



## **IMPORTANT INFORMATION FOR LOCALS ABOUT RECEIVING INFORMATION FROM THE IATSE NATIONAL HEALTH & WELFARE FUND**

### **What information can the Local receive from the IATSE National Benefit Funds' Office?**

A Local can register on the Funds' website, [www.iatsenbf.org](http://www.iatsenbf.org), and receive information about contributions received by the IATSE National Pension, Annuity or Vacation Fund under that Local's collective bargaining agreements. However, in order to receive information regarding contributions made to the IATSE National Health & Welfare Fund ("Health Fund"), CAPP balances or enrollment information for participants who are members of your Local, the Local must sign a Business Associate Agreement as required under the federal privacy law known as the Health Insurance Portability and Accountability Act or "HIPAA." Please contact Scott Trivigno, Director of Benefits, to arrange to sign a Business Associate Agreement. Please note that the Health Fund does not give Locals access to any participant's specific claims information. If a participant wants the Local to have such information (for example to help with an appeal), the participant will need to fill out a form specifically authorizing the release of that information to someone at the Local.

### **What is a Business Associate Agreement?**

A Business Associate Agreement ("BAA") is a legal contract between the Local and the Health Fund. By signing the BAA, the Local is agreeing to abide by HIPAA's requirements with regard to maintaining the privacy and security of individuals' protected health information. It is important that the Local reads and understands the BAA before signing it because a Local that violates a signed BAA may be subject to serious penalties. We encourage all Locals to consult with legal counsel when entering into a BAA with the Health Fund.

### **What is HIPAA?**

HIPAA is the federal law that requires all health plans, such as the Health Fund, to preserve the confidentiality of "protected health information" of its participants (including names, social security numbers, and health plan coverage elections). Under HIPAA, the Health Fund can only disclose an individual's protected health information to someone other than the individual in limited circumstances and for specific reasons. For example, HIPAA permits the Health Fund to disclose this information under certain circumstances to an entity (such as a Local) that assists the Health Fund in its operations. An entity that assists the Health Fund is known as a "business associate". A Local may be a business associate of the Health Fund (and therefore receive information from the Health Fund) when it assists the Fund to identify employers that owe contributions to the Health Fund, and when it assists its members who are Health Fund participants, such as by reminding them of the deadline for quarterly CAPP premium payments. However, in order for the Health Fund to share protected health information with the Local, the Local must sign a Business Associate Agreement agreeing to adhere to HIPAA's privacy and security requirements.



### **Why does the Local have to sign a Business Associate Agreement?**

As explained above, under federal law, the Health Fund cannot share protected health information with a Local unless the Local signs a Business Associate Agreement agreeing to keep that information confidential and only disclose it as permitted by law.

### **What is "protected health information"?**

Protected health information ("PHI") is any information that identifies an individual and includes information regarding one (or more) of the following:

- The individual's past, present or future physical or mental health.
- The health care services provided to the individual.
- The individual's past, present or future payment for health care (including eligibility for coverage).

Information that identifies an individual includes the participant's name, Social Security number or address, but can also include anything else that identifies an individual (such as by their employer, job category and/or age).

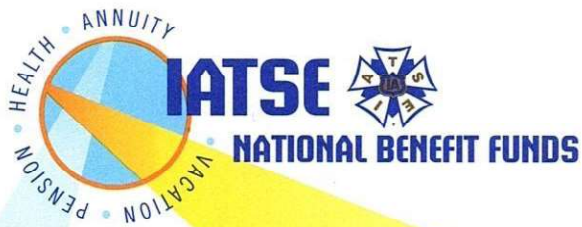
### **What information received from the Health Fund must the Local protect?**

In accordance with HIPAA, the Local must protect:

- Any work report with Health Fund contributions and a participant's name or other identifying information.
- Any information as to the coverage elected by a participant.
- Any report of individual CAPP balances.

### **How does a Local know what information from the Health Fund is "protected health information" covered by HIPAA?**

The Local should assume that any information that relates to an individual person from the Health Fund is protected health information. If you have any questions as to whether information received by the Local is protected health information, please contact either Scott Trivigno, Director of Benefits, or Anne Zeisler, Executive Director, at the Fund Office.



### **How can the Local use protected health information from the Health Fund?**

Under HIPAA and the Business Associate Agreement, the Local can use the information only to assist the Health Fund in its operations and to assist participants (your members) in the Health Fund. For example, a Local can and should alert the Fund Office if it notices that an employer has not contributed the amount that it is required to contribute in accordance with its collective bargaining agreement. A Local can also remind its members of any deadlines for quarterly CAPP payments or open enrollment. A Local can also share with a participant information on contributions received by the Health Fund on his or her behalf or available for use by that particular participant. In other words, the Local can share the participant's own information with that participant (but not with anyone else). The Local should also ensure that it properly verifies the identity of such a participant before disclosing the information to the participant. For example, an individual who calls the Local to ask about contributions made to the Health Fund on his or her behalf should be asked to identify him or herself in such a way that the Local is assured that it is speaking with the member at issue (e.g., by membership number, membership date, or some other individually identifiable information that only the member would have). Similarly, if the Local receives a request for information from an attorney who represents him or herself as the member's attorney, the Local should obtain written verification from the member that the attorney is representing the member (and not someone else).

Since the Local is being provided the information for the benefit of the Fund and its participants, the Local can use it only for those purposes and not for any other purpose. For example, it would not be appropriate to use the information provided from the Fund to collect union dues from a member, or in any way that would benefit the union, an employer or anyone other than the Fund and its participants.

### **What is the Local's obligation to safeguard information received from the Health Fund?**

A Local that receives information from the Health Fund must ensure that access to that information is limited to those employees of the Local who need to have access to the Health Fund information (in order to assist the Health Fund or the participants). The Local should first consider who should have access to that information and advise those employees who have access as to their duty under HIPAA to keep the information confidential.

In addition, the Local must establish reasonable safeguards to ensure that no one other than those designated employees can access the information. Such safeguards could include password protecting information kept on a computer, keeping hard copies of information in a locked drawer, and not discussing such information in a public area. Similarly, if any information received from the Health Fund is kept on a laptop or other mobile device, that device should be password protected so that the information cannot be viewed by anyone not authorized to view it. Care should be taken when



discarding/returning computers or even copy machines to ensure that no protected health information remains on such device. Furthermore, if the Local sends any protected health information (such as mailing or emailing a participant information about his or her health information), it should send the information securely, such as through an opaque envelope (if by mail) or encrypted email (if by email).

Because of the risks that an email could be intercepted or sent to the wrong individual, consideration should be given to not sending any protected health information by email.

If the Local receives or maintains information from the Health Fund electronically, it must conduct a risk assessment and ensure that it has reasonably minimized the risk of unauthorized disclosure of any electronic protected health information. HIPAA requires Locals as business associates of the Health Fund to “[c]onduct an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity, and availability of electronic protected health information held by the ... business associate.”

The federal government offers an online risk assessment that Locals (and other entities) can use to determine whether or not it is taking sufficient steps to safeguard protected health information.

<https://www.healthit.gov/topic/privacy-security/security-risk-assessment-tool>

In addition, even when using or disclosing a member’s protected health information for permitted purposes, the Local should take steps to ensure that only the minimum necessary amount of information is disclosed in order to achieve the purpose for which it is being used or disclosed.

**What should the Local do if it receives a subpoena or other request for information the Local received from the Health Fund?**

We strongly advise that you contact Scott Trivigno, Director of Benefits, immediately if you receive any requests to disclose information that you received from the Health Fund. We advise you not to respond to any disclosure request without contacting the Health Fund first because the privacy laws are complicated and may not allow disclosure even pursuant to a subpoena.

**What happens if the Local mistakenly releases protected health information that it should not have released?**

If the Local releases protected health information to someone not entitled to that information under HIPAA, it must immediately notify the Health Fund. Contact Scott Trivigno, Director of Benefits. The Health Fund will need to investigate and may need to take other steps required by HIPAA. The Health

Fund may also terminate the Local's access to protected health information either temporarily or permanently, depending on the circumstances.

#### **What are the penalties for violating HIPAA?**

The federal fines for failing to comply with HIPAA are based on the level of perceived negligence found within the organization at the time of the HIPAA violation. These fines can range from \$100 to \$50,000 per violation (or per record), with a maximum penalty of \$1.5 million per year for each violation. Therefore it is very important that the Local understands its obligations under the Business Associate Agreement and HIPAA.

#### **What information is not protected by HIPAA?**

Information that you receive directly from an employer would normally not be protected health information (since an employer is not normally a "covered entity" for HIPAA purposes). In addition, information that does not relate to any particular Health Fund participant would not be protected health information even if it was received from the Health Fund. For example, the total amount of contributions that an employer owes to the Health Fund for a group of employees (not broken down by employee) would not constitute protected health information.

#### **How can the Local learn more information about HIPAA?**

You should review the Health Fund's privacy notice, available on the Fund's website, [www.iatsenbf.org](http://www.iatsenbf.org), by clicking on the "privacy notice" link at the bottom of the home page. The privacy notice describes when the Health Fund can disclose information without a participant's permission. Again, we strongly recommend that you contact the Health Fund before disclosing personal health information to anyone other than the participant it relates to.

There is also more information about HIPAA on the HHS website:

<https://www.hhs.gov/hipaa/index.html>

The Office of the National Coordinator for Health Information Technology (ONC) also has a website with information about HIPAA for providers as well as consumers:

<https://www.healthit.gov/topic/hipaa-providers>



There are also private entities, such as the International Foundation of Benefits, that offer HIPAA courses and materials, usually for a fee:

<https://www.ifebp.org/education/elearningcourses/Pages/HIPAA-Privacy.aspx>

*The above information is provided as a courtesy to the Locals and does not constitute legal advice. It also does not describe all of a Local's obligations under HIPAA and the Business Associate Agreement. Any Local that signs a Business Associate Agreement with the Health Fund is obligated to read and understand it, as well as understand the requirements of HIPAA, and abide by the requirements of HIPAA and the BAA.*

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