

Gag Clause Prohibition Compliance Attestation (GCPCA)

By *BRSi Compliance*

The Consolidated Appropriations Act (CAA) was passed into law with the purpose of adding transparency and consumerism into health plans. As noted in the BRSi December 15, 2021, Compliance Alert [The-CAA-and-the-NSA.pdf \(brsibenefits.com\)](#) there are many new reporting requirements that apply to all health plans. Some of you have probably read about the latest CAA disclosure requirement, the GCPCA. Group health plans and health insurers must confirm they are following the CAA Gag Clause Prohibition Guidelines. This disclosure must be completed annually with the first disclosure due on **December 31, 2023**.

What is Prohibited: The CAA's gag clause prohibition rule (in its simplest terms) prohibits health plans and insurance companies from entering into agreements with providers, third party administrators (TPA's), or other service providers that limit or restrict provider-specific cost or quality of care data. Additionally, the clause prohibits the restriction of any de-identified claims data. For more information and details on the Gag Clause Attestation, please visit the CMS website at: [Gag Clause Prohibition Compliance Attestation | CMS](#)

How does a Plan Sponsor Complete the Attestation:

Each Health Plan must attest (annually) that their plan does not contain a gag clause and meets the conditions of the CAA. However, since most health plan provider/data contracts are written between health insurers and providers or independent networks and providers, the insurance carriers or third-party administrators will either file the attestation on behalf of the health plan or provide a certificate of compliance so the health plan administrator can complete the attestation on-line.

Fully Insured Plan Sponsors: In most cases, the insurance provider will complete the attestation on behalf of the insured plan sponsor.

Self-Funded Plan Sponsors: In most cases, the Plan Sponsor will have to complete the attestation. TPA's will provide the Plan Sponsor with a certificate of compliance form. The Plan Sponsor will use this information to complete the attestation on the CMS website [Gag Clause Attestation | Welcome! \(cms.gov\)](#).

By the end of October, your BRSi Advisor will provide additional guidance specific to each BRSi client plan. Stay tuned.

If you have any additional questions or concerns, please contact us at info@benefitreview.com

Disclaimer: *This Compliance Alert is for informational purposes only. It is not intended to be exhaustive and should not be construed as or substituted for legal or tax advice. Please consult with your legal counsel or tax advisor for further guidance*

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