

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT STATEMENT OF PRIVACY OBLIGATIONS

The purpose of this Statement of Privacy Obligations ("Statement") is to memorialize the obligations of Cooperative of American Physicians, Inc., Mutual Protection Trust ("MPT"), and their respective subsidiaries and affiliates (collectively, "CAP-MPT"), each as a Business Associate of their respective member Covered Entities (the "Members"), as such terms are defined in the "Standards for Privacy of Individually Identifiable Health Information," contained at 45 C.F.R. Parts 160 and 164, promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (the "Privacy Regulations"), to safeguard all Protected Health Information ("PHI") disclosed to CAP-MPT by, or created or received by CAP-MPT on behalf of, the Members. Capitalized terms used herein without definition shall have the respective meanings assigned to such terms in 45 C.F.R. Parts 160 and 164.

A. Permitted Uses and Disclosures of Protected Health Information. Pursuant to the Mutual Protection Trust Agreement between MPT and its members (the "Agreement"), CAP-MPT provides services ("Services") for the operations of CAP-MPT Members that involve the use and disclosure of PHI as defined by the Privacy Regulations. These Services may include, among others, quality assessment, quality improvement, outcomes evaluation, protocol and clinical guidelines development, reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, conducting training programs to improve the skills of health care practitioners and providers, credentialing, conducting or arranging for medical review, arranging for legal services, conducting or arranging for audits to improve compliance, resolution of internal grievances, placing stop-loss and excess of loss insurance, and other functions necessary to perform these Services. Except as otherwise specified herein, CAP-MPT may make any uses of PHI necessary to perform its obligations under the Agreement. All other uses not authorized by the Agreement are prohibited. Moreover, CAP-MPT may disclose PHI for the purposes authorized by this Statement: (i) to its employees, subcontractors, and agents, in accordance with Section B.5 below; (ii) as directed by the Members; or (iii) as otherwise permitted by the terms of this Statement and the Agreement. Additionally, unless otherwise limited herein, CAP-MPT is permitted to make the following uses and disclosures:

1. Business Activities of CAP-MPT. CAP-MPT may:

(a) Use PHI in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of CAP-MPT provided that such uses are permitted under state and federal confidentiality laws, and

(b) Disclose PHI in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of CAP-MPT provided that (i) the disclosures are required by law; or (ii) CAP-MPT has received from the third party written assurances regarding its confidential handling of such PHI as required under 45 C.F.R. §164.504(e)(4).

2. Additional Activities of CAP-MPT. In addition to using PHI to perform the Services set forth above, CAP-MPT may:

(a) Aggregate PHI in its possession with PHI of other Members that CAP-MPT has in its possession through its capacity as a Business Associate to said other Members provided that the purpose of such aggregation is to provide the Members with data analyses relating to the health care

operations of the Members. Under no circumstances may CAP-MPT disclose PHI of one Member to another Member absent the explicit authorization of the Members concerned; and,

(b) De-identify any and all PHI provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(b), and further provided that the Member is sent the documentation required by 45 C.F.R. § 164.514(b), which shall be in the form of a written assurance from CAP-MPT. Pursuant to 45 C.F.R. § 164.502(d)(2), de-identified information does not constitute PHI and is not subject to the terms of this Statement.

B. Responsibilities of CAP-MPT. With regard to its use and/or disclosure of PHI, CAP-MPT hereby agrees to do the following:

1. Use and/or disclose PHI only as permitted or required by the Agreement or this Statement or as otherwise required by law.

2. Report to the designated Privacy Officer of the Member, in writing, any use and/or disclosure of the PHI that is not permitted or required by the Agreement or this Statement of which CAP-MPT becomes aware, within a reasonable time of CAP-MPT's discovery of such unauthorized use and/or disclosure. CAP-MPT will take prompt action to cure such deficiencies as reasonably requested by the members, and any action pertaining to the unauthorized use and/or disclosure required by applicable federal and state laws and regulations.

3. Mitigate, to the extent practicable, any harmful effect that is known to CAP-MPT of an unauthorized use and/or disclosure of PHI by CAP-MPT.

4. Use appropriate administrative, technical and physical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of PHI that CAP-MPT creates, receives, maintains or transmits on behalf of the members.

5. Require all of its subcontractors and agents that undertake to perform the Services that CAP-MPT performs under the Agreement and that receive or use, or have access to PHI under the Agreement to agree, in writing, to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to CAP-MPT pursuant to this Statement.

6. Unless prohibited by attorney-client and other applicable legal privileges or unless it would violate CAP-MPT's contractual and other legal obligations to the members, make available all records, books, agreements, policies, and procedures relating to the use and/or disclosure of PHI to the Secretary of HHS for purposes of determining the members' compliance with the Privacy Regulations.

7. CAP-MPT shall honor any request from a Member for information to assist in responding to an individual's request for an accounting of disclosures of PHI by CAP-MPT. However, should a Member be asked for an accounting of the disclosures of an individual's PHI in accordance with 45 C.F.R. § 164.528, such accounting shall not include any disclosures by CAP-MPT to carry out the Members' health care operations or any other excepted disclosures described in 45 C.F.R. § 164.528. In no event shall CAP-MPT be obligated to account for disclosures that occurred prior to April 14, 2003 or the six (6) year period immediately preceding the date of the request, whichever is later.

8. Upon termination of this policy, the protections of this Statement will remain in force and CAP-MPT shall make no further uses and disclosures of PHI except for the proper management and administration of its business or as required by law.

9. In those rare instances when the Members would be required to honor an individual's request for access and/or amendment of PHI disclosed to CAP-MPT, CAP-MPT will assist the Members to comply with its duties under 45 C.F.R. §§ 164.524 and 164.526. However, usually the Members will not be required to honor such requests because PHI in CAP-MPT's possession is not part of a Designated Record Set as that term is defined by 45 C.F.R. § 164.501; and/or because the information is exempt from access and amendment under 45 C.F.R. §§ 164.524(a) and 164.526(a)(2); and/or because access would violate superceding contractual and other legal rights of the Members; and/or because any amendment could be tampering with evidence in a civil or administrative matter.

10. A Member may terminate its membership if CAP-MPT violates a material term of this Statement. Any such termination must be in accordance with all terms of the MPT Agreement.