Disclosures.		
Right to Request Restrictions.		
We are not required to agree to your request,…		
Right to a Copy of this Notice.		
Changes To This Notice		
Questions or Complaints		
Centralized Case Management Operations U.S. Department of Health and Human Services		
Other Uses of Medical Information		

Table 6. Mary Greeley Medical Center Notice of Privacy Practices Provisions

Notice of Privacy Practices Sections	**Subsections**	**Notes**
Our Pledge Regarding Medical Information		
Purpose of This Privacy Notice		
Who Will Follow This Notice		
How We May Use and Disclose Medical Information About You	For Treatment: For Payment: For Healthcare Operations:	
Uses and Disclosure of Protected Health Information Based Upon Your Written Authorization		
Other Permitted and Required Uses and Disclosures That May Be Made With Your Consent, Authorization or Opportunity to Object		
Other Permitted and Required Uses and Disclosures That May Be Made Without Your Consent, Authorization or Opportunity to Object		
Your Rights		
Complaints		

Table 7. Memorial Hospital and Health Care Center Notice of Privacy Practices Provisions

Notice of Privacy Practices Sections	**Subsections**	**Notes**
Our Pledge Regarding Medical Information		
HOW WE MAY USE AND DISCLOSE MEDICAL INFORMATION ABOUT YOU:	For Treatment For Payment For Health Care Operations Appointment Reminders Treatment Alternatives Health-Related Benefits and Services	

	Fundraising Activities Hospital Directory Individuals Involved in Your Care or Payment for Your Care Research As Required By Law To Avert a Serious Threat to Health or Safety	
SPECIAL SITUATIONS	Organ and Tissue Donation Military and Veterans Workers' Compensation Public Health Risks Health Oversight Activities Lawsuits and Disputes Law Enforcement Coroners, Medical Examiners and Funeral Directors National Security and Intelligence Activities Protective Services for the President and Others Inmates Psychotherapy Notes	
YOUR RIGHTS REGARDING MEDICAL INFORMATION ABOUT YOU	Right to Inspect and Copy Right to Amend Right to an Accounting of Disclosures Right to Request Restrictions Right to Request Confidential Communications Right to a Paper Copy of This Notice	***We are not required to agree to your request except as set out below. We must agree to your request to restrict disclosure of medical information about you to a health plan if the disclosure if for the purpose of receiving payment or other health care operations, the disclosure is not required by**

		law, and the medical information relates to services for which you have made payment in full.
CHANGES TO THIS NOTICE		
COMPLAINTS		
OTHER USES OF MEDICAL INFORMATION		

Table 8. Adventist Health Castle Notice of Privacy Practices Provisions

Notice of Privacy Practices Sections	**Subsections**	**Notes**
Adventist Health Notice of Privacy Practices		
Our Pledge Regarding Medical Information		
Who Will Follow This Notice		
Overview Our Uses and Disclosures		
Your Rights		
How We May Use and Disclose Your Medical Information		
Disclosure at Your Request.		
For Treatment.		
For Payment.		
For Health Care Operations.		
To Business Associates.		
For Appointment Reminders, Test Results, Treatment Alternatives, etc.		
For Health-Related Benefits and Services.		
For Fundraising Activities.		
Hospital Directory.		
Marketing and Sale.		
Individuals Involved in Your Care.		
Research.		
As Required By Law.		
To Avert a Serious Threat to Health or Safety.		
Health Information Exchange.		
Special Situations		
Organ and Tissue Donation.		
Military Veterans.		
Public Health Safety.		
Health Oversight Activities.		
Lawsuits and Disputes.		

Law Enforcement.		
Coroners, Medical Examiners and Funeral Directors		
National Security and Intelligence Activities.		
Inmates.		
Multidisciplinary Personnel Teams.		
Special Categories of Information.		
Your Rights Regarding Your Medical Information		
Right to Request Information About You.		
Right to Amend.		
Right to an Account of Disclosures.		
Right to Request Restrictions.		
We are not required to agree to your request,…		
Right to a Copy of this Notice.		
Changes To This Notice		
Questions or Complaints		
Centralized Case Management Operations U.S. Department of Health and Human Services		
Other Uses of Medical Information		

Table 9. Southcentral Foundation Notice of Privacy Practices Provisions

Notice of Privacy Practices Sections	**Subsections**	**Notes**
HOW SCF MAY USE AND DISCLOSE YOUR PHI	Treatment: Payment: Health Care Operations: Electronic Health Information Systems: Health Information Exchange: Appointment Reminders: Interpreters: Other Treatments and/or Health Products: Research: Funeral Directors/Coroners/State Medical Examiners: Public Health Risks: Workers' Compensation Laws: Correctional Institutions: Law Enforcement:	*PHI not defined *If you want a family member or friend to be able to access PHI about you or assist in arranging your health care, such as scheduling or checking on appointment times, please make sure that an authorization is on file for

	Tissue Donation, Organ Procurement, and Transplant: Health and Safety Oversight: Disaster Relief Purposes: Military Veterans: Court Orders, Lawsuits, and Disputes: National Security and Intelligence Activities: Business Associate Agreements: Other Uses and Disclosures: Uses and Disclosures That Require Your Authorization:	that person to access your records. This will be required for individuals to assist you in this manner.
SPECIAL RULES FOR SUBSTANCE USE DISORDER CUSTOMER-OWNER RECORDS		
YOUR INDIVIDUAL RIGHTS REGARDING YOUR PHI	Questions: Notice: Right to Request Restrictions on Use: Right to Request Confidential Communications: Right to Request Confidential Communications: Right to Request, Inspect, and Receive Copies: Right to Request an Amendment: Revoke or Cancel Prior Authorizations: Right to Know About Disclosures: Right to be Notified of a Breach: No Right to Certain Information:	*PHI not defined
WHO WILL FOLLOW THIS NOTICE:		
SCF'S RESPONSIBILITIES:		
TO ASK FOR HELP, EXPRESS A CONCERN, OR FILE A COMPLAINT		

Table 10. Memorial Hermann Sugar Land Hospital Notice of Privacy Practices Provisions

Notice of Privacy Practices Sections	**Subsections**	**Notes**
INTRODUCTION TO PRIVACY		
JOINT NOITCE OF PRIVACY		
USES AND DISCLOSURES OF MEDICAL INFORMATION	Treatment: Payment: Health Care Operations:	

	On Your Authorization: Psychotherapy Notes: To Your Family & Friends: Facility Directory: Disaster Relief: Health-Related Services Business Associate: Marketing: Fund-raising: Sale of Your Medical Information: Public Benefit:	
INDIVIDUAL RIGHTS	Access: Accounting of Disclosures: Restrictions: Confidential Communications: Amendment: Electronic Notice: Notice of a Breach:	
SECURITY OF YOUR INFORMATION		
MEDICAL RECORD DISPOSAL		
QUESTIONS OR CONCERNS		

Table 11. Kindred Nursing and Rehabilitation – Mountain Valley (now Mountain Valley of Cascadia) Notice of Privacy Practices Provisions

Notice of Privacy Practices Sections	**Subsections**	**Notes**
Understanding Your Medical Record and Your Health Information		
How We May Use and Disclose Your Health Information	Treatment Payment Health Care Operations Facility Directory Purposes To Family Members and Others Involved in Your Care Disaster Relief Incidental Disclosures As Required by Law Public Health Activities Crime, Abuse, and Neglect Reporting Health Oversight Activities	

	Judicial and Administrative Proceedings Law Enforcement Purposes Coroners, Medical Examiners, and Tissue Donation Research To Avert a Serious Threat to Health or Safety Specialized Government Functions Correctional Institutions Workers Compensation Communication Business Associates To Health and Human Services Marketing Psychotherapy Notes Sale of Protected Health Information Other Uses and Disclosures Revoking an Authorization	
Your Health Information Rights	Right to Inspect and Copy Right to Amend Right to Accounting of Disclosures Right to Request Restrictions Right to Receive Confidential Communications Right to a Paper Copy of this notice	
Our Responsibilities		
Complaints		
Contact Us		
Patient Acknowledgement		

Table 12. Comparison of Notice of Privacy Practices Provisions in High Performing Healthcare Organizations

Notice of Privacy Practices for Protected Health Information Provisions	GBMC HealthCare, Inc.	Wellstar Paulding Hospital	Adventist Health White Memorial	Mary Greeley Medical Center	Memorial Hospital and Health Care Center	Adventist Health Castle	Southcentral Foundation	Memorial Hermann Sugar Land Hospital	Mountain Valley of Cascadia
NPP Length	12 printed pages	2 webpages	6 webpages	8 webpages	4 printed pages	6 webpages	1 printed page	10 printed pages	5 printed pages

									(Page 5 is a signature page)
Right to Notice (Easily accessible through website)	x	x	x (Joint)	x	x	x (Joint)	x	x (Joint/ Webpage Links)	x
Content of Notice (Plain language)	x Clear attempts to modify regulatory language	x	x	x Long narrative, few headings	x Clean format	x	x Clean format; but PHI not defined	x	x
Required Header	x	x Small font at top	x	x	x	x	x	x	x
Specific Uses and Disclosures Examples for Treatment, Payment, and Healthcare Operations Required	x	x	x	x	x	x	x	x	x
Most Stringent Law Prevails	x	x	x	x	x	x	x	x	x
Specificity Requirement	x	x	x	x	x	x	x	x	x
Uses and Disclosures for which Authorization is required and Permitted Revocation	x	x	x	x	x	x	x	x	x
Separate statements for certain uses and disclosures.	x	x	x	x	x	x	x	x	x
Fundraising statement permitted, right to opt out	x		x	x	x	x	x	x	
Disclosure permitted to Health Plan sponsor	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Special protection of genetic information for underwriting purposes in certain circumstances	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Individual Rights	x	x	x	x	x	x	x	x	x

Right to Request Restrictions	x	x	x	x	x	x	x	x	x
Right to receive Confidential Communication	x	x	x	x	x	x	x	x	x
Right to Inspect and Copy	x	x	x	x	x	x	x	x	x
Right to Amend	x	x	x	x	x	x	x	x	x
Right to Accounting of Disclosures	x	x	x	x	x	x	x	x	x
Right to Receive a Copy of Notice	x	x	x	x	x	x	x	x	x
Covered Entity's Duties	x	x	x	x	x	x	x	x	x
Required to Protect Privacy by Law Statement and Breach Notification	x	x	x	x	x	x	x	x	x
Required to abide by terms of notice statement	x	x	x	x	x	x	x	x	x
Reservation of the right to modify the notice	x	x	x	x	x	x	x	x	x
Notice of Complaints	x	x	x	x	x	x	x	x	x
Notice of Contact	x	x	x	x	x	x	x	x	x
Effective Date	2021	2013	2018	2020	2019	2018	2023	2013	
Optional Elements[93]	x	x	x	x	x	x	x	x	x

[93] 45 C.F.R. § 164.520(b)(2) (2024).