

FORM 10-10**Employee Confidentiality Agreement**

HIPAA's privacy rules require covered entities to train their "workforce" on policies and procedures regarding protected health information. (See ¶520 of the Guide.) The proposed privacy rules would have required workforce members to sign statements certifying that they had completed privacy training. Although the final rules eliminated this requirement, a covered entity still must prove that its workforce is trained for documentation purposes. Employers may wish to require some certification from those who have completed the training. A sample certification follows.

The certification should be reviewed to ensure that it does not conflict with the existing employee handbook or other human resources materials or policies.

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Employee Confidentiality Agreement of ABC Co.

I, _____, have read and understand the [Name of Employer] policies regarding the privacy of individually identifiable health information (or protected health information (PHI)), as mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) [if appropriate, also list relevant state legislation]. In addition, I acknowledge that I have received training in [Name of Employer] policies concerning PHI use, disclosure, storage and destruction as required by HIPAA.

In consideration of my employment or compensation from [Name of Employer] I hereby agree that I will not at any time — either during my employment or association with [Name of Employer] or after my employment or association ends — use, access or disclose PHI to any person or entity, internally or externally, except as is required and permitted in the course of my duties and responsibilities with [Name of Employer], as set forth in [Name of Employer] privacy policies and procedures or as permitted under HIPAA. I understand that this obligation extends to any PHI that I may acquire during the course of my employment or association with [Name of Employer], whether in oral, written or electronic form and regardless of the manner in which access was obtained.

I understand and acknowledge my responsibility to apply [Name of Employer] policies and procedures during the course of my employment or association. I also understand that unauthorized use or disclosure of PHI will result in disciplinary action, up to and including the termination of employment or association with [Name of Employer] and the imposition of civil penalties and criminal penalties under applicable federal and state law, as well as professional disciplinary action as appropriate.

I understand that this obligation will survive the termination of my employment or end of my association with [Name of Employer], regardless of the reason for such termination.

Signed _____ Date _____