

U.S. Department of the Treasury  
U.S. Department of Labor  
U.S. Department of Health & Human Services

# **Gag Clause Prohibition Compliance Attestation**

## **Annual Submission Instructions**

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# 1 Overview

## 1.1 Gag Clause Prohibition Compliance Attestation (GCPCA) Basics

Group health plans (plans) and health insurance issuers offering group or individual health insurance coverage (issuers) must annually submit a Gag Clause Prohibition Compliance Attestation (GCPCA) to the Departments of Labor, Health and Human Services (HHS), and the Treasury (collectively, the Departments). A GCPCA is an attestation of compliance with Internal Revenue Code (Code) section 9824, Employee Retirement Income Security Act (ERISA) section 724, and Public Health Service (PHS) Act section 2799A-9, as added by the Consolidated Appropriations Act, 2021 (CAA), as applicable.

These provisions generally prohibit plans and issuers from entering into certain provider agreements 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 issuer from sharing such information with a business associate, consistent with applicable privacy regulations. A health care provider, network or association of providers, or other service provider may place reasonable restrictions on the public disclosure of this information. These provisions became effective December 27, 2020.

In order to satisfy the requirement to submit an annual attestation of compliance, plans and issuers should submit their attestation via the webform by selecting the link for “Gag Clause Prohibition Compliance Attestation” at <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/CAA>.

## 1.2 Entities Required to Attest and Submit a GCPCA

### Definition of Reporting Entity

A **Reporting Entity** is a plan or issuer that is subject to Code section 9824, ERISA section 724, and PHS Act section 2799A-9, as applicable, and has directly or indirectly—generally through a third-party administrator (TPA) or a vendor, such as a Pharmacy Benefit Manager (PBM), Independent Practice Association (IPA), or Behavioral Health Manager (BHM)—entered into an agreement(s) with health care providers, network or association of providers, third-party administrators, or other service providers offering access to a network of providers.

The Reporting Entity is responsible for ensuring it annually attests, or that another party (such as its TPA or vendor) attests on its behalf, that the Reporting Entity complies with the prohibition on gag clauses.

Entities Required to Attest (Reporting Entities)	Entities Not Required to Attest
<ul style="list-style-type: none"> <li>• Issuers offering individual health insurance coverage, including:               <ul style="list-style-type: none"> <li>○ Student health insurance plans</li> <li>○ Grandfathered<sup>1</sup> and grandmothered<sup>2</sup> plans</li> <li>○ Policies sold on or off Exchanges</li> <li>○ Policies sold through an association</li> </ul> </li> <li>• Issuers offering group health insurance coverage, including:               <ul style="list-style-type: none"> <li>○ Grandfathered and grandmothered plans</li> <li>○ Policies sold on or off Exchanges</li> <li>○ All other group health insurance plans</li> </ul> </li> <li>• Group health plans, including the following to the extent they are considered group health plans:               <ul style="list-style-type: none"> <li>○ ERISA plans<sup>3</sup> (or sponsors of ERISA plans)</li> <li>○ Non-Federal governmental plans, <sup>4</sup> such as plans sponsored by state or local governments</li> <li>○ Church plans<sup>5</sup></li> <li>○ Grandfathered group health plans</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Account-based plans, such as health reimbursement arrangements (HRAs), including individual coverage HRAs<sup>6</sup></li> <li>• Issuers and group health plans that offer only excepted benefits<sup>7</sup> coverage, including, but not limited to:               <ul style="list-style-type: none"> <li>○ Hospital indemnity or other fixed indemnity insurance</li> <li>○ Disease-specific insurance</li> <li>○ Dental, vision and long-term care</li> <li>○ Accident-only, disability and workers' compensation</li> </ul> </li> <li>• Issuers that offer only short-term, limited-duration insurance</li> <li>• Medicare and Medicaid plans</li> <li>• State children's health insurance program plans</li> <li>• Basic Health Program plans</li> </ul>

<sup>1</sup> In general, health coverage is considered grandfathered if it was in existence and has continuously provided coverage for someone (not necessarily the same person, but at all times at least one person) since March 23, 2010, provided the plan (or its sponsor) or the issuer has not taken certain actions resulting in the plan relinquishing grandfathered status, as more fully described at 26 CFR 54.9815-1251, 29 CFR 2590.715-1251, and 45 CFR 147.140.

<sup>2</sup> Grandmothered plans are non-grandfathered plans in the individual and small group market that were issued prior to January 1, 2014, and for which CMS announced it will not take enforcement action with respect to certain market requirements. See Bulletin: Extended Non-Enforcement of Affordable Care Act-Compliance With Respect to Certain Policies, available at <https://www.cms.gov/files/document/extension-limited-non-enforcement-policy-through-calendar-year-2022.pdf>

<sup>3</sup> The term "ERISA plan" refers to an employee welfare benefit plan established or maintained by a private-sector employer or by a private-sector employee organization (such as a union), or both, that provides medical or certain other benefits for participants or their dependents directly or through insurance, reimbursement, or otherwise.

<sup>6</sup> HRAs are generally group health plans that are subject to the group market reforms in the Code, ERISA, and the PHS Act, including the prohibition on certain gag clauses and the requirement to submit a GCPCA under Code section 9824, ERISA section 724, and PHS Act section 2799A-9. However, the Departments are not requiring GCPCAs from HRAs, or other account-based group health plans, as described in [26 CFR 54.9815-2711\(d\)\(6\)\(i\)](#), [29 CFR 2590.715-2711\(d\)\(6\)\(i\)](#), and [45 CFR 147.126\(d\)\(6\)\(i\)](#). The Departments are exercising enforcement discretion with respect to HRAs (including individual coverage HRAs) and other account-based group health plans until the Departments can exempt such plans from the requirements of Code section 9824, ERISA section 724, and PHS Act section 2799A-9 through rulemaking. This approach is consistent with many other requirements that apply to group health plans and the existing applicability provisions in [26 CFR 54.9816-2T](#), [29 CFR 2590.716-2](#), and [45 CFR 149.20](#) with respect to other requirements of Division BB of the CAA.

<sup>7</sup> See Code Section 9832(c), ERISA Section 733(c), and PHS Act 2791(c).

### 1.2.1 Attesting on an Issuer's Behalf

An issuer can attest on its own behalf as well as on behalf of other issuers in the same controlled group.<sup>8</sup> Additionally, an issuer that contracts with a third party to enter into provider agreements on its behalf may have that third party attest on its behalf.

### 1.2.2 Attesting on a Plan's Behalf

A plan may attest on its own behalf. The statute requires group health plans and health insurance issuers offering group health insurance coverage (as well as individual health insurance coverage) to annually submit a GCPCA. This means both the issuer and group health plan are required to submit a GCPCA with respect to a fully-insured plan. However, if coverage under a plan consists of group health insurance coverage, and the issuer of that coverage submits a GCPCA on behalf of the plan, the Departments will consider both the plan and issuer to have satisfied the attestation submission requirement under Code section 9824, ERISA section 724, and PHS Act section 2799A-9. Issuers can attest for fully-insured plans, including non-Federal governmental plans and church plans.

Self-funded and partially self-funded plans may satisfy the requirement to provide an attestation by entering into a written agreement under which the plan's service provider, such as a Third-Party Administrator (TPA) (including an issuer acting as a TPA), attests on its behalf. If the plan utilizes more than one TPA, with each administering a subset of covered plan benefits, each TPA may attest on the plan's behalf with respect to the subset of benefits it administers. However, if a self-funded plan chooses to enter into such an agreement, and a TPA fails to submit the plan's attestation to the Departments as required, the plan violates the requirement to provide an attestation of compliance.

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<sup>4</sup> PHS Act section 2791(d)(8)(C) defines the term "non-Federal governmental plan" as a governmental plan that is not a Federal governmental plan. Examples of non-Federal governmental plans include plans that are sponsored by states, counties, school districts, and municipalities. See <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/nonfedgovplans>.

<sup>5</sup> The term "church plan" refers to a plan established and at all times maintained for its employees by a church or by a convention or association of churches that is exempt from tax under section 501(a) of the Internal Revenue Code, provided that the plan meets the requirements of section 501(b) and (if applicable) section 501(c).

<sup>8</sup> Any controlled group of corporations or trades or businesses under common control within the meaning of Internal Revenue Code section 414(b) and (c) and related regulations.

### 1.3 Attesting on Behalf of More Than One Reporting Entity

If you are an issuer or a TPA attesting on behalf of more than one Reporting Entity, you only need to complete and submit one Excel Template. List each Reporting Entity on a separate row of the Reporting Entity Excel Template, as instructed in sections 2.3 and 2.3.1.

If there are multiple Reporting Entities for which you are attesting, you must also submit a tab-delimited text file detailing certain information about the Reporting Entities. Details regarding where to find the Reporting Entity Excel Template that is used to create the text file, and how to complete it, are covered in sections 2.3 and 2.3.1.

#### Definition of Attester

The **Attester** is an individual with the legal authority to act on behalf of the Reporting Entity for purposes of the requirements of Code section 9824, ERISA section 724, and PHS Act section 2799A-9 and who is authorized to electronically sign the GCPCA via the CMS webform. For an issuer or a TPA that is authorized to attest on behalf of a Reporting Entity, the **Attester** is an individual with the legal authority to sign the GCPCA on behalf of the issuer or TPA.

#### Definition of Attesting Entity

The Attesting Entity is the Reporting Entity, such as a plan or issuer, or the entity that contracts with the Reporting Entity to attest on behalf of the Reporting Entity, such as a TPA. The Attester works for the **Attesting Entity**.

### 1.4 Deadline for Submitting the GCPCA

The initial deadline for submitting the GCPCA is December 31, 2023. Thereafter, Reporting Entities must attest annually by December 31st.

## 2 GCPCA Submission

### 2.1 Accessing the GCPCA Webform

An authentication code is required in order to access the webform where the GCPCA is completed and submitted. The code is generated by the Federal government and sent by e-mail to the user who requested it. The code may be obtained from the GCPCA website at <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/CAA> by selecting “Gag Clause Prohibition Compliance Attestation” and then “Enter Webform Now” located at the bottom of the page. You must then select “Don’t have or forgot your code?,” after which you will be asked to provide your name and e-mail address. Once you enter this information, select “Submit,” and 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 home

page to make another code request 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 code will be active for a period of 15 days, and a new code may be obtained after that time. Once you have received the code, return to the landing page and, again, select “Enter Webform Now.” Enter your e-mail address and the code to gain access to the GCPCA webform. The code will be active for a period of 15 days and a new code may be obtained after that time. Once in the webform, as long as you are actively entering information, the webform will remain open. When the webform is *inactive* for 15 minutes, the session will be ended, and information will be retained as of the last time you saved the submission by selecting the “Save” button. You may re-enter the webform with this code at any time within the 15-day period to access your saved webform information. If your code expires before the submission is complete, use the same e-mail address to request a new code. The new code will direct you to your saved webform information.

**Definition of Submitter**

The Attester may ask someone else to complete the required fields on the webform and upload the tab-delimited text file (if attesting on behalf of more than one Reporting Entity, as described in section 1.3) on the Attester’s behalf, subject to the Attester’s review and signature. The individual who completes these tasks is the **Submitter**.

However, when the Submitter is authorized to sign the attestation on behalf of the Attesting Entity, the same individual is considered both the Submitter and the Attester.

**2.2 How to Complete the Attestation**

An Attesting Entity that is attesting on behalf of only one Reporting Entity should use the GCPCA webform to provide the Reporting Entity’s information and attest. Detailed instructions are given below under Option A.

An Attesting Entity that is attesting for multiple Reporting Entities should use both the GCPCA webform and the Excel Template to report information about the Reporting Entities on whose behalf it is attesting. Detailed instructions are given below under Option B. Additionally, Section 2.4 has detailed instructions on how to: 1) download the Excel Template by following a link to the GCPCA landing page; 2) complete the appropriate data elements (columns) for each Reporting Entity (rows); 3) check for errors; 4) save the file as a tab-delimited text file; and 5) upload the text file to the GCPCA webform.

If attesting on behalf of only one Reporting Entity, follow the steps in Option A. If attesting on behalf of multiple Reporting Entities, follow the steps in option B.

Option	No. of Reporting Entities	Reporting Entity Excel Template Needed
A	One	No
B	Multiple	Yes

## Option A: Information Requested in the User Interface when Attesting on Behalf of One Reporting Entity

- ✓ Enter the Submitter's contact information
  - a. Provide the Submitter's first and last name, position title, e-mail address, phone number, and employer name.
  - b. Using the check boxes listed on the webform, identify the type of entity for which the Submitter works. Check all that apply.
    - i. Health insurance issuer
    - ii. ERISA group health plan (GHP), or sponsor of ERISA plan
    - iii. Non-Federal governmental plan
    - iv. Church plan
    - v. Third-party administrator
    - vi. Pharmacy benefit manager
    - vii. Behavioral health manager
    - viii. Other third-party service provider

### Examples:

- If the Submitter works for a PBM and is submitting an attestation on behalf of an issuer with respect to the issuer's pharmacy benefits, select "Pharmacy benefits manager" in this example. Do not select "Health insurance issuer."
- If the Submitter works for a Reporting Entity that is attesting on its own behalf, select either "Health insurance issuer" or the applicable type of group health plan.
- If the Submitter works for an issuer that is attesting on behalf of a fully-insured group health plan, select "Health insurance issuer." Do not select the applicable type of group health plan.

If the Submitter works for an entity that is not listed, select "Other third-party service provider," and specify the type of entity in the text box.

- ✓ Enter the Attester's contact information
  - a. If the Submitter and the Attester are the same individual, select the check box corresponding to this option. The fields for the Attester's contact information will automatically populate with the contact information provided for the Submitter.



- b. If the Submitter and Attester are two different individuals, enter the Attester's first and last name, position title, e-mail address, phone number, and Attesting Entity (the Attester's employer name).

✓ Enter Reporting Entity details

Issuers attesting for fully-insured plans should report the information relevant to the group health plan. For example, if Issuer A is attesting for Plan B, Issuer A would provide the name of Plan B, the Federal Tax Employer Identification Number (EIN) for Plan B, the contact information for Plan B, etc. When identifying the type of Reporting Entity, Issuer A would select the applicable type of group health plan.

- a. Select the "No" button in response to the question, "Are you submitting on behalf of more than one plan or issuer (aka Reporting Entity)?"
- b. Provide the name of the Reporting Entity.
- c. Provide the Reporting Entity's 9-digit EIN. Include leading zeros if the EIN is fewer than 9 digits. Do not use dashes. Ex: 001234567. All Reporting Entities, including state and local government agencies and nonprofit organizations, have an EIN. If you do not know the Reporting Entity's EIN, you may be able to obtain this information from the Reporting Entity's payroll or accounting department. If the Reporting Entity is a group health plan and the group health plan does not have its own EIN, the EIN for the plan sponsor should be entered here.
- d. Identify the type of Reporting Entity, selecting only one option.
  - i. Health Insurance Issuer
  - ii. Non-Federal Governmental Plan
  - iii. ERISA Plan (or sponsor of ERISA Plan)
  - iv. Church Plan
- e. If the Reporting Entity is an ERISA plan, provide the three-digit Plan Number that is included on the plan's Form 5500. If the plan is not required to file a Form 5500, enter three zeros (000).
- f. Provide the mailing address for the Reporting Entity.
- g. Provide the first and last name of a point-of-contact who works for the Reporting Entity (or the plan sponsor) and can respond to the Departments' questions about the GCPA and the Reporting Entity's compliance with the prohibition on gag clauses.
- h. Provide the e-mail address of the Reporting Entity point-of-contact.

i.

- i. Provide the phone number of the Reporting Entity point-of-contact.
- j. For the question, “Are you attesting for all provider agreements?”:
  - i. Select the “yes” button if you are attesting for all types of provider agreement(s) (i.e., medical, pharmacy, behavioral, and any other agreements) with health care providers.
  - ii. Select the “no” button if you are attesting for only a subset of provider agreements.
- k. If you selected “no,” then, using the drop-down options, specify the specific type(s) of provider agreements that is/are covered by your attestation. Check all that apply.
  - i. Medical
  - ii. Pharmacy benefit manager
  - iii. Behavioral health
  - iv. Other

If you are attesting for a specific type(s) of provider agreement other than or in addition to medical, pharmacy benefit, or behavioral health, select “Other” and enter the type(s) of provider agreement in the text box.

- ✓ Review the completed webform
  - a. Confirm that the Submitter’s contact information, the Attester’s contact information, and the Reporting Entities’ information were all entered correctly. If you need to revise previously entered information, use the edit buttons to return to the applicable section and make the necessary changes.
  - b. If the Attester and the Submitter are two different individuals, once the Submitter has verified that the information was entered correctly, the Submitter needs to select the “Notify Attester” button. The GCPCA webform will then request confirmation of the Attester’s e-mail address. Verify that the Attester’s e-mail address is correct. If not, enter the correct e-mail address. Once the Attester’s e-mail address is verified, the GCPCA webform will send an e-mail to the Attester. This e-mail will provide the Attester their own unique code to enter the GCPCA webform and notify them that the submission is ready for them to review, attest, and submit.
  - c. The Submitter should notify the Attester that the Attester will receive an e-mail with the Attester’s unique authentication code from [submissions@cms.hhs.gov](mailto:submissions@cms.hhs.gov). If the Attester does not receive the email within 10 minutes, the Attester should 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.

✓ Attest

The next steps must be completed by the Attester. The Attester must open the GCPCA webform using the Attester's email and unique authentication code, review the attestation text to ensure accuracy, electronically sign the form to attest, and submit the attestation.

If the Attester and the Submitter are the same individual, the Submitter may complete these tasks.

- a. Using the check boxes, the Attester must indicate whether the Attester is attesting on behalf of (1) a group health plan or a health insurance issuer offering group health insurance coverage, or (2) a health insurance issuer offering individual health insurance coverage.
  - i. I am attesting on behalf of a group health plan(s) or health insurance issuer(s) offering group health insurance coverage.
  - ii. I am attesting on behalf of a health insurance issuer(s) offering individual health insurance coverage.
- b. Carefully read the attestation text. Select the check box to certify that the Reporting Entity is in compliance with the prohibition on gag clauses, as detailed in the attestation text, and has not entered into an agreement with a provider, network or association of providers, TPA, or other service provider offering access to a network of providers that would directly or indirectly restrict the Reporting Entity from disclosing information on cost, quality of care data, and certain other information to participants, beneficiaries or enrollees, plan sponsors, or referring providers.
- c. Affirm the Attester has the authority to attest on behalf of the Reporting Entity entered in the GCPCA webform by selecting the check box.
- d. Select the check box to attest that, to the best of the Attester's knowledge, all information in the submission is accurate.
- e. Enter the first and last name of the Attester to electronically sign the attestation.
- f. Select the "Submit" button to submit the attestation.

**Option B: Information Requested in the User Interface when Attesting on Behalf of Multiple Reporting Entities**

✓ Enter the Submitter's contact information

- a. Provide the Submitter's first and last name, position title, e-mail address, phone number, and employer name.
- b. Using the check boxes listed on the webform, identify the type of entity for which the Submitter works for. Check all that apply.
  - i. Health insurance issuer
  - ii. ERISA plan (or sponsor of ERISA plan)
  - iii. Non-Federal governmental plan
  - iv. Church plan
  - v. Third-party administrator
  - vi. Pharmacy benefit manager
  - vii. Behavioral health manager
  - viii. Other third-party service provider

Examples:

- If the Submitter works for a health insurance issuer that also functions as a TPA for self-insured ERISA plans, and the Submitter is submitting an attestation on behalf of the issuer and the self-insured ERISA plans, select both "Health insurance issuer" and "Third-party administrator." In this example, do not select "ERISA plan (or sponsor of ERISA plan)."
- If the Submitter works for a PBM and is submitting an attestation on behalf of an issuer with respect to the issuer's pharmacy benefits, select "Pharmacy benefits manager." In this example, do not select "Health insurance issuer."
- If the Submitter works for a Reporting Entity that is attesting on its own behalf, select either "Health insurance issuer" or the applicable type of group health plan.

If the Submitter works for an entity that is not listed, please select "Other third-party service provider," and specify the type of entity in the text box.

- ✓ Enter the Attester's contact information
- a. If the Submitter and the Attester are the same individual, select the check box. The fields for the Attester's contact information will automatically populate with the contact information provided for the Submitter.
  - b. If the Submitter and Attester are two different individuals, provide the Attester's first and last name, position title, e-mail address, phone number, and Attesting Entity (the Attester's employer name).

- ✓ Enter Reporting Entity details
  - a. Select the “Yes” button in response to the question, “Are you submitting on behalf of more than one plan or issuer (i.e., a Reporting Entity)?” You will be prompted to complete and upload the Reporting Entity tab-delimited text file saved from the Excel template that provides the required details for each Reporting Entity on whose behalf you are attesting. When the Excel Template is completely filled out with no errors, e-mail it to your Attester.
  - b. Instructions for completing the Reporting Entity Excel Template and tab-delimited text file are detailed in sections 2.3 and 2.31.
  - c. When completing the fields in the Reporting Entity Excel Template, an issuer attesting on behalf of a plan should report the information relevant to that group health plan.
  
- ✓ Review submission
  - a. Confirm that the Submitter’s contact information and the Attester’s contact information are entered correctly on the webform. Verify that the information for all Reporting Entities is correctly entered on the Reporting Entity Excel Template and uploaded on the webform. If you need to revise any of the previously entered information, use the edit buttons to return to the applicable section and make the necessary changes.
  - b. If the Attester and the Submitter are two different individuals, once the Submitter has verified that the information was entered correctly, the Submitter needs to select the “Notify Attester” button. The GCPCA webform will then request confirmation of the Attester’s e-mail address. Verify that the Attester’s e-mail address is correct. If not, enter the correct e-mail address. Once the Attester’s e-mail address is verified, the GCPCA webform will send an e-mail to the Attester. This e-mail will provide the Attester their own unique code to enter the GCPCA webform and notify them that the submission is ready for them to review, attest, and submit.
  - c. The Submitter should notify the Attester that they will receive an e-mail with the Attester’s unique authentication code from [submissions@cms.hhs.gov](mailto:submissions@cms.hhs.gov). If the Attester does not receive the email within 10 minutes, please 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.
  
- ✓ Attest

The next steps must be completed by the Attester. Once the Attester has reviewed the Reporting Entity tab-delimited text file that the submitter e-mailed,

the Attester must enter the GCPCA webform, review the attestation text to ensure accuracy, electronically sign to attest, and submit the attestation. If the Attester and the Submitter are the same individual, the Submitter may complete these tasks.

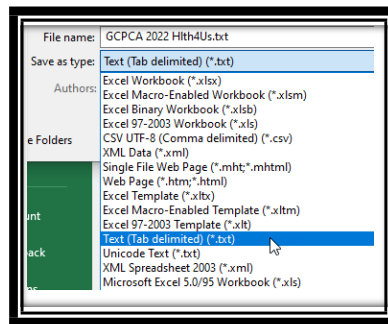
- a. Using the check boxes, the Attester must indicate whether the Attester is attesting on behalf of (1) a group health plan and/or health insurance issuer offering group health insurance coverage, or (2) a health insurance issuer offering individual health insurance coverage. If you are attesting on behalf of both (1) and (2), check both boxes.
  - i. I am attesting on behalf of a group health plan(s) and/or health insurance issuer(s) offering group health insurance coverage
  - ii. I am attesting on behalf of a health insurance issuer(s) offering individual health insurance coverage
- b. Carefully read the attestation text. Select the check box to certify that the Reporting Entities are in compliance with the prohibition on gag clauses, as detailed in the attestation text, and have not entered into an agreement with a provider, network or association of providers, TPA, or other service provider offering access to a network of providers that would directly or indirectly restrict the Reporting Entities from disclosing information on cost or quality of care information or data, and certain other information to participants, beneficiaries, or enrollees, plan sponsors, or referring providers.
- c. Affirm that the Attester has the authority to attest on behalf of the Reporting Entities entered in the GCPCA webform by selecting the checkbox.
- d. Select the check box to attest that, to the best of the Attester's knowledge and belief, all information in the submission is accurate and complete.
- e. Enter the first and last name of the Attester who will electronically sign the attestation.
- f. Select the "Submit" button to submit the attestation.

### 2.3 Reporting Entity Excel Template Detailed Instructions

Option B Attesting Entities should carefully read the following instructions and data element definitions to ensure that their information is transferred without errors:

- Download the Reporting Entity Excel Template provided on the GCPCA website at <https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/CAA>
- Complete the Reporting Entity Excel Template using the applicable information regarding each Reporting Entity. Each Reporting Entity's information should be listed on a separate row.

- The first and second rows of the Reporting Entity Excel Template contain the column names. Do NOT make any changes to column titles or rearrange columns in the Reporting Entity Excel template.
- With one exception, inapplicable fields that are not required should be left blank and not populated with any text, including “N/A,” a space, or a zero. In the template, for ERISA plans, if the plan number is not available and not known, please enter three zero’s (000).
- Do not include apostrophe/single-quotation (’), inequality signs (<>) and asterisks (\*) in the cells of your Excel file. If you do so, it will not save or upload properly. Slashes (/) may only be included when embedded in an email or mailing address inside the file. Marks that are placed directly over letters are allowed, such as tildes (~), umlauts (¨), and accents (é) in any cells of your Excel file.
- First save your file as an Excel Workbook (\*.xlsx). Then save your file in text, tab-delimited format. A file that is not in tab-delimited text format cannot be uploaded and submitted. A filename that includes the following special characters cannot be uploaded and submitted: ";", ":", ">", "<", "/", "\", 2 periods, "..", in a row, "\*", "%", or "\$".



### Rules for Tab-delimited Text Files

The Reporting Entity Excel Template must be saved and submitted as a tab-delimited text file. Both the filename and the information in the file may not contain certain characters. Characters that may not be included are apostrophe/single-quotation (’), inequality signs (<>) and asterisks (\*). Slashes (/) may only be included when embedded in an email or mailing address inside the file. Marks that are placed directly over letters are allowed, such as tildes (~), umlauts (¨), and accents (é).

#### 2.3.1 Instructions for Data Elements

With one exception, if a column is not applicable, it should be left blank, and the cell will automatically be assigned a blank value. Do not input “N/A,” a space, or a zero. In the template, for ERISA plans, if the plan number is not available and not known, please enter three zero’s (000).

Do not use apostrophes, inequality signs, asterisks, or slashes in your responses.

Issuers attesting for fully-insured plans should report the information relevant to the group health plan. For example, if Issuer A is attesting for Plan B, Issuer A would provide the name of Plan B, the Federal Tax Employer Identification Number (EIN) for Plan B, the contact information for Plan B, etc.

Column Heading	Instructions
Name of the Reporting Entity	Enter the name of the Reporting Entity, (i.e., the health insurance issuer or employer-sponsored group health plan), as applicable. Only one name should be included per row.
Employer Identification Number (EIN)	Enter the Reporting Entity's 9-digit Federal Tax EIN. Include leading zeros if the EIN is fewer than 9 digits. Do not use dashes. Ex: 001234567. All Reporting Entities including state and local government agencies and non-profit organizations, have EINs. If you do not know the Reporting Entity's EIN, you may be able to obtain this information from the Reporting Entity's payroll or accounting department. If the Reporting Entity is a group health plan and the group health plan does not have its own EIN, enter the EIN for the plan sponsor.
Plan Number	For ERISA plans only, include the three-digit Plan Number that is included on the plan's Form 5500. If the plan is not required to file a Form 5500 or the number is unknown, enter three zeros (000).
Reporting Entity Type	Select from the drop-down or enter one of the following Reporting Entity Types: Health Insurance Issuer, Non-Federal Governmental Plan, ERISA Plan (or sponsor of ERISA Plan), or Church Plan.
Mailing Address for the Reporting Entity	Enter the complete mailing address where the Reporting Entity can receive correspondence related to the GPCCA.
Name of Reporting Entity Point-of- Contact	Enter the first and last name of an individual who works for the Reporting Entity and can serve as a point-of-contact to respond to questions from the Departments regarding GPCCA and the Reporting Entity's compliance with the prohibition on gag clauses.
E-mail Address for Reporting Entity Point-of-Contact	Enter the e-mail address of the Reporting Entity's point-of-contact.
Phone Numberfor Reporting Entity Point-of-Contact	Enter the 10-digit phone number, excluding spaces, dashes, or other punctuation, of the Reporting Entity's point-of-contact. Ex: 2025551989.
Attestation is for All Provider Agreements	<p>If you are attesting to compliance with the gag clause prohibition for <i>all</i> types of provider agreements (rather than only for specific types of provider agreement(s)), place an X here.</p> <p>If you are attesting only for specific type(s) of provider agreements leave this column blank. If this column is left blank, you must indicate the specific type(s) of provider agreements for which you are attesting by marking an X in the applicable column(s) (I – L) or by entering the provider agreement type(s) in column M "Other" of the Reporting Entity Excel Template.</p>
Attestation is for the following Types of Provider Agreements: Medical, Pharmacy Benefits, Behavioral Health, Other	<p>If you are attesting only for a specific type(s) of provider agreement, mark an X in the applicable column(s) (J – L) of the Reporting Entity Excel Template.</p> <p>If you are attesting for a specific type(s) of provider agreement other than medical, pharmacy benefit, or behavioral health, enter the provider agreement type(s) in column M "Other." If you are attesting for more than one provider agreement type in column M, separate each type with a semicolon. Do not use commas.</p> <p>If all four of these columns (J – M) are left blank, column I – "Attestation is for All Provider Agreements" – must be marked with an X.</p>



## 2.4 Confirming an Attesting Entity Submitted the GCPCA

After the GCPCA is successfully submitted, the Submitter may download a confirmation receipt as a PDF file. If the GCPCA was submitted on behalf of a Reporting Entity by a different Attesting Entity, plans and issuers should contact their Attesting Entity directly to request proof of submission.

## 2.5 Examples

**Example 1:** The Reporting Entity, Maple Insurance, directly contracts with all providers and attests for all benefits on its own behalf. Traci is the Submitter and the Attester. In this scenario, Traci provides their contact information in the “Enter the Submitter’s Contact Information” section. In the “Enter the Attester’s Contact Information” section, Traci checks the box to indicate that the Submitter and Attester are the same individual. Traci then completes the required fields on the webform regarding Maple Insurance. Traci selects the “yes” button in response to the question, “Are you attesting for all types of provider agreements?” Traci reviews the submission and confirms all of the information entered is accurate. Traci then reviews the attestation text, checks the attestation boxes, electronically signs to attest, and submits the attestation. Traci receives a confirmation e-mail that the attestation was successfully submitted.

**Example 2:** The Reporting Entity, Main Street Plan, is a non-Federal governmental plan that directly contracts with only behavioral health and medical providers on its own behalf and contracts with other vendors for all other benefits.

Sierra works for the Main Street Plan and will serve as both the Submitter and the Attester. In this scenario, Sierra provides her contact information in the “Enter the Submitter’s Contact Information” section. In the “Enter the Attester’s Contact Information” section, Sierra checks the check box to indicate that the Submitter and Attester are the same individual. Sierra then completes the required fields on the webform regarding Main Street Plan. Sierra selects the “no” button in response to the question, “Are you attesting for all types of provider agreements?” She selects “Medical” and “Behavioral health” using the drop-down options to specify the types of provider agreements covered by her attestation. Sierra reviews the submission and confirms all of the information entered is accurate. Sierra then reviews the attestation text, checks the attestation boxes, electronically signs to attest, and submits the attestation. Sierra receives a confirmation e-mail that the attestation was successfully submitted.

Cactus Rx Solutions is the PBM that contracts with pharmacy providers on behalf of Main Street Plan. Maryam works for Cactus Rx Solutions and will serve as both the Submitter and the Attester. In this scenario, Maryam provides her contact information in the “Enter the Submitter’s Contact Information” section. In the “Enter the Attester’s Contact Information” section, Maryam checks the check box to indicate that the Submitter and Attester are the same individual. Maryam then completes the required fields on the webform regarding Main Street Plan. Maryam selects the “no” button in response to the question, “Are you attesting for all

types of provider agreements?” She selects “Pharmacy benefits” using the drop-down options to specify the provider agreement type covered by her attestation. Maryam reviews the submission and confirms all of the information entered is accurate. Maryam then reviews the attestation text, checks the attestation check boxes, electronically signs to attest, and submits the attestation. Maryam receives a confirmation e-mail that the attestation was successfully submitted. Maryam forwards this confirmation e-mail to Sierra.

**Example 3:** Wright’s PBM directly contracts with pharmacies on behalf of multiple plans that are Reporting Entities. The Submitter is Malik, and the Attester is Lupita. In this scenario, Malik enters his contact information in the “Enter the Submitter’s Contact Information” section, and Lupita’s contact information in the “Enter the Attester’s Contact Information” section. Malik populates the Reporting Entity Excel Template with the required information for each plan for which Wright’s PBM contracts with pharmacies. He enters an “X” in column K for each row to specify that the attestation covers only pharmacy benefits. Malik saves the completed Reporting Entity Excel Template as a tab-delimited text file and uploads it to the GCPCA webform. Malik reviews the submission and confirms Lupita’s email address is entered correctly. Malik then notifies Lupita that she should receive an email with her unique authentication code, and the submission is ready for her to attest. Lupita then enters the GCPCA webform, reviews the attestation text, checks the attestation check boxes, electronically signs to attest, and submits the attestation. Malik receives a confirmation e-mail that the attestation was successfully submitted. Malik forwards this confirmation e-mail to all of the Reporting Entities on behalf of whom Wright’s PBM has made the attestations.

### 3 Support and Help Desk Inquiries

#### **Help Desk**

If you have questions about submitting your Gag Clause Prohibition Compliance Attestation, contact the Help Desk at 1-855-267-1515 or [CMS\\_FEPS@cms.hhs.gov](mailto:CMS_FEPS@cms.hhs.gov). Include “GCPCA” in the subject line for faster service.

You can typically expect a receipt confirmation within the same business day. A full resolution of your issue may require 1-2 weeks. Please consider this time frame in your submission preparation time.