



Office Manual—HIPAA Section Table of Contents

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HIPAA OVERVIEW

Background:

“HIPAA” is an acronym, which stands for the Health Insurance Portability and Accountability Act of 1996. HIPAA is a very complex federal law involving a myriad of federal regulations.

HIPAA is a term that many are familiar with, but few actually understand. This overview, while only scratching the surface of HIPAA, will hopefully assist in demystifying some of the more relevant portions of HIPAA for our payers, providers, and members. The text that follows is only meant to supplement and guide you to the links provided. The links will guide you to information provided directly to the public by the Department of Health and Human Services or other entity.

It is important to note that this overview is not legal advice. This information is only provided as general educational material. Any issues you may encounter with this law or its accompanying regulations should be discussed with competent counsel.

For HIPAA compliance dates, please click on the following link:

<http://www.cms.hhs.gov/HIPAAGenInfo/Downloads/HIPAAComplianceDeadlines.pdf>

Covered Entities:

A Covered Entity is defined in the regulations as:

- a health plan,
- a health care clearinghouse, or
- a health care provider who transmits any health information in electronic form in connection with a transaction covered by HIPAA.

Covered Entities are the only entities that are directly subject to the provisions of HIPAA. Determining whether or not your entity is a Covered Entity can sometimes be tricky. The assistance of legal counsel is suggested. The Department of Health and Human Services Centers for Medicare and Medicaid Services (“CMS”) has also provided an online tool to assist in making this determination.

<http://www.cms.hhs.gov/apps/hipaa2decisionsupport/default.asp>

Covered Entities are directly governed by the terms of the law and regulations and must abide by the requirements set forth therein. Other entities are not directly subject to the terms of HIPAA, but may be subject to these same provisions through contracts known as Business Associate Agreements or subcontractor agreements.

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Business Associates and Business Associate Agreements:

The definition of a Business Associate is not as clear as that of a Covered Entity. Generally speaking, a Business Associate is any person or entity that provides services to a Covered Entity, which either fall under the provisions of HIPAA or that involve the use or disclosure of individually identifiable health information. This would include the Covered Entity's service providers such as attorneys, accountants, billing companies, etc. It is also common to include such service providers as shredding and cleaning companies in this classification due to the fact that they may come into contact with individually identifiable health information.

The consequence of being a Business Associate is that the person or entity is contractually required to abide by the terms of HIPAA through the execution of a Business Associate Agreement. This Business Associate Agreement is a contract that binds the Business Associate to agree to abide by the terms of HIPAA. The Covered Entity generally provides the Business Associate Agreement to the Business Associate, as it is the Covered Entity's responsibility to have this agreement in place prior to allowing work to be performed on its behalf. The material terms of the Business Associate Agreement are derived directly from the regulations.

Health and Human Services Office of Civil Rights ("OCR") has provided a sample version of language that may be used in a Business Associate Agreement. This language of course, is only provided as a guide or a starting point, but is an excellent resource. The actual terms of the Agreement should be carefully reviewed with legal counsel and negotiated according to the terms of the situation at hand. To view this sample language, you may click on the link below.

<http://www.hhs.gov/ocr/hipaa/contractprov.html>

Privacy Rule:

Generally speaking, the HIPAA Privacy Rule is designed to safeguard patient information (also known as protected health information or PHI) from any unauthorized use or disclosure. The Department of Health and Human Services has provided a great overview of the Privacy Rule. That overview document can be viewed by clicking on the following link:

<http://www.hhs.gov/ocr/privacysummary.pdf>

Clicking on the following link will provide you with an additional summary resource:

<http://www.hhs.gov/news/facts/privacy.html>

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Links to the actual privacy regulations can also be found on the HHS site. Please click on the link below to view this information.

<http://www.hhs.gov/ocr/hipaa/finalreg.html>

The Privacy Rule was designed to protect the privacy of patient information and clarify the roles and responsibilities in regards to the handling and treatment of this information. Individually identifiable health information, PHI, or protected individually identifiable health information is any information pertaining to a patient that in any way relates to or identifies that patient. The actual definitions contained within the regulations are considerably longer. Any question as to whether or not some amount of information is protected under HIPAA should be resolved by analyzing the data against the regulations.

The Privacy Rule contains various restrictions on how and when this information may be disclosed, used, or accessed and by whom. The Privacy Rule also specifies what records must be kept when that information is wrongly disclosed.

Security Rule:

The Security Rule is a group of regulations whose primary goal is to ensure the security and integrity of individually identifiable health information that is stored or transmitted in electronic format. The Security Rule includes a variety of specific requirements that must be implemented by Covered Entities. These requirements fall within three categories:

- Administrative security,
- Technical security, and
- Physical security.

Unlike the Privacy Rule, not all aspects of the Security Rule are absolutely mandatory. However, it is important to note that the Security Rule portions that are not mandatory (designated as addressable) must be thoroughly evaluated and analyzed prior to carefully documenting why the particular standard was not implemented. A Covered Entity may only choose to not implement an addressable standard if it clearly cannot do so and can document why that it is unable to do so.

CMS provides a link to the final Rule. That link is:

<http://www.cms.hhs.gov/SecurityStandard/Downloads/securityfinalrule.pdf>

The document above can prove somewhat confusing. However, a helpful chart is provided on page 48 of the .pdf file, which can serve as an overview prior to reading the document. The chart can also help to serve as a guideline for implementing all of the requirements of the Security Rule.

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Transactions and Code Sets Standards:

The Transactions and Code Sets Standards specify how electronic claims transactions are to be conducted. Covered Entities conducting electronic transactions must do them in accordance with such specifications. Health and Human Services provides a link to the final rule. That link is directly below:

<http://www.cms.hhs.gov/TransactionCodeSetsStands/Downloads/txfinal.pdf>

The ANSI X12 Implementation Guides may be downloaded in .pdf format for free by clicking on the following link:

<http://www.wpc-edi.com/hipaa>

Summary:

The information provided on this page is simply a beginning to understanding various portions of HIPAA. This was not meant to be a comprehensive overview of the law, but a resource. To better understand the law and the regulations, it is imperative that one read the information on the linked pages and consult with legal counsel.

If there is a problem encountered in attempting to access some of the information above, please contact Tim Waggoner by email at twaggoner@midlandschoice.com.

HIPAA READINESS STATEMENT

Overview:

The purpose of this document is to outline the Midlands Choice position regarding readiness for HIPAA Transaction and Code Sets regulations, effective October 16th, 2003. This document describes specific warranties and guarantees that Midlands Choice will commit to, and also outlines specific areas where Midlands Choice will not be able to provide warranties or guarantees.

HIPAA Transaction and Code Sets Readiness:

Midlands Choice will be make the following guarantees regarding its HIPAA Transaction and Code Set readiness:

Inbound Electronic Data Interchange:

Midlands Choice will be able to accept HIPAA compliant (4010A1) transactions and code sets on the 837 Institutional (UB92, UB04) and the 837 Professional (HCFA 1500, CMS 1500) EDI documents. This information is received from an intermediary clearinghouse or third party (*see note below*). This functionality is in currently place.

In addition, Midlands Choice will be able to accept HIPAA non-compliant version transactions (i.e. NSF, 4010, 3051) in the 837 Institutional (UB92, UB04) and the 837 Professional (HCFA 1500, CMS 1500) EDI documents. Again, this information is received from an intermediary clearinghouse of third party. This functionality is currently in place. (*see note below*).

****Note:** Midlands Choice does not directly receive claims from a provider or hospital. Rather, all claims come to Midlands Choice via an intermediary clearinghouse or third party. For example, Emdeon. Midlands Choice cannot attest to the HIPAA readiness of these third parties or intermediary clearinghouses.

Outbound Electronic Data Interchange:

Midlands Choice will be able to translate and produce outbound HIPAA compliant (4010A1) transactions and code sets on the 837 Institutional (UB92, UB04) and the 837 Professional (HCFA 1500, CMS 1500) EDI documents. These outbound HIPAA compliant transactions will be sent to one of two types of trading partners:

- Current Midlands Choice Clearinghouse Partners
- Payor organization

Exclusions:

Midlands will not be accepting or sending/returning any of the following transactions or code sets:

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270/271: Health Care Eligibility/Benefit Inquiry and Information Response
277/275: Health Care Claim Request for Additional Information and Response
276/277: Health Care Claim Status Request and Response
278: Health Care Services Review -- Request for Review and Response
820: Payroll Deducted and Other Group Premium Payment for Insurance Products
834: Benefit Enrollment and Maintenance
835: Health Care Claim Payment/Advice
837: Health Care Claim: Dental (004010X097A1)

Additional Information:

Midlands Choice will make every effort to work with Payor organizations and clearinghouses to ensure timely testing. However, Midlands Choice cannot provide guarantees as to the Payor's or Clearinghouse's ability to receive or produce HIPAA compliant transactions and code sets.

Midlands Choice does maintain a separate Companion Document for use in testing and production of EDI claims. Midlands Choice follows the National Electronic Data Interchange Transaction Set Implementation Guide for HIPAA compliance and standardization. We are not responsible for any custom coding or other specialization required by the Provider or Payor. All testing documents are comprised of production/parallel data and verified by Claredi™.

Midlands Choice also takes part in the Nebraska SNIP and WEDI work groups in order to remain apprised of current issues and concerns in the Healthcare industry, regarding HIPAA compliance and transaction code sets.

All communication between Midlands Choice and payors or providers that is not traded via EDI, is .pgp encrypted according to PHI HIPAA compliance regulations.

Contingency – Paper Processing Provider:

In the event the Provider is not HIPAA compliant by October 16th, the provider may continue to submit paper claims to Midlands Choice after October 16th.

Payor:

In the event the Payor organization is not HIPAA compliant by October 16th, Midlands Choice can continue to facilitate transmission of non-HIPAA compliant transactions at the request of the Payor. In addition, Midlands Choice can also create paper output, again at the request of the Payor. *Note: the Payor organization bears the risk of non-HIPAA compliance in these situations; Midlands Choice bears no risk.*

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Contact Information:

Please e-mail edi.support@midlandschoice.com with questions regarding initiating of testing or other EDI transactions and code sets questions. Please contact the vice president of Operations with general questions about EDI approach or this document.

AUTHORIZATION FORM

[A separate authorization must be used if the authorization is for psychotherapy notes.]

Name: _____ Birth Date: ____/____/____
MM/ DD / YR

Address: _____

Home Telephone Number: (____) ____ - ____ E-mail: _____
Work Telephone Number: (____) ____ - ____

Social Security Number: ____ - ____ - ____

By signing this authorization form, I authorize the person(s) and/or organization(s) described below to use and/or disclose my health information (information that constitutes protected health information as defined in the Privacy Rule of the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996) in the manner described below. I understand that I am under no obligation to sign this form. The person(s) and/or organization(s) described below who I am authorizing to use and/or disclose my information may not condition treatment, payment, enrollment in a health plan or eligibility for health care benefits on my decision to sign this authorization, except as follows:

I have signed this form voluntarily to document my wishes regarding the use and/or disclosure of the health information described below in Section 1 of this form.

1. Description of Health Information I Authorize to be Used or Disclosed. The following is a specific description of the health information I authorize be used and/or disclosed: (Specify and provide a meaningful description.)

2. Persons/Organizations Authorized to Use and/or Disclose My Health Information. I authorize the following person(s) and/or organization(s) (or classes of persons and/or organizations) to use and/or disclose the health information described above in Section 1 of this form.

3. Persons/Organizations Authorized to Receive and/or Use My Health Information. I authorize the following person(s) and/or organization(s) (or classes of persons and/or organizations) to receive my health information from the person(s) and/or organization(s) described in Section 2 above and to use or disclose such information for the purposes listed below in Section 4 of this form. I understand that if the person(s) and/or organization(s) listed below are not health care providers, health plans, or health care clearinghouses subject to federal privacy standards, the health information disclosed pursuant to this

authorization may no longer be protected by the federal privacy standards and such person(s) and/or organization(s) may redisclose my health information without obtaining my authorization.

4. Description of Each Purpose for the Requested Use and/or Disclosure. I authorize my health information to be used and/or disclosed for the following specific purposes:

5. Your Rights with Respect to This Authorization.

5.1 Right to Revoke. I understand that I have the right to revoke this authorization at any time. I also understand that my revocation of this authorization must be in writing. To obtain a copy of an authorization revocation form I may contact [Customer Service – Midlands Choice at (800) 605-8259]. I am aware that my revocation will not be effective as to uses and/or disclosures of my health information that the person(s) and/or organization(s) identified in Sections 2 and 3 of this form have already made in reliance upon this authorization.

5.2 Right to Inspect or Copy the Health Information to be Used or Disclosed. I understand that I have the right to inspect or copy the health information I have authorized to be used or disclosed in accordance with this form. I may arrange to inspect my health information or obtain copies of my health information by contacting [Customer Service – Midlands Choice at (800) 605-8259].

5.3 Right to Receive Copy of This Authorization. I understand that if I agree to sign this authorization, which I am not required to do, I must be provided with a signed copy of it.

[Use if applicable]

6. Disclosure of Direct or Indirect Remuneration Received By Any Person or Organization Authorized to Use or Disclose My Health Information. I understand that the following person(s) and/or organization(s):

will be receiving direct or indirect remuneration in connection with the use or disclosure of my health information.

7. Expiration of Authorization. This authorization will expire (choose and complete one):

On ____/____/____
MM / DD / YR

Upon the occurrence of the following event(s) related to my health care or to the purpose(s) for which I have authorized the use and/or disclosure of my health information described in Section 3 of this form:

I, _____ (please print name), have had an opportunity to review and understand the contents of this form. By signing this form, I am confirming that it accurately reflects my wishes.

_____/_____/_____
Signature Date

If signed by a personal representative, complete the following:

Name of personal representative: _____

Relationship to participant or nature of authority (e.g., health care power of attorney, guardian, other statutory authorization): _____

Address: _____

Home Telephone Number: (_____) _____ - _____ E-mail: _____

Work Telephone Number: (_____) _____ - _____

_____/_____/_____
Signature of Personal Representative Date

Please fax completed form to: Customer Service – Midlands Choice at (402) 390-7210

NOTICE OF PRIVACY PRACTICES

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

Midlands Choice, Inc. (“Midlands”) is required by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), to protect the privacy of your Protected Health Information (PHI). PHI is information that identifies you and that relates to your past, present or future health or condition, the health care services you receive, or payment for those services, when the information is created or received in any form by Midlands. In addition, Midlands is required to notify you of:

- Uses and Disclosures of PHI;
- The responsibilities of Midlands concerning your PHI; and
- Your rights relating to your PHI.

This Notice of Privacy Practices provides an explanation of Midlands’ practices in summary form. In case of a discrepancy with the regulations, the regulations will govern. Further, Midlands reserves the right to change the privacy practices for all PHI. In the event of a change, you will receive a revised Notice of Privacy Practices within 60 days.

Except as described in this Notice, Midlands will not use or disclose your PHI without your authorization.

Uses and Disclosures of PHI:

Midlands may have business associates that perform activities on behalf of Midlands involving the use and disclosure of PHI. These business associates have agreed to limit their use and disclosure of PHI to that required or permitted under HIPAA.

Midlands and its business associates are required or permitted to use or disclose your PHI without your authorization for the following purposes:

Treatment. Treatment involves providing, coordinating or managing health care services. Treatment includes, but is not limited to, consultations and referrals.

For example, Midlands may use and disclose information about your health care providers in the event of a medical emergency.

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Payment. Payment involves activities to obtain payment of premiums, determine coverage and provide reimbursement for health care services rendered to Plan participants. Payment includes, but is not limited to, billing, precertification, preauthorization, reviews for medical necessity or appropriateness of care, claims adjudication, coordination of benefits, and subrogation.

For example, Midlands may use and disclose information concerning your eligibility and benefits to a health care provider.

Health Care Operations. Health care operations include, but are not limited to, resolution of appeals, medical review, case management, disease management, insurance underwriting, measuring plan and provider performance including credentialing, audits, legal services, business management and administration, due diligence related to a sale, transfer, consolidation or merger of assets, and transfer of records upon sale, transfer, consolidation or merger of assets.

For example, Midlands may use and disclose information, to the extent minimally necessary, about your claims to a broker or consultant who is securing insurance or reinsurance coverage

Friends and Family. Midlands may use and disclose PHI to family members, friends or any other person identified by you who is involved in your care or the payment for your care provided you have not objected to such disclosure.

Plan Sponsor. Midlands may use and disclose PHI to the Plan Sponsor as allowed by HIPAA.

Workers' Compensation. Midlands may use and disclose PHI to comply with Workers' Compensation laws.

Research. Midlands may use and disclose PHI for research purposes provided that the requirements set forth in HIPAA have been satisfied.

Organ Procurement. Midlands may use and disclose PHI to organizations involved in organ procurement for donation and transplantation.

Deceased Individuals. Midlands may use and disclose PHI to a coroner, medical examiner or funeral director as allowed under the law.

Food and Drug Administration (FDA). Midlands may use and disclose PHI to the FDA concerning adverse events for product recall, repair or replacement purposes.

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Public Health. Midlands may use and disclose your PHI to public health or legal authorities for public health activities including, but not limited to, information concerning communicable diseases as required by law.

Legal Proceedings. Midlands may use and disclose your PHI as expressly required by a court or administrative tribunal order or in compliance with state law in response to subpoenas, discovery requests or other legal process when we receive satisfactory assurances that reasonable efforts have been made to notify you of the request, that you have had an opportunity to object and that you have not objected to the request.

Law Enforcement. Midlands may use and disclose your PHI for law enforcement purposes under certain specific circumstances when the disclosure is:

- About a suspected crime victim if the person agrees or, under limited circumstances, we are unable to obtain the person's agreement because of incapacity or emergency;
- To alert law enforcement of a death that may have been the result of criminal conduct;
- In response to authorized legal process or as required by law;
- To identify or locate a suspect, fugitive, material witness, or missing person;
- About a crime or suspected crime committed on our premises; or
- In response to a medical emergency, if necessary to report a crime.

Abuse, Neglect or Domestic Violence. Midlands may disclose PHI to proper government authorities if we reasonably believe that you have been a victim of domestic violence, abuse or neglect.

Required by Law. Midlands may use and disclose PHI when required to do so by law if the use or disclosure complies with the law and is limited to the requirements of the law.

HIPAA Compliance. Midlands may use and disclose your information as required by the Secretary of the Department of Health and Human Services to evaluate Midlands' compliance with the HIPAA privacy rules.

Health Oversight. Midlands may disclose PHI to a health oversight agency for oversight activities, including, for example, audits, investigations, inspections, and other activities conducted by health oversight agencies to monitor the health care system, government health care programs, and compliance with certain laws.

Threat to Health or Safety. In limited circumstances, Midlands may disclose PHI when we have a good faith belief that the disclosure is necessary to prevent a serious or imminent threat to the health or safety of a person or to the public.

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Responsibilities of Midlands:

Midlands is required to:

- Maintain the privacy of your PHI;
- Provide you with a Notice of Privacy Practices; and
- Comply with the terms of the Notice of Privacy Practices.

Midlands will make reasonable efforts to limit the request for and use and disclosure of PHI to the minimum necessary for the intended purpose. This minimum necessary standard does not apply to: disclosures to health care providers for treatment; disclosures made to you; certain disclosure authorized by you; disclosures to the Secretary of the U.S. Department of Health and Human Services; and uses and disclosures required by law or for compliance with regulations.

Midlands may disclose “summary health information” to the Plan sponsor for obtaining bids or for the purpose of amending or terminating the Plan. “Summary health information” includes claim history, claim expenses and types of claims by individual but without identifying the particular individuals, as provided under HIPAA.

Rights of Individuals:

Right to inspect and copy PHI. You have the right to inspect and copy your PHI maintained by Midlands in a “designated record set”. A “designated record set” includes medical records, billing information, enrollment data, payment records, claim information and case management records or information used to make decisions about an individual, but would not include psychotherapy notes; information gathered or prepared for a civil, criminal or administrative proceeding; or PHI that is subject to laws that prohibit access.

If you request a copy of your PHI, we may charge you a reasonable fee for the copying, postage, labor and supplies used in meeting your request. Your PHI will be provided within 30 days of your request, or within 60 days if the information is maintained in another location. If Midlands is unable to meet this deadline, this period may be extended up to 30 additional days.

Forms requesting the opportunity to inspect and copy your PHI are available from The Midlands Choice Compliance Manager, 8420 West Dodge Road, Suite 210, Omaha, NE 68114, 402-390-1554, compliance@midlandschoice.com

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Right to amend PHI. You have the right to request an amendment to your PHI maintained by Midlands in a “designated record set”.

Midlands will respond to your request within 60 days. If Midlands is unable to meet this deadline, this period may be extended up to 30 additional days.

Midlands may deny your request in certain cases. If your request is denied, you may submit a written statement disagreeing with the denial.

Forms requesting an amendment to your PHI are available from The Midlands Choice Compliance Manager, 8420 West Dodge Road, Suite 210, Omaha, NE 68114, 402-390-1554, compliance@midlandschoice.com

Right to an accounting of PHI disclosures. You have the right to an accounting of disclosures of your PHI made by Midlands during the last six years. This does not apply to disclosures for health care treatment, payment or health care operations in accordance with HIPAA; made to you; to persons involved in your care or for the purpose of notifying your family or friends of your whereabouts; for national security or intelligence purposes; made pursuant to your written authorization; incidental to another permissible use or disclosure; for certain notification purposes (including correctional and law enforcement purposes); or made before April 14, 2003.

Midlands will respond to your request within 60 days. If Midlands is unable to meet this deadline, the period may be extended up to 30 additional days. A reasonable charge may be made for each additional request within a twelve-month period.

Requests for an accounting of your PHI should be submitted to The Midlands Choice Compliance Manager, 8420 West Dodge Road, Suite 210, Omaha, NE 68114, 402-390-1554, compliance@midlandschoice.com

Right to restrict the use or disclosure of PHI. You have the right to request restrictions or limitations on the use and disclosure of your PHI for purposes of health care treatment, payment or health care operations in accordance with HIPAA. While Midlands will consider your request, we are not required to agree to it. If we do agree to your request, we will comply with your request except as required by law or for emergency treatment situations.

Forms requesting restrictions in the use or disclosure of your PHI are available from The Midlands Choice Compliance Manager, 8420 West Dodge Road, Suite 210, Omaha, NE 68114, 402-390-1554, compliance@midlandschoice.com

Right to receive confidential communications. You have the right to request that you receive communications regarding PHI in a certain manner or at a certain location. You

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must make your request in writing specifying how you would like to be contacted. Midlands will cooperate with reasonable requests to receive communications involving your PHI at an alternative location.

Forms requesting the manner or location in which communications are received are available from The Midlands Choice Compliance Manager, 8420 West Dodge Road, Suite 210, Omaha, NE 68114, 402-390-1554, compliance@midlandschoice.com

Right to paper copy of Notice. You have the right to receive a paper copy of this Notice of Privacy Practices. Requests for a paper copy of this Notice should be forwarded to The Midlands Choice Compliance Manager, 8420 West Dodge Road, Suite 210, Omaha, NE 68114, 402-390-1554, compliance@midlandschoice.com

Complaint Procedures:

If you believe your privacy rights have been violated, you have the right to file a complaint with Midlands or the Secretary of the United States, Department of Health and Human Services. Complaints should be addressed to The Midlands Choice Compliance Manager, 8420 West Dodge Road, Suite 210, Omaha, NE 68114, 402-390-1554, compliance@midlandschoice.com

Midlands will not take action or retaliate against you in any way for making a complaint.

For Questions or Additional Information:

If you have questions concerning this Notice or require additional information, please contact The Midlands Choice Compliance Manager, 8420 West Dodge Road, Suite 210, Omaha, NE 68114, 402-390-1554, compliance@midlandschoice.com

Privacy Officer.

You may contact our Privacy Officer as follows:

Midlands Choice Privacy Officer, 8420 West Dodge Road, Suite 210, Omaha, NE 68114, 402-390-1554, compliance@midlandschoice.com

Effective date:

The effective date of this Notice is April 14, 2003.