

RE: Gag Clause Attestation Instructions

FROM: 90 Degree Benefits

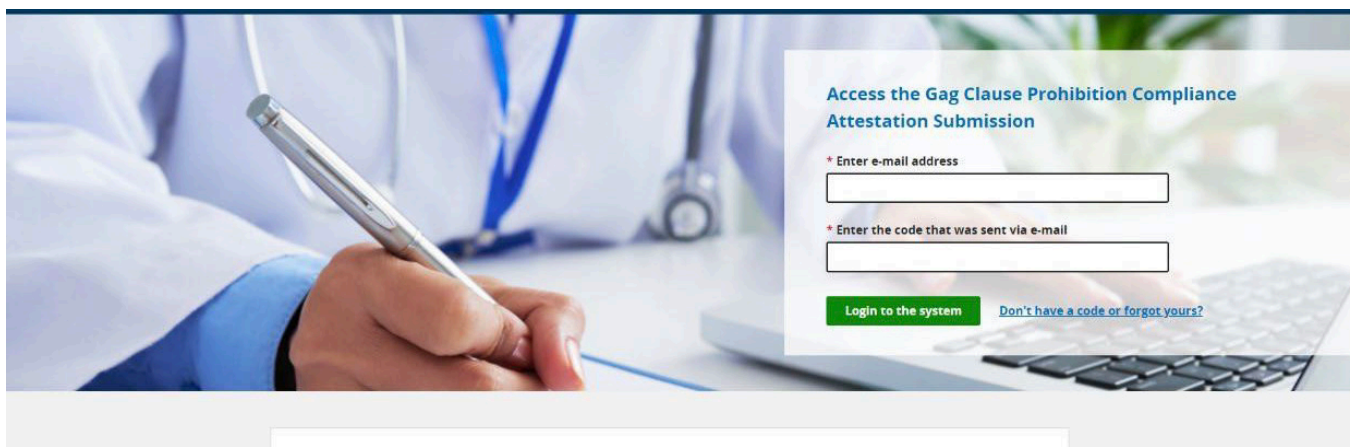
Gag Clause Prohibition Compliance Attestation

OVERVIEW

Group Health Plans and health insurance issuers offering group or individual health insurance coverage must annually submit a Gag Clause Prohibition Attestation. The attestation clause is required to be compliant with the Internal Revenue Code Section 9824, Employee Retirement Security Act Section 724, and Public Health Service Act section 2799A-9. The attestation gag clause is an attestation that plans or issuers **do not have clauses in their agreements with providers that would prevent the disclosure of cost or quality of care information or data**, and certain other information to active or eligible participants, beneficiaries, and enrollees of the plan or coverage, plan sponsors, or referring providers, or restrict the plan or issuers from sharing such information.

1. In order to satisfy the requirement to submit an annual attestation of compliance, plans and issuers should submit their attestation at this link. [Gag Clause Attestation / Welcome! \(cms.gov\)](#)

This link will lead you to the home page of the Gag Clause Prohibition Compliance Attestation.



- To log in, click the “Don’t have a code or forgot yours?” Once you click, “Don’t have a code or forgot yours?”, you should see the next scene below.

Enter your e-mail address to access the Gag Clause Prohibition Compliance Attestation submission

Once we receive your e-mail address, a unique code will be generated and mailed to you. This e-mail will be from submissions@cms.hhs.gov. Follow instructions in the e-mail.

* Enter e-mail address

[Get my unique code](#) [Cancel](#)

- The user should enter their email address into the “Enter email address” and then select “get my unique code.”
- After completing the unique code request, the message “Request was successful” will display for the user.

✓ The code will be sent to your e-mail address within 10 minutes. If you do not receive a code within 10 minutes, you may either return to the homepage and request another code or contact the CMS Marketplace help desk support team at [CMS FEPS@cms.hhs.gov](mailto:CMS_FEPS@cms.hhs.gov) or 1-855-267-1515.

- The user receives an email with the unique code. This unique code will be valid for 14 days. Users should check their SPAM folders if they do not immediately see this email, but they should wait at least ten minutes before requesting another code, Users should receive the email below.

Dear User,

Please use the following access code to log into the GCPCA portal (<https://hios.cms.gov/HIOS-GCPCA-UI>):

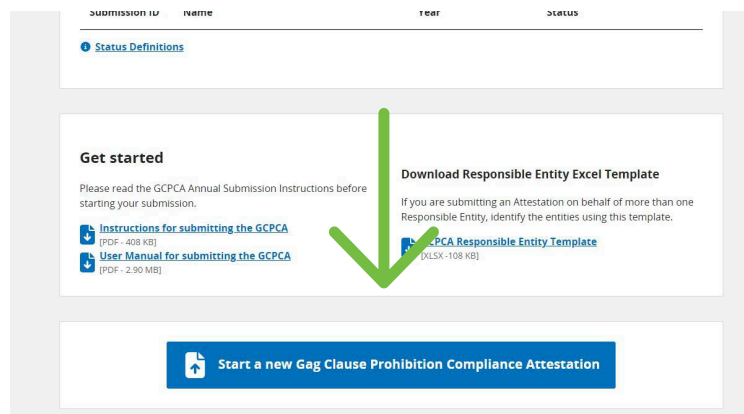
Note: On the GCPCA portal, please enter only the access code (without double-quotes).

Please *DO NOT SHARE* your access code with anyone.

- To login to the “Gag Clause Prohibition Compliance Attestation Submissions” system, the user enters the same email that was used to request the unique code, and the associated unique code received via email. ***If you are submitting on behalf of only one reporting entity, you may skip the instructions regarding the Excel spreadsheet and proceed to click, “Submit Gag Clause Prohibition Compliance Attestation.” The reporting entity Excel template is not needed.*** If you are submitting on behalf of multiple reporting entities, download the “Reporting Entity excel template.”



- If you are reporting on behalf of multiple entities and have completed the Excel spreadsheet, click the button below titled, "Start a new Gag Clause Prohibition Compliance Attestation." Once again, if you are not reporting on behalf of multiple health plans, do not worry about the excel sheet and proceed to the next page.



- On the next page shown below, you will enter Submitter's Information. This person may be contacted in the event of an audit and should be available to answer any questions. The following information is input for submission. For "Attestation Year," please select 2024. Under the question "By what type of entity are you employed?" most clients will select "**ERISA Group Health Plan (GHP) or sponsor of ERISA plan, including a plan sponsored or established by a union**". Select "**Church plan**" or "**(Non-federal) governmental group health plan**" if applicable.

<p>* Attestation year Select the year for which you're submitting; this is the ending year if the GPCCA covers multiple years.</p> <input type="text" value="2024"/>	<p>* Submitter's phone number Enter a phone number in the following format: "(xxx) xxx-xxxx".</p> <input type="text" value="(111) 111-1111"/>
<p>* Submitter's first and last name</p> <input type="text" value="John"/>	<p>* Submitter's employer name</p> <input type="text" value="Atlas Shrugged"/>
<p>* Submitter's position title</p> <input type="text" value="Galt"/>	<p>* By what type of entity are you employed? Select all options that apply to your entity. View examples</p> <ul style="list-style-type: none"> <input type="checkbox"/> Health insurance issuer/insurer → <input type="checkbox"/> ERISA group health plan (GHP) or sponsor of ERISA plan, including a plan sponsored or established by a union → <input type="checkbox"/> (Non-Federal) governmental group health plan → <input type="checkbox"/> Church plan <input type="checkbox"/> Third-party administrator (TPA) <input type="checkbox"/> Pharmacy benefit manager (PBM) <input type="checkbox"/> Behavioral health manager (BHM) <input type="checkbox"/> Other third-party network or service provider (e.g., agent/broker)



9. Fill in the information for “Step 2” or click “Submitter is the same as the Attester.”

10. Fill in the information below for “Step 3.” For the question “If you are submitting on behalf of more than one plan or one issuer?” if you are only reporting for one health plan, select “No.” After selecting “No,” the screen at the bottom shall appear. If you are submitting for multiple health plans, select ‘Yes.’ If you are reporting multiple health plans, please skip to Step 11 of the instructions because a different screen will appear. For the Type of Responsible Entity, click “ERISA Group Health Plan” (or church/governmental plan, as applicable.) For the question “ERISA Plan Number,” that number is listed in the “Introduction and Purpose; General Plan Information” section of your Summary Plan Description. The ERISA Plan Number is 3 digits, starting with a 5 (example, 501). Please check your Summary Plan Description. For the question “Are you attesting to all provider agreements?” Select “YES.” Then enter the attestation period.

2 Enter the Attester's contact information

Enter the Attester's name and contact information. This should be the person who will electronically sign the attestation and has the legal authority to attest for, or on behalf of, the Responsible Entity(ies). In some cases, the Attester and the Submitter are the same person. If they are, select the checkbox below.

Submitter is the same as the Attester

* Attester's first and last name

* Attester's position title

* Attester's e-mail address

* Attester's phone number
Enter a phone number in the following format: "(xxx) xxx-xxxx".

* Attesting Entity (Attester's Employer)

11. If you select “Yes” on reporting for multiple health plans, the screen below shall appear. You will need to fill out and upload the excel sheet under “Upload Entity List.” **Once again, only if you are reporting on behalf of multiple health plans, upload the excel sheet here.** THE GCPCA Webform instructions provide specific guidance on creating the Reporting Entity tab-delimited text file. Only one Health Plan per row is permitted.

If you are submitting on behalf of more than one group health plan or more than one issuer, select Yes.

Yes
 No

Responsible Entity Details

Complete and upload the [Responsible Entity Excel Template](#) for entities on whose behalf you are submitting the attestation. For detailed instructions, please select the “View detailed instructions” link and also refer to the GCPCA User Manual.
[View detailed instructions](#)

* Upload entity list
The entity list must be in text tab-delimited format.

Additional Information
Provide any other information that is relevant to this attestation.
1000 characters remaining

12. After selecting “Save and Continue,” The Submitter will see the “Let’s confirm the Attester’s email address” pop-up asking them to confirm the Attester’s email address to send them a unique code, a link to the GCPCA system, and instructions. Further, on the following pages just review the submission and verify your information.”

13. On Step 4, review your submissions and click “Save and Continue.”



14. On Step 5, click, "I am attesting on behalf of group health plans, including non-federal governmental plans, and health insurance issuers offering group health insurance coverage." Then click the box, "I attest that all information in this submission is accurate."

5 Verify the entity type(s) on whose behalf you are attesting

You must, at a minimum, select that you are either attesting on behalf of a group health plan or insurance issuer. If you are attesting on behalf of both a group health plan, whether fully insured or self-funded, and an issuer of individual health insurance coverage, check both boxes.

Group health plans, including non-federal governmental plans, and health insurance issuers offering group health insurance coverage

I attest that, in accordance with section 9824(a)(1) of the Internal Revenue Code, section 724(a)(1) of the Employee Retirement Income Security Act, and section 2799A-9(a)(1) of the Public Health Service Act and the language herein, the group health plan(s) or health insurance issuer(s) offering group health insurance coverage on whose behalf I am signing has not, for the dates specified and as provided in the foregoing information, entered into an agreement with a health care provider, network or association of providers, third-party administrator, or other service provider offering access to a network of providers that would directly or indirectly restrict the group health plan(s) or health insurance issuer(s) from —

I'm attesting on behalf of group health plans, including non-federal governmental plans, and/or health insurance issuers offering group health insurance coverage.

Health insurance issuers offering individual health insurance coverage

I attest that, in accordance with section 2799A-9(a)(2) of the Public Health Service Act and the language herein, the health insurance issuer(s) offering individual health insurance coverage on whose behalf I am signing has not, for the dates specified and as provided in the foregoing information, entered into an agreement with a health care provider, network or association of providers, or other service provider offering access to a network of providers that would directly or indirectly restrict the health insurance issuer(s) from —

I'm attesting on behalf of health insurance issuers offering individual health insurance coverage.

Attest to the Responsible Entity's compliance with the Gag Clause Prohibition Compliance requirement

I attest that I have the authority to bind the plan(s) or issuer(s) entered/uploaded in the entity attestation details.

I attest that all information in this submission is accurate.

* To sign this attestation, enter your full name below.

Signed submission date
09/06/2024 10:16 AM

[Start over](#)

Please email our Compliance Team at complianceinquiry.t7@90degreebenefits.com if you have any questions.

