

KELLY, HANNAFORD & BATTLES P.A.

ATTORNEYS AT LAW

3900 CAMPBELL MITHUN TOWER

222 SOUTH NINTH STREET

MINNEAPOLIS, MINNESOTA 55402

TELEPHONE (612) 341-0881

FACSIMILE (612) 341-1041

ANTHONY R. BATTLES
JULE M. HANNAFORD IV
A. DAVID KELLY
JOHN W. HAINE
SONJA LEMMER MARTENS

MARK D. MEYER
OF COUNSEL

WRITER'S DIRECT DIAL:
612/455-6086
SMartens@KHBlaw.com

January 16, 2004

Re: Health Insurance Portability and Accountability Act of 1996 ("HIPAA")

Dear Clients and Other Friends:

Employers that sponsor group health plans are now (in the case of larger plans) or will soon find themselves (in the case of smaller plans) subject to a new and daunting set of rules governing, among other things, the privacy of their employees' medical records. (The term "health plan" includes medical plans, dental plans, health spending account plans, and Employee Assistance Programs.) The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") imposes certain deadlines for compliance with HIPAA's privacy regulations. While large health plans were required to come into compliance by April 14, 2003, small plans have until April 14, 2004 to comply with the privacy regulations.

The HIPAA regulations define a "small health plan" as a health plan with annual receipts of \$5,000,000 or less. For employer-sponsored health plans that are fully insured, "annual receipts" means total premiums paid for health insurance in the last full fiscal year. For self insured health plans, "annual receipts" means the total amount paid by the Plan sponsor for claims during the plan's last full fiscal year.

Exempted from the definition of small health plan are self-insured and self-administered plans with less than 50 eligible employees.

If a plan is a HIPAA "small health plan", then it must comply with the requirements of the privacy regulations by the April 14, 2004 deadline. Depending on its specific circumstances, the Plan may be required to do some or all of the following:

- Amend plan documents to cover privacy issues.
- Establish written procedures outlining privacy requirements.
- Establish safeguards to assure that unauthorized persons do not have access to private health information (locked file cabinets, secure computer arrangements, etc.)
- Provide individual notices regarding privacy rights.
- Amend contracts and service agreements with certain "business associates" to comply with HIPAA privacy rules.
- Establish record retention policies for privacy related information.
- Train personnel to comply with HIPAA requirements.

January 16, 2004

Page 2

The April 14 deadline for compliance by small health plans is soon approaching. We understand that many employers with small health plans are facing issues dealing with HIPAA compliance. Please call us if we can be of any assistance to you in complying with the HIPAA privacy regulations applicable to small health plans.

Very truly yours,

Sonja Lemmer Martens

SLM/hgn