# GAG CLAUSE PROHIBITION ATTESTATION GUIDE

*for Employers*


Presented by:

Kate Grangard, CPA, CGMA
Gehring Group/Risk Strategies
Ben Conley, Partner
Seyfarth Shaw


Date: November 14, 2024

# GAG CLAUSE PROHIBITION ATTESTATION GUIDE

*for Employers*

Presented by:

Kate Grangard, CPA, CGMA
Gehring Group/Risk Strategies
Ben Conley, Partner
Seyfarth Shaw

Date: November 14, 2024

1

## Agenda

- Brief Background – What is a "Gag Clause" and Why are They Prominent?
- Regulatory Guidance – Light on Details
- What Are We Seeing?
- Detailed Process Overview
- SB 1550 – Prescription Drug Attestation

2

2

## Background – Why Are We Here?


Source: NASHP.org

3

3

## Background – Why Are We Here?

- Examples of gag clauses:
  - "Do NOT discuss proposed treatments with [health plan] members prior to receiving authorization. Do NOT discuss the [utilization oversight] process with members. Do NOT give out [plan's oversight] phone number to members."
  - "[Plan sponsor] understands and accepts that [TPA]'s provider allowances and negotiated prices are confidential trade secret information which will not be released."

4

4

## CAA Prohibits Gag Clauses

- *Effective Date:* 12/27/2020
- *Who is subject to rule?*
  - Prohibits "group health plans" and "health insurance issuers" from entering into an agreement with:
    - health care provider
    - network or association of providers
    - third-party administrator
    - other service providers offering access to provider network
- *What is prohibited?*
  - Entering into a contract that would directly or indirectly contain a "gag clause"

5

5

## CAA Prohibits Gag Clauses

- *Gag Clause Defined*:
  - Restrictions on disclosure of provider-specific cost or quality of care information through consumer engagement tool (e.g., cost estimator), or to provider, plan sponsor, participants or eligible employees
  - Restrictions on electronic access to de-identified claims/encounter data (e.g., financial info, provider info, service codes, or other data elements)
  - Restrictions on sharing the above information with a business associate for a permitted purpose under HIPAA

6

6

## CAA Prohibits Gag Clauses

- *What's not covered?*
  - Provider/network administrator may impose "reasonable restrictions" on public disclosure of info
  - Not required to disclose full provider contract

7

7

## Who is Responsible to File the Attestation

- **Plans** (plan sponsors) and Issuers (ex: carriers, TPA's) are responsible for filing
- **Fully Insured Plan** – If an issuer submits on their own behalf, and on behalf of the plan, it is considered (by the applicable depts) to have satisfied the attestation requirement for both
- **Self-funded and partially self-funded plans** – plan may enter into written agreement with service provider such as TPA or PBM to file on the plans behalf – however if the service provider FAILS to submit the plans attestation, the plan is in violation
- **Deadline for filing** – December 31, 2024 and by December 31 for each year thereafter.

8

8

## Who is Required to File the Attestation

- **Responsible Entity*** is an **issuer or a plan,** (all kinds, no one exempted – includes ERISA, Church, & state and local government plans) that has entered into an agreement - generally through TPA, Pharmacy Benefit Mangers (BPM), Independent Practice Assns (IPA) or Behavioral Health Managers (BHM) - with health care providers, networks, TPA, or others offering access to a network of providers.
- **Responsible Entity** is responsible for **attesting annually (**unless another party attests on your behalf such as TPA), that reporting entity **complies with prohibition on gag clauses. Note: The responsible Entity is the PLAN not the EMPLOYER.**
- ***changed from "Reporting Entity" in 2023**

9

9

## Regulatory Guidance

| Entities Required to Attest (Reporting Entities) | Entities Not Required to Attest |
|---|---|
| • Issuers offering individual health insurance coverage, including:<br>○ Student health insurance plans<br>○ Grandfathered[1] and grandmothered[2] plans<br>○ Policies sold on or off Exchanges<br>○ Policies sold through an association<br>• Issuers offering group health insurance coverage, including:<br>○ Grandfathered and grandmothered plans<br>○ Policies sold on or off Exchanges<br>○ All other group health insurance plans<br>• Group health plans, including the following to the extent they are considered group health plans:<br>○ ERISA plans[3] (or sponsors of ERISA<br>○ Non-Federal governmental plans,[4] such as plans sponsored by state or local governments<br>○ Church plans[5]<br>○ Grandfathered group health plans | • Account-based plans, such as health reimbursement arrangements (HRAs), including individual coverage HRAs[6]<br>• Issuers and group health plans that offer only excepted benefits[7] coverage, including, but not limited to:<br>○ Hospital indemnity or other fixed indemnity insurance<br>○ Disease-specific insurance<br>○ Dental, vision and long-term care<br>○ Accident-only, disability and workers' compensation<br>• Issuers that offer only short-term, limited-duration insurance<br>• Medicare and Medicaid plans<br>• State children's health insurance |

10

10

## What Are We Seeing?

- *Question 1:*
  - Will TPA/Carrier attest on your behalf?
- *If no, Question 2:*
  - Will TPA provide assurances of no gag clauses?
- *If no, Question 3:*
  - Review contract (and sub-contracts) to confirm no gag clauses *or* amend contract with "override" language.

11

11

## Question 1: Will TPA/Carrier Attest on your Behalf?

- Initial hesitance among TPAs to assume reporting obligation
- Sample contract language:
  - **Gag Clause Attestation**. Claim Administrator will perform, on behalf of Employer, any annual required attestation verifying that the Claim Administrator's contract (and any subcontracts impacting the services thereunder) contains no "gag clauses" as defined under Section 201 of the Consolidated Appropriations Act, 2021, 42 U.S. Code § 300gg–119(a)(1)
- Some TPAs have now agreed (see slides that follow)*

  *Even if your TPA is on this list, you should confirm the TPA will report (in writing)

12

12

## Question 2: Will TPA Provide Assurances?

- Beware of representations that stop short of full assurance:
  - "Both parties will comply with applicable law"
  - "Not aware of any contracts" with prohibited language
  - Statements covering current-year only

13

13

## Question 3: Review Contract

- Remember that prohibition extends to provider contracts that you may not have access to.
- Instead, try "override" language:
  - "**No Gag Clauses**. TPA represents and warrants that nothing in the parties' Agreement (including any subcontracts or provider agreements thereunder) would constitute a "gag clause" as defined under Section 201 of the Consolidated Appropriations Act, 2021, 42 U.S. Code § 300gg–119(a)(1)."

14

14

## Carrier Updates – Who's Filing for Whom
## AETNA – updated for 2024

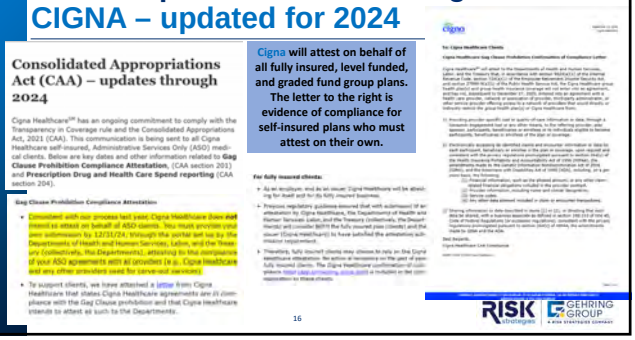

aetna

**Aetna will attest on behalf of all fully-insured group plans but self-insured plans must attest on their own. Compliance attestation to left, noting update to file for fully-insured. Look for individual email of attestation from Aetna.**

15

15

## Carrier Updates – Who's Filing for Whom
## CIGNA – updated for 2024


Consolidated Appropriations Act (CAA) – updates through 2024

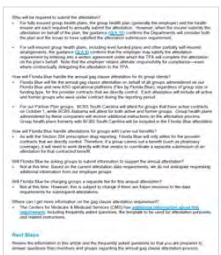
**Cigna will attest on behalf of all fully insured, level funded, and graded fund group plans. The letter to the right is evidence of compliance for self-insured plans who must attest on their own.**

16

16

## Carrier Updates – Who's Filing for Whom
## FLORIDA BLUE


Sales News



**Florida Blue will attest on behalf of all group plans regardless of funding type or entity size as confirmed in their Sales News Alert.**

17

17

## Carrier Updates – Who's Filing for Whom
## UNITED HEALTH CARE-updated for 2024

**United Health Care will attest on behalf of all fully-insured group plans but self-insured plans must attest on their own. See the UHC letter of compliance to right.**


Confirmation of Compliance

United Healthcare

18

18

## Carrier Updates – Who's Filing for Whom
## Carrier Summary: Snapshot as of Today

| Plan Issuer Carrier/ASO | Who Attests when Plan is Fully-Insured | Who Attests when Plan is Self-Insured |
|---|---|---|
| Aetna | Aetna | Plan Sponsor |
| Cigna | Cigna | Cigna – Level and Graded Funded<br>Plan Sponsor – Self-Insured |
| Florida Blue | Florida Blue | Florida Blue |
| | *Expect FMIT – League of Cities will file for all plan sponsors* | |
| FMIT | | |
| Humana | Plan Sponsor | Plan Sponsor |
| United Health Care | United Health Care | Plan Sponsor |

**It is recommended that you keep the confirmation letter you received if a carrier/TPA/PBM has confirmed they will attest on the plan's behalf.**

**If your carrier is not listed above, please check your e-mail for Confirmation of Compliance from your medial and PBM carrier (if not integrated). Please reach out to your consultant for assistance as needed.**

19

19

## Gag Clause Prohibition Attestation Guide

### Completing & Submitting the Attestation Webform

20

20

## 2024 Updates

1. Added webform selection for the "attestation year." Attestations made in 2024, for example, have an attestation year of 2024 even though the attestation period spans from the end date of the 2023 attestation to the attestation date in 2024.
2. Added webform and template fields for the "attestation period," or the date range that the attestation covers.
3. Employer plan types in Step 1 expanded to include 3 categories of group health plans (GHP)
   i. ERISA group health plan (GHP) or sponsor of ERISA plan,* including a plan sponsored or established by a union
   ii. (Non-Federal) governmental group health plan
   iii. Church plan
4. "Reporting Entity" changed to "Responsible Entity."

21

21

## 2024 Updates

5. Step 3, Responsible Entity types expanded in the instructions to clarify that ERISA group health plan (GHP), or sponsor of ERISA plan, includes a plan sponsored or established by a union. Responsible entities also modified to clarify terms:
   i. Third-party administrator (TPA)
   ii. Pharmacy benefit manager (PBM)
   iii. Behavioral health network manager (BHN)
   iv. Other third-party service provider, such as an agent.
6. Step 3, clarified labels in webform and template regarding types of provider agreements:
   i. Medical network
   ii. Pharmacy benefit manager network
   iii. Behavioral health network
   iv. Other
7. Text box added in webform to allow submitter to enter "Other Limitations."
8. Modified attestation language to remove forward-looking agreement actions.

22

22

## 2024 Updates

9. Added Definitions in the appendix, Section 4.2.
10. Modified attestation language to accommodate date range and information provided through the submission process.

23

23

## Attestation Webform Resources

- **Gag Clause Prohibition Compliance Attestation Home Page (where you go to start your attestation https://hios.cms.gov/HIOS-GCPCA-UI**
- **Health & Human Services (HHS) Gag Clause Prohibition Compliance Attestation (GCPCA) webpage:** https://www.cms.gov/marketplace/about/oversight/other-insurance-protections/gag-clause-prohibition-compliance-attestation
  - On this page are links for:
  - Frequently Asked Questions - https://regtap.cms.gov/reg_librarye.php?i=5482
  - Instructions for submitting the GCPCA - https://regtap.cms.gov/reg_librarye.php?i=5481
  - User Manual for submitting the GFPFA - https://regtap.cms.gov/reg_librarye.php?i=5479 (note this includes step by step instructions with screen shots)
  - GCPCA Reporting Entity Excel Template - https://regtap.cms.gov/reg_librarye.php?i=5480

24

24

## Attestation Terms to Know

- **Attesting Entity** – the reporting entity, such as the plan, issuer, or contracted reporting entity (ex: TPA) that attests on behalf of the reporting entity.
- **Attester** – individual with legal authority to sign the GCPCA on behalf of the plan
- **Submitter** – the individual who completes the required fields on the webform and prepares the excel spreadsheet (if needed) on the Attester's behalf, subject to Attester's review and signature
  - The submitter and attester can be the same individual.
  - Only use excel spreadsheet if submitting for more than one reporting entity (ex: FMIT or TPA would use this sheet)

25

25

## Info Needed to Complete the Attestation

- **Submitter** - first name, last name, position title, e-mail address, phone number and employer name
- **Attester** (if different indiv) - first name, last name, position title, e-mail address, phone number and employer name
- **Responsible Entity's Info** - 9 Digit EIN (use EIN for the group health plan. If none, use EIN for plan sponsor)
- **Type of Plan**:
  - ERISA (private and not-for profit)
  - Non-Federal governmental
  - Church

**NOTE: AN EMPLOYER PLAN, EVEN IF SELF-INSURED IS NOT AN ISSUER FOR PURPOSES OF THIS ATTESTATION.**

26

26

## Info Needed to Complete the Attestation

- **Point of Contact info** – person who can respond to questions from the Departments - first name, last name, e-mail address, phone number
- **The types of provider agreements** you will be attesting for (all that apply):
  - Medical
  - Pharmacy Benefit Manager
  - Behavioral Health (when not part of the medical – when a separate not excepted benefit plan)

Note: For non-integrated PBM's – be sure you have verification from each provider that they have complied with the Gag Clause.

27

27

## Filing the Attestation - Resources


**Attestation Step by Step Guide Book – User Manual**
**https://regtap.cms.gov/reg_librarye.php?i=5479**

**Prep Step 1: Collect Info Needed to Complete Attestation for your Plan - see Prior Slides**

**Prep Step 2: Have this Guidebook Handy in the event of Questions**

**Note: You are a reporting entity, reporting as a group health plan.**

**Filing Step 1: BEGIN: https://hios.cms.gov/HIOS-GCPCA-UI**

28

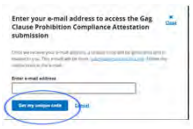
28

## Filing the Attestation – Registering

**BEGIN: https://hios.cms.gov/HIOS-GCPCA-UI**

**Step 1: Receive login credentials**

- **Click Don't have a code or forgot yours? to receive a Unique Code to Login**
- **Enter your email address and press Get my unique code**




**Code will be emailed to you within 10 minutes from submissions@cms.hhs.gov**

29

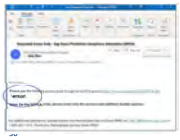
29

## Filing the Attestation - Registering

**BEGIN: https://hios.cms.gov/HIOS-GCPCA-UI**

**Step 1: Receive login credentials - continued**

- While waiting for unique code - this screen will appear. (note this can also be used to access a 1st time or forgotten code)



**Your unique code will be received from HIOS in an Email like this from cms.hhs.gov**

- Code is good for 14 days
- Check Spam if not received in 10 min
- Do not request another code until after 10 min
- Code can not be transferred to others – unique to you

30

30

## Filing the Attestation – Starting!

**BEGIN:** https://hios.cms.gov/HIOS-GCPCA-UI

**Step 2:** Return to Home page and login with email address and unique code

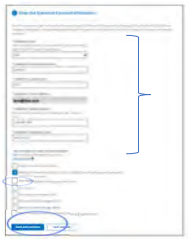
**Step 3:** You should now be at your Dashboard. If you submitted last year for 2023, it will show your prior submission.

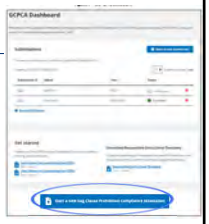
31

31

## Filing the Attestation Identifying Submitter & Entity

**Step 4:** Scroll down on the GCPCA Dashboard and Start the Attestation process by Clicking Submit Gag Clause Prohibition Attestation





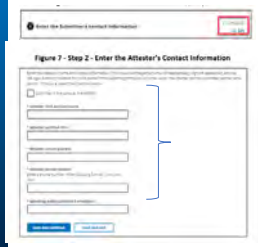
**Step 5: Complete** Enter the Submitter's Contact info. Scroll down - Where it asks "By what type of entity are you employed" select (non-Federal) government group health plan (3rd box down). (Only the non government plans are ERISA.)

Click Save and Continue.

32

32

## Filing the Attestation – Identifying Attestor



**Step 6: Complete** Enter the Attester's Contact info.

**If Submitter and Attester are the same individual – click the box and press** Save and Continue

**OR**

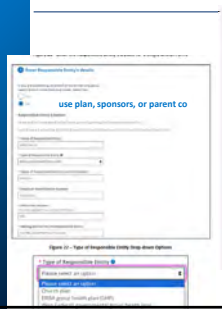
**If the Attester is a different individual – do NOT check the box; complete the requested information**

**press** Save and Continue

33

33

## Filing the Attestation – Reporting Entity Details



**Step 7:** Complete the Reporting Entity (Plan) Details

**A. Complete (Bracketed) Entity Info**

- Choose applicable type of plan:
  1. Non-federal government Plan (state and local govt entities; special taxing districts, constitutional officers, etc)
  2. ERISA Plan – For profit & not for profit * ERISA PLANS ONLY – ENTER THE PLAN NUMBER (best efforts - FOUND ON FORM 5500) – If unknown – enter 000*
  1. Church Plan

*Do NOT choose health insurance issuer*

**B.** Select **"NO"** for **Are you attesting for all provider agreements?**

**C.** Select the provider agreements for which you are attesting. All benefits you have on your plan - Generally medical and pharmacy.

**D. press** Save and Continue

34

34

## Filing the Attestation Single vs Multiple Plans

**Step : 8 Complete Reporting Entity Details**

- Respond NO that you are not submitting on behalf of more than one plan or issuer (multiple plan types under one issuer are generally a single submission)

* Note: Only Multiple entity submissions require the upload of the excel spreadsheet. This is not multiple entities on a plan, but rather multiple different plan sponsors (ex: TPA's, PBM's, and Insurance Carriers)*

- select Save and Continue

Complete attestation period.

35

35

## Filing the Attestation – Attester Hand Off

**Step: 9 – (If applicable) -Confirm the Attester's email address**

*Only appears when the Attester is DIFFERENT than the Submitter*

- Verify address is entered correct
- Press **Send email**
- Attester receives a unique code (within 10 minutes) to login, attest, and complete the filing.

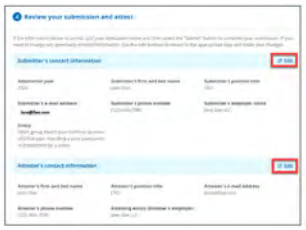
*** Note: When Submitter and Attester are the same individual, Step 9 will be skipped entirely, and Submitter will be taken directly from Step 8 to Step 10 ***

36

36

## Filing the Attestation – Review Submission

**Step: 10 – Review Submission & Attest**

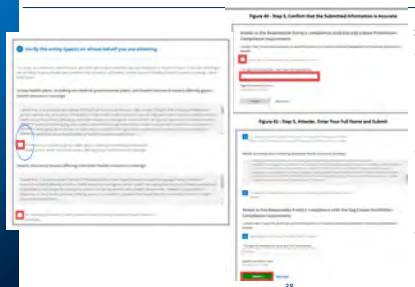


' all information entered is correct
: as needed by pressing the Edit link to right of ble section
ve and Continue once confirmed info is correct

37

37

## Filing the Attestation – Attesting for the Entity



**Step: 11 – Verify entity type and attest**

- Select box that reads "I am attesting on behalf of a group health plan , including neon-federal governmental plans, and health insurance issuers offering group health insurance coverage".
- Attest your submission by clicking attestation box (authority to bind) and typing signature (enter name exactly the same as the first and last name you registered)
- Click **SUBMIT** (Green Button)

38

38

## Filing the Attestation – Attesting for the Entity


**Step: 12 – Download Receipt**

1. Press **Download Receipt** button and save proof of filing for your records.
   - You will receive a PDF
   - If can't download pdf – take screenshot
2. Press **Return to Dashboard**
3. Confirm that the submission shows **COMPLETE and print or save a copy**

39

39

## Filing the Attestation – Tips & Tricks

- **Tips & Tricks**
  - You can hit Save and Exit throughout filling out the Web Form and your form will show "In Progress" on your Dashboard. You can delete or edit prior to submission
  - It is imperative that signatures and emails be entered consistently for both the submitter and attester as applicable.
  - If you open a submission from the dashboard – must resubmit, Save and continue won't do anything (will show pending)
  - Reporting generally covers period of prior attestation to next attestation date: but **need a report by 12/31 of each year**.

40

40

## Filing the Attestation – Tips & Tricks

- **Tips & Tricks**
  - Retiree only plans – no attestation requirement (per webinar moderator)
  - May see future regulations excepting HRA's from this attestation requirement – no concern – They are in non-enforcement pending this future clarifying regulations.
  - Help Desk: 1-855-267-1515
  - Help email: CMS_FEPS@cms.hhs.gov – enter GCPCA in Subject line (Email is recommended over phone)
  - Answers to Questions not answered today will be send out to attendees and loaded on portal.

41

41

## Prescription Drug Reform

42

42

## SB 1550 – Deep Dive

- *Who is Being Regulated?*
  - Applies to commercial health plans, self-insured plans, governmental plans (as well as PBMs, manufacturers and pharmacies)
  - Vests Office of Insurance Regulation (OIR) with significant oversight authority over PBMs

43

43

## SB 1550 – Deep Dive

- *What's in the Bill?*
  - PBMs required to obtain certificate of authority under insurance code
  - Transparency standards:
    - Requires PBM disclosure of affiliation with pharmacies, insurance companies
    - Requires manufacturer reporting of increase in wholesale acquisition costs of Rx

44

44

## SB 1550 – Deep Dive

- *What's in the Bill?*
  - Regulates contracts between PBMs and benefit plans:
    - Requires pass-through pricing
    - "Spread" pricing prohibited unless any difference passed through to plan
    - Requires 100% of rebates to be passed through to plan for purpose of offsetting cost-sharing/premiums (if contract delegates rebate negotiations to PBM)
  - Regulates PBM contracts with pharmacies
    - Prohibits financial clawbacks
    - Requires PBM to offer appeal right to pharmacies

45

45

## SB 1550 – Deep Dive

- *What's in the Bill?*
  - Prohibits various practices:
    - PBM cannot penalize pharmacies for disclosing information to patients regarding nature of treatment, risks, availability of alternatives, or disclosures to OIR
    - PBM cannot exclude pharmacies from networks based on standards more stringent than state/federal guidelines
    - Bans steering
    - Prohibits data sharing without participant consent
  - Requires annual attestation *from health plan* affirming compliance

46

46

## SB 1550 – Deep Dive

- *What's in the Bill?*
  - Provisions potentially impacting plan design
    - Prohibits "affiliate-only" networks
    - Bans mail-order-only mandates (optional mail-order programs still permitted, and mail-order still allowed if drug is unavailable at pharmacies)
    - Prohibits "fail-first" or "step therapy" requirements
    - Requires 60 day continuity of care period for certain formulary changes

47

47

## SB-204 Federal Prescription Drug Reporting

- *What's in the Bill?*
  - Provisions potentially impacting plan design
    - Prohibits "affiliate-only" networks
    - Bans mail-order-only mandates (optional mail-order programs still permitted, and mail-order still allowed if drug is unavailable at pharmacies)
    - Prohibits "fail-first" or "step therapy" requirements
    - Requires 60 day continuity of care period for certain formulary changes
    - **Expect email from carrier asking for your contribution and premium costs and TIN to be submitted**

48

48

## Next Steps for Employers

- *How are Employers Responding?*
  - Confirm compliance with plan vendors
  - Submit attestation to Florida Office of Insurance Regulation (see sample provided) at PBMreporting@floir.com

49



**Questions?**

Kate.grangard@gehringgroup.com
Kate.grangard@mybentek.com
Direct Phone: (561) 629-2001


50

50

# Exhibit E
# Sample Employee Benefit Newsletters


Employers subject to Affordable Care Act (ACA) reporting under Internal Revenue Code Sections 6055 or 6056 should prepare to comply with reporting deadlines in early 2025.

For the 2024 calendar year, covered employers must:

- File returns with the IRS electronically by **March 31, 2025** (or by **February 28, 2025**, if filing on paper). Employers that file **at least 10 returns** during the calendar year must **file electronically**.
- Ensure that statements are furnished to individuals **upon request**, by Jan. 31 of the year following the calendar year to which the return relates or 30 days after the date of the request, whichever is later. Reporting entities **must give individuals timely notice** of this option, in accordance with any requirements set by the IRS. Reporting entities that do not wish to take advantage of this new furnishing method can provide the statements by **March 3, 2025**.

## IMPORTANT DATES

**Feb. 28, 2025**
Paper IRS returns for 2024 must be filed by this date. Reporting entities can only file up to 10 returns on paper.

**March 3, 2025**
Reporting entities should provide statements by this date, noting that we are recommending you continue to mail them for the 2024 reporting year due to the lack of clarity regarding the definition of "timely notification" from the IRS (more details below).

**March 31, 2025**
Electronic IRS returns for 2024 must be filed by this date.

### Covered Employers

The following employers are subject to ACA reporting:

- Employers with **self-insured health plans** (Section 6055 reporting)
- **Applicable large employers (ALEs)** with either fully insured or self-insured health plans (Section 6056 reporting)

ALEs are employers with **50 or more full-time** employees (including full time equivalent employees) during the preceding calendar year. Note that ALEs with self-funded plans are required to comply with both reporting obligations. However, to simplify the reporting process, the IRS allows ALEs with self-insured plans to use a single combined form to report the information required under both Sections 6055 and 6056.

### Section 6055 and 6056 Reporting

- Section 6055 applies to providers of minimum essential coverage (MEC), such as health insurance issuers and employers with self-insured health plans. These entities generally use Forms 1094-B and 1095-B to report information about the coverage they provided during the previous year.
- Section 6056 applies to ALEs—generally, those employers with 50 or more full-time employees, including full-time equivalents, in the previous year. ALEs use Forms 1094-C and 1095-C to report information relating to the health coverage that they offer (or do not offer) to their full-time employees.

Employers reporting under both Sections 6055 and 6056—specifically, ALEs with self-insured plans—use a combined reporting method by filing Forms 1094-C and 1095-C.

### Annual Filing Deadline

Generally, forms must be filed with the IRS annually, no later than **March 31** (or **February 28**, if filing on paper) of the year following the calendar year to which the return

relates. Employers may receive an automatic 30-day extension to file with the IRS by completing and filing Form 8809 by the due date of the return. Additional extensions of time to file may also be available under certain hardship conditions.

### Individual Statements Upon Request

Under the original reporting rules, reporting entities had to furnish statements annually to each individual who was provided with MEC (under Section 6055) and each of the ALE's full-time employees (under Section 6056). These statements were provided using Forms 1095-B and 1095-C; however, the IRS allows Forms 1095-B to be provided to individuals upon request if certain requirements are satisfied.

Under this alternative manner of furnishing Forms 1095-B, reporting entities must:

- Post a clear and conspicuous notice on its website stating that responsible individuals may receive a copy of their statement upon request. The notice must include an email address, a physical address to which a request may be sent and a telephone number to contact the reporting entity with any questions.
- For 2024 statements, reporting entities must post the notice by March 3, 2025, and must retain the website notice through Oct. 15, 2025.

The Paperwork Burden Reduction Act codifies this alternative manner of furnishing Forms 1095-B, and extends this flexibility to furnishing Forms 1095-C as well. Accordingly, **reporting entities are no longer required to send Forms 1095-B and 1095-C to covered individuals unless a form is requested.**

Reporting entities must give individuals timely notice of this option, in accordance with any requirements set by the IRS (**while the IRS has not outlined what constitutes "timely notice"** of the option to request Forms 1095-C, the requirements regarding the alternative manner of furnishing Forms 1095-B still apply). Requests must be fulfilled by **January 31 of the year following the calendar year to which the return relates or 30 days after the date of the request**, whichever is later. Reporting entities that do not wish to take advantage of the new furnishing method can provide the statements by March 3, 2025. Given this uncertainty, we recommend that employers continue mailing Form 1095-C to employees for the 2024 reporting year. Also, reporting entities should continue to comply with applicable state reporting requirements.

In addition, the Employer Reporting Improvement Act provides that statements can be provided **electronically** to individuals if they have affirmatively consented "at any prior time" (unless they have revoked such consent in writing).

### Electronic Filing

The electronic filing threshold for returns required to be filed on or after January 1, 2024, is **10 or more returns** (originally, the threshold was 250 or more returns). The instructions for 2024 returns (filed in 2025) provide the following clarifications and reminders:

- The 10-or-more requirement applies in the **aggregate** to certain information returns. Accordingly, a reporting entity may be required to file fewer than 10 of the applicable Form 1094 and 1095, but still have an electronic filing obligation based on other kinds of information returns filed (e.g., Forms W-2 and 1099).
- The electronic filing requirement does not apply to those reporting entities that request and receive a hardship waiver; however, the IRS encourages electronic filing even if a reporting entity is filing fewer than 10 returns.
- The formatting directions in the instructions are for the preparation of paper returns. When filing forms electronically, the formatting set forth in the "XML Schemas" and "Business Rules" published on IRS.gov must be followed rather than the formatting directions in the instructions. For more information regarding electronic filing, see IRS Publications 5164 and 5165.

Electronic filing is done using the ACA Information Returns (AIR) Program. The IRS has provided guidance on electronic reporting through its AIR Program main page, but this guidance is generally very technical and intended for software developers and other entities that plan on providing electronic reporting services. Nonetheless, it can provide useful information on standards and procedures for returns transmitted through the AIR Program.

**Questions?**
Contact Cindy Thompson, Vice President of Operations
Cindy.Thompson@gehringgroup.com

RISK strategies | GEHRING GROUP
A RISK STRATEGIES COMPANY

# Starting in 2024
# Most Employers Must File ACA Forms with the IRS Electronically


## Summary:

The Affordable Care Act (ACA) created reporting requirements under Internal Revenue Code (Code) Sections 6055 and 6056. Under these rules, certain employers must provide information to the IRS about the health plan coverage they offer (or do not offer) to their employees. This information is provided by Applicable Large Employers (ALE) to their employees annually on Form 1095-C. Additionally, issuers including self-insured employers, provide plan participants a report of coverage on Form 1095-B or Form 1095-C, as applicable. These Forms are filed with the federal government, with a copy to the individual taxpayer each year, for the prior calendar year.


## Important Dates:

- Furnish Form 1095-C to your employees by **March 04, 2024.**
- File Forms 1094-C and 1095-C with the IRS by **February 28th, 2024** if filed by *paper*.
- File Forms 1094-C and 1095-C with the IRS by **April 1st, 2024** if filed *electronically*.

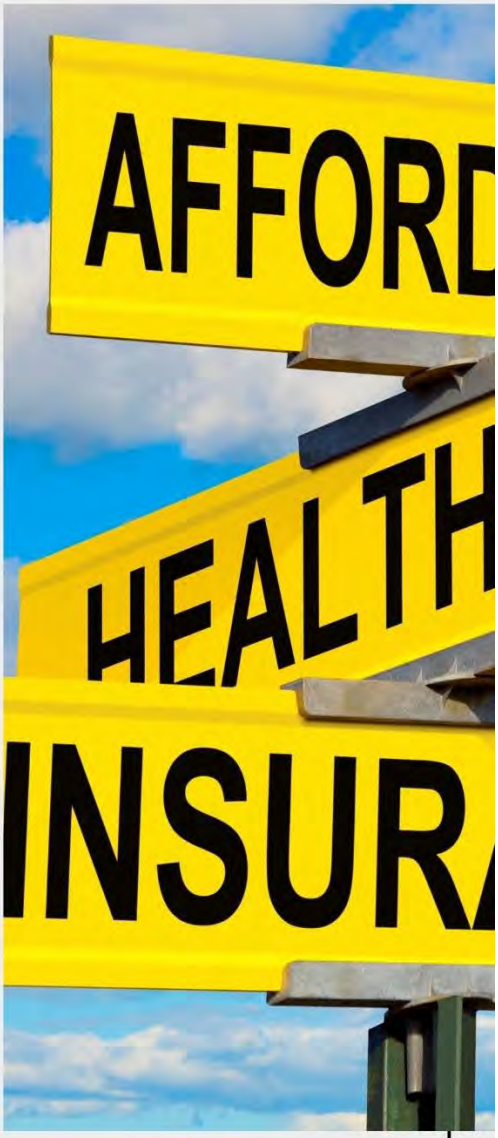
## Electronic Reporting Requirement

Since inception, any reporting entity required to file at least 250 individual Form 1095 statements has been required to file electronically to avoid penalty. However, on Feb. 23, 2023, the IRS released a *final rule* implementing a law (Taxpayer First Act of 2019), which **lowers the 250-return threshold for mandatory electronic reporting to 10 individual information returns. To calculate if employers must file electronically, employers must aggregate all their informational returns to be filed, including not only Forms 1094 and 1095, but also Forms W-2, and 1099's for example; and file electronically if the total of all information returns is more than 10.** Due to the lowered threshold, only the smallest employers will be permitted to file using paper returns. This new requirement starts with the filing of the 2023 informational returns which will be filed in 2024. Accordingly, many employers who were able to file paper Form 1094/1095 returns in prior years, will now be required to complete their ACA reporting electronically starting in 2024.

Affected employers have two new considerations going forward regarding the filing of 1095 forms due to this new requirement:

- This may affect the filing deadline for remitting the plans annual 1095 Forms. Please take note of this new requirement and respective deadlines and update your reminder calendars accordingly
- An electronic filing method/vendor should be selected in advance of the 2023 year-end to facilitate the required electronic filing requirement in early 2024.

Issuers, employers and other reporting entities generally use a third-party vendor to file electronically with the IRS on their behalf. As a result, these entities will not directly use the federally established reporting resource, the *AIR Program*, themselves. However, if you have filed your ACA forms (1094/1095) on paper in the past and would like information regarding a reliable third-party vendor to perform your 2024 filing (for calendar year 2023) electronically, please contact Cindy Thompson at cindy.thompson@gehringgroup.com for partner and discounted pricing information. Please note that your current payroll vendor or ERP System may also provide this service, some of whom may require you to register with the AIR System. Please be sure to ask this question when vetting your vendor.




**Waiver From Electronic Filing Requirement**

A hardship waiver may be requested from the electronic filing requirement by submitting Form 8508, Application for Waiver from Electronic Filing of Information Returns, to the IRS. Reporting entities are encouraged to submit Form 8508 **at least 45 days before the due date of the returns, but no later than the due date of the returns**. The IRS does not process waiver requests until Jan. 1 of the calendar year the returns are due. Without an approved waiver, a reporting entity that is required to file electronically but fails to do so may be subject to a penalty of up to **$290** per return (as adjusted annually) unless it can establish reasonable cause.



**Our mailing address is:**

Gehring Group
3500 Kyoto Gardens Drive
Palm Beach Gardens, FL 33410

# Exhibit F
# Client Letters of Recommendation

WEST PALM BEACH

Human Resources

August 25, 2023

Kurt Gehring
The Gehring Group
3500 Kyoto Gardens Drive
Palm Beach Gardens, FL 33410

Dear Kurt,

It is with great pleasure that I have the opportunity to recommend the Gehring Group for all services related to support of a self-funded Employee Health Benefits Plan. During the City's long relationship with the Gehring Group, they have provided a superior level of employee benefit consulting expertise with a high priority on satisfaction, cost reduction and customer service. g

As part of the City of West Palm Beach's employee benefits cost saving strategy, the Gehring Group has guided the City through the RFP design, evaluation, selection and implementation of our health plan and our onsite health clinic. Our Gehring Group team facilitates annual meetings with our insurance providers and TPAs, monitors trends and provides cost savings recommendations. The addition of an employee clinic has proven to be an asset in attracting talented employees, cost savings to the employees and retirees, and it provides a great return on investment for the City.

The City has always had great confidence with the Gehring Group and their ability to problem solve and bring forth ideas that help the City to be a top choice for employees due the benefits it offers.

I am pleased to recommend the Gehring Group to any organization for employee benefits and onsite clinic consulting services. If you have any questions, please feel free to contact me at (561) 494-1021.

Best regards,

Sylvia C. Gregory, PHR
Assistant Chief Human Resources Officer

401 CLEMATIS STREET
P.O. BOX 3366
WEST PALM BEACH, FL 33402
561.494.1000

CHARLOTTE COUNTY
FLORIDA

August 30, 2023

Kurt Gehring
The Gehring Group
3500 Kyoto Gardens Drive
Palm Beach Gardens, FL 33410

Dear Kurt,

I am pleased to provide a recommendation letter for the Risk Strategies for all you have done and continue to do in support of our self-funded Employee Health Benefits and our Property and Casualty Plans. The County has enjoyed the long-standing relationship and outstanding support of our Employee Health Plan and our two Employee Health Clinics. Charlotte County regards your company as an extension of our staff and our success is a direct reflection of you and your entire team.

As part of Charlotte County's employee benefits program your team has helped us to control costs, perform RFP design, evaluation, and implementation, coordinated insurance committee meetings, provided us with the knowledge and expertise to open two employee health clinics. The first clinic opened in 2009 has provided us with excellent care for our plan members and proven to be an integral part of our cost savings strategy.

The Property and Casualty Self Insured program partnership first was solidified by the guidance provided navigating through the Hurricane Charley response, recovery and again with Hurricane Ian, and worked directly with our carriers to maximize their financial involvement. Your staff's technical and institutional knowledge in this arena continue to this day.

I am pleased to provide the County's recommendation letter in support of the Risk Strategies for employee benefits and onsite clinic support in addition to our Self-Insured Property and Casualty program.

If you have any questions, I can be reached at 941.743.1244.

Sincerely,

Jennifer Bullistron

Jennifer Bullistron
Risk/Benefits Coordinator

DEPARTMENT OF HUMAN RESOURCES
**THE SCHOOL BOARD OF MARTIN COUNTY, FLORIDA**
1939 SE Federal Highway • Stuart, Florida 34994 • Telephone (772) 219-1200 Ext: 30100 • Facsimile: (772) 219-1230

**JULIE SESSA, ARM, SHRM-SCP,** Assistant Superintendent of Human Resources
**SHANNON ARMSTRONG,** Director of Talent Acquisition
**MAURICE G. BONNER,** Director of Human Resources
**DON CALDERONE, ARM,** Director of Risk Management & Employee Benefits

August 21, 2023

RE: Recommendation for Gehring Group Insurance Brokers & Consultants

To Whom It May Concern:

Please accept this letter of reference as a formal recommendation in support of the Gehring Group. The Martin County School Board has contracted with the Gehring Group for more than 20years to assist in obtaining, maintaining, and administering a wide range of employee benefits, most notably our medical insurance.

The Martin County School Board currently has a fully insured program, including medical, dental, vision, and life insurance as well as long-term and short-term disability insurance, an employee assistance program, flexible spending accounts, and other supplemental insurance. The Gehring Group has provided us with skilled, accurate and timely benefit analysis, wellness program support, suggested benefit design changes, and consultant with us on numerous regulatory and administrative matters.

It is my profound pleasure to work with both Mr. Dustin Kuehn, a senior benefits consultant with the firm, and his account service team. Their dedication to our school district is strong, the relationships are sincere, and the technical support is outstanding.

Contact me anytime if I can be of further assistance to you.

Sincerely,

Julie L. Sessa

Julie L. Sessa, ARM, SPHR, SHRM-CP
Assistant Superintendent of Human Resources

PALM BEACH COUNTY
# SHERIFF'S OFFICE
RIC L. BRADSHAW, SHERIFF

October 9, 2018

Ladies & Gentlemen:

The Palm Beach County Sheriff's Office has enjoyed a long relationship with the Gehring Group, as they have been our Agent of Record for Employee Benefits for over 20 years. During this extensive period of service, Gehring Group has provided outstanding service to our organization. They are highly regarded by me and my staff and have been a source of unqualified support and expertise to us throughout the years.

It is with pleasure that I recommend Gehring Group to other organizations. Please do not hesitate to call for further information.

Sincerely,

Ric L. Bradshaw
Sheriff

3228 Gun Club Road ▪ West Palm Beach, Florida 33406-3001 ▪ (561) 688-3021 ▪ Email: BradshawR@pbso.org

SARASOTA COUNTY SHERIFF'S OFFICE
FAIRNESS - INTEGRITY - RESPECT - SERVICE
SHERIFF KURT A. HOFFMAN
COLONEL BRIAN WOODRING, CHIEF DEPUTY

June 20, 2022

Mr. Kurt Gehring
Gehring Group
3500 Kyoto Gardens Drive
Palm Beach Gardens, FL 33410

Dear Mr. Gehring:

We have partnered with the Gehring Group for over twelve years and would like you to know the services you and your staff have provided, specifically over the last three years have been invaluable. The decision we made three years ago to manage our own program was not made lightly. We were faced with multiple decisions outside of our comfort zone and the expertise and guidance we received from the Gehring Group equipped us for such an undertaking.

On several occasions, your team have dropped everything and come to our offices, answered calls and emails and helped us navigate the tasks at hand. Your staff was able to ask the right questions, examine complex data, and provide us with clear and concise information that vitally impacted our organization and employees. I am confident that we would not have been as successful procuring and creating our own program if we had not engaged your firm. This could not have been accomplished without the consult we received from your dedicated and knowledgeable staff.

If you have any current projects that you wish to list the Sarasota County Sheriff's Office as a reference, you have my express permission to do so. Please accept this letter with my appreciation for what you and your staff did for us. We look forward to continued collaboration with you for the betterment of our employees and agency.

Respectfully,

Kurt A. Hoffman, Sheriff
Sarasota County, Florida

# Exhibit G
# Bentek® Online Enrollment & Administration System

bentek
BENEFITS TECHNOLOGY

# The LEADER in Public Sector Benefits Technology

## Simplify your Journey with Bentek

## How Bentek Helps Navigate Public Sector & Sophisticated Human Resources


### INSPIRED BY YOU
We rely on client feedback and insight to help us define product features and prioritize our roadmap.

### CUSTOMIZATION
Bentek's customization capabilities are limitless, with more than 4,500 business rules.

### UNLIMITED CONSULTATIVE SUPPORT
Bentek's dedicated Client Success teams provide year-round training and benefit administration best practices, offering strategies for transitioning HR/Payroll systems and more.

### PERSONALIZED ENROLLMENT
We believe that open enrollment should be easy and unique to each employee. Whether making changes or completing a passive enrollment, employees can submit enrollment sessions with just a few clicks.

### DEPENDENT VERIFICATION AND TRACKING
Built in tools to manage and track supporting docs for eligible dependents all year long. No more outsourcing!

### YEAR-ROUND TECHNICAL SUPPORT
Employees and administrators can reach out to or Bentexpert Support Services team ANYTIME by phone, email or chat for assistance no additional cost.

### EMPLOYEE ENGAGEMENT
With the help of our schedulers, administrators can automate the generation and transmission of EDI, exports, imports, and reports!

adminsights℠

Dashboards with real-time data, statistics and user activity.

benchek℠

Automated auditing tools scrub for data and deduction discrepancies.

retiresweet™

Centralized retiree administration with invoicing and payment tracking.

sales@mybentek.com | Email
877.523.6835 | Phone
mybentek.com | Website

Want to Learn More?
**Contact Us!**

bentek
BENEFITS TECHNOLOGY


## Real-Time Data At Your Fingertips

Easy Access to Detailed Reporting with One Click!

Monitor Usage and Track System Activity

Customize with Over 20 Widgets to Choose From

### A Dashboard Customized by You, for You

Design the look and feel of your dashboard to access and consume the information you need quickly and consistently. Add the widgets that are most important and arrange them in a way that works for you.

### Employee Engagement Measured Simply

Access data easily to track and measure employee engagement in the Bentek system. Monitor the activities performed by employees and your Admin team to ensure tasks are completed timely!

### Graphs & Charts for Easy Consumption

Adminsights automatically displays data in graphs to make consuming information quick and efficient. These visual charts can be adjusted and modified with simple filter options so you can dig deeper when necessary.

### Quick Access to Download and Export

Each widget on your dashboard features a download option, providing you access to complete report details in just one click!

### Monitor Scheduled Tasks with Ease

Managing benefits requires numerous daily, weekly, and monthly tasks. Your dashboard widgets will keep you informed of all the scheduled tasks and automated processes in Bentek. These widgets will help you stay organized with a list of all recurring tasks, so you are always in the know!

### What's Trending

Where the standard Admin dashboard allows you to manage enrollments and day-to-day tasks, the Adminsights dashboard provides detailed trends over time. Using this data, you can monitor how your system is being used by employees and administrators and identify any process gaps or the need for additional education and training!

**Want to Learn More?**
Contact Us!

**Email |** sales@mybentek.com
**Phone |** 877.523.6835
**Website |** mybentek.com

bentek
BENEFITS TECHNOLOGY

# benchek℠

## Creating the Perfect Fit with *Integration and Automation*

### Clean Data = Complete Confidence

Save Time & Money

Reduce Eligibility & Premium Discrepancies

Focus on what Matters Most, Your Employees

### HRIS Integration

Automate demographic and personnel changes with seamless integration! This Benchek tool eliminates data entry, expedites processing time, and most important, keeps your eligibility clean year-round!

### Payroll Integration

Gone are the days of entering benefit changes after open enrollment! Our team of experts will lead the way to streamline the processing of benefit deductions gaining efficiency and ensuring accuracy after open enrollment and year-round!

### Benefit Enrollment & Premium Reconciliation

With the Benchek payroll audit, you can review and reconcile discrepancies with ease! Benchek does all the heavy lifting and identifies any discrepancies between Bentek and Payroll every pay period creating cleaner payroll runs and carrier bills!

### Automated Eligibility Files

'Set it and forget it' – that's our motto for eligibility files. Once your files are scheduled, Bentek will do the rest! For even more peace of mind, administrators receive email/text notifications when all files are generated and transmitted.

### Historical Data & Audit Trails

Automation shouldn't eliminate transparency! Every automated process offered through Benchek has an audit trail. Administrators can view report history of the changes processed including demographics, personnel data, and any discrepancies identified in every payroll audit completed. You will always have access to your organizations historical data and can easily export this data to share with other members of your team.

### White-Glove Service

Leverage the expertise and award-winning service of the Bentek Client Success Team! Our goal is to ensure every client has an amazing experience. Your dedicated team will lead the charge to set-up the suite of Benchek tools that will ensure your data is accurate year-round!

**Want to Learn More?**
Contact Us!

**Email |** sales@mybentek.com
**Phone |** 877.523.6835
**Website |** mybentek.com

bentek
BENEFITS TECHNOLOGY

# retiresweet℠

## A Streamlined Approach to *Retiree Benefits Administration*

### A Simplified Experience for Easier Retiree Enrollment

Easy Enrollment Experience!

Access to Benefit Information Anywhere, Anytime

Effortless Communication to Stay in the Know

## *ONE* SYSTEM TO MANAGE RETIREES

Retiresweet offers a singular, comprehensive system to manage your retirees. The days of tracking invoices in one system and cross-referencing eligibility in another are over!

## AUTOMATED FEATURES TO SAVE TIME AND ENERGY

### Automated Payments and Invoicing

Innovative solutions to eliminate manual invoicing and payment tracking using automation

### Automated Communications

Keep everyone in the know by composing, scheduling, and delivering communications right from the Retiresweet module

### Automated Reporting

Monitor eligibility with real-time dashboards and comprehensive scheduled reporting

## CONFIGURABLE FOR MULTIPLE RETIREE GROUPS

Need to manage different groups of retirees with different needs? No problem! Retiresweet enables administrators to configure multiple cohorts of users that can be tracked and managed in one location.

## TRACK PREMIUM SUBSIDIES WITH EASE

Create and configure premium subsidies to better manage your organization's eligibility requirements and premium details. Build-in tools to track Years of Service and Pension plans will help save you time and energy managing your retirees

## TRACK AND MANAGE ELIGIBILITY AND ENROLLMENT

The Retiresweet dashboards make tracking and managing retiree enrollment and eligibility a breeze, including grandfathered retirees!

Want to Learn More?
**Contact Us!**

**Email |** sales@mybentek.com
**Phone |** 877.523.6835
**Website |** mybentek.com