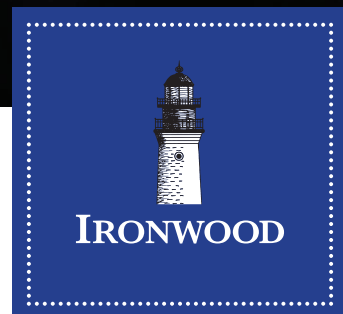




# COMPLIANCE

## Health and Welfare Compliance Checklist

Updated September 2014



# ABOUT THE HEALTH AND WELFARE COMPLIANCE CHECKLIST

The enclosed Compliance Checklist is designed to assist employers with compliance regulations as it relates to company Health and Welfare benefit plans.

This Checklist is to be used in conjunction with the Health and Welfare Compliance Guide as prepared by the Compliance Directors of Benefit Advisors Network, Peter Marathas and Stacy Barrow, legal counsel with the firm of Proskauer Rose, LLP. It is not intended to be all-inclusive, but is designed to provide highlights with respect to Health and Welfare compliance.

*As you review the Checklist, please refer to the appropriate section of the Compliance Guide for more information and assistance.*



*Refer to the applicable section in the Compliance Guide for more details*

<b>Patient Protection and Affordability Care Act of 2010 (PPACA) and Grandfathered Plans</b>		<b>Section 2</b>
<input type="checkbox"/>	If the plan is “grandfathered” under PPACA, has the grandfathered plan notice been distributed to participants on all plan materials relating to benefits?	Section 2
<input type="checkbox"/>	If the plan is “grandfathered” under PPACA, has the plan complied with all mandates applicable to grandfathered plans (e.g., no lifetime dollar limits on essential benefits, restricted annual dollar limits on essential benefits, coverage of adult children to age 26)?	Sections 2, 3.9, 12.10, 12.11, 12.12
<b>Plan Documents / Summary Plan Descriptions (SPD)</b>		<b>Section 3</b>
<input type="checkbox"/>	Does the company have written Plan Documents for every employee benefit plan subject to ERISA?	Section 3.1
<input type="checkbox"/>	Are SPDs being given to participants and beneficiaries within 90 days after becoming a participant in the plan?	Section 3.2
<input type="checkbox"/>	Are SPDs being sent to all participants within 120 days of the plan becoming subject to ERISA?	Section 3.2
<input type="checkbox"/>	Are SPDs updated every 5 years (if plan amendments) or 10 years (if no plan amendments)?	Section 3.2
<input type="checkbox"/>	Are Summaries of Material Modifications (SMMs) being provided no later than 210 days after the end of the plan year if updated SPDs are not sent?	Section 3.3
<input type="checkbox"/>	Are Summaries of Benefits and Coverage (SBCs) being provided in accordance with the distribution rules and timeframes established under PPACA?	Section 3.5
<input type="checkbox"/>	Does the company provide at least 60 days advance notice prior to making any mid-year plan design changes that affect the content of the most recent SBC?	Section 3.5
<input type="checkbox"/>	Has the company updated its SBCs to reflect the 2014 content requirements?	Section 3.5
<b>Electronic Disclosure of Notifications</b>		<b>Section 3</b>
<input type="checkbox"/>	Are notices being provided to each recipient each time a document is distributed electronically?	Section 3.9
<input type="checkbox"/>	Have the company’s electronic distribution procedures been approved by benefits counsel?	Section 3.9
<b>Document Retention</b>		<b>Section 3</b>
<input type="checkbox"/>	Does the company retain all benefit plan documents and ERISA documents for at least 6 years?	Section 3.10

<b>COBRA</b>		<b>Section 4</b>
<input type="checkbox"/>	Does the company offer COBRA continuation coverage to those losing coverage due to a “qualifying event”?	Section 4.1
<input type="checkbox"/>	If the plan is “grandfathered” under PPACA, has the plan complied with all mandates applicable to grandfathered plans (e.g., no lifetime dollar limits on essential benefits, restricted annual dollar limits on essential benefits, coverage of adult children to age 26)?	Section 4.3
<input type="checkbox"/>	Is the company satisfying all applicable COBRA notice obligations?	Section 4.3
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>▫ <b>Initial Notice</b> - to each covered employee and employee’s spouse (if covered under the plan) within 90 days of becoming eligible for the plan</li> </ul>	Section 4.3
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>▫ <b>Qualifying Event Notice and Election Form</b> - to former participants and covered dependents within 14 days (or if employer is plan administrator, 44 days)</li> </ul>	Section 4.3
<input type="checkbox"/>	<ul style="list-style-type: none"> <li>▫ <b>Other Administrative Notices</b> (including Denial of Coverage, Termination and Insufficient Payment Notices)</li> </ul>	Section 4.3
<input type="checkbox"/>	Has the company established and maintained a COBRA recordkeeping process that includes all COBRA Notifications with dates sent and detailed records of COBRA rejection or acceptance?	Section 4.3
<input type="checkbox"/>	Has the company updated its Initial (General) COBRA Notice and its Qualifying Event Notice in accordance with the new model notices released by the DOL in 2014?	Section 4.3
<b>Health Insurance Portability and Accountability Act (HIPAA) – Portability</b>		<b>Section 5</b>
<input type="checkbox"/>	Does the company distribute all applicable Portability Notices (including Certificate of Credible Coverage, Notice of Special Enrollment Rights, and CHIP Notice)?	Section 5.1
<b>Health Insurance Portability and Accountability Act (HIPAA) – Privacy</b>		<b>Section 5</b>
<input type="checkbox"/>	Does the company maintain written HIPAA privacy policies and procedures for complying with HIPAA privacy regulations which impose rules for the use and disclosure of protected health information (PHI)? Has the policy been revised to conform with the treatment of genetic information as PHI, as required under the Genetic Information Nondiscrimination Act (GINA)?	Section 5 and Section 12.9
<input type="checkbox"/>	Does the company send the HIPAA Privacy Notice to each new participant and again once every 3 years?	Section 5.3
<input type="checkbox"/>	Does the company obtain signed Authorization to Release Information forms from employees in order to receive PHI for plan administrative purposes?	Section 5.3
<input type="checkbox"/>	Does the company have a Business Associate Agreement in place with all vendors that have access to PHI for a health plan? Business Associates include, but are not limited to, TPAs, attorneys, accountants, consultants, and insurance agent/brokers.	Section 5.3
<input type="checkbox"/>	Has the company reviewed and updated its HIPAA privacy policies and procedures in accordance with the omnibus HIPAA privacy rule released in 2013?	Section 5.4
<b>Health Insurance Portability and Accountability Act (HIPAA) – Security</b>		<b>Section 5</b>
<input type="checkbox"/>	If the company electronically maintains or transmits PHI, has a formal policy been established and procedures implemented to adhere to the requirements of the security standards? (Includes notification requirement for breach of unsecured PHI under the HITECH Act – Section 5.3)	Section 5.6

<b>Wellness Programs</b>		<b>Section 6</b>
<input type="checkbox"/>	If the company offers a Wellness Program, has it been reviewed by benefits counsel for compliance with applicable federal laws and DOL requirements? Has benefits counsel been consulted regarding tax consequences of wellness incentives, if offered? (Section 6.2)	Section 6
<input type="checkbox"/>	If the company provides a Health Risk Assessment in conjunction with its group health plan, has it been reviewed by benefits counsel for compliance with applicable federal laws (e.g., ADA, GINA)?	Section 6.3
<input type="checkbox"/>	If the company offers a wellness incentive that requires satisfaction of a standard related to a health factor, does it comply with all DOL requirements relating to the amount of the reward, and the availability of a reasonable alternative standard?	Section 6.4
<input type="checkbox"/>	Has the company considered the impact of its wellness program on the “affordability” of employee premium contributions under PPACA?	Section 6.7
<b>HIPAA Nondiscrimination Rules</b>		<b>Section 7</b>
<input type="checkbox"/>	Is the company complying with the HIPAA nondiscrimination provisions? Rules prohibit denying eligibility for benefits or charging higher premiums based on health factors unless within a DOL-compliant wellness plan.	Section 7.0
<b>Military Leave - Uniformed Services Employment and Reemployment Rights Act (USERRA)</b>		<b>Section 8</b>
<input type="checkbox"/>	Has the company developed reasonable procedures for employees on qualified military leave to use in electing continuation coverage?	Section 8.0
<input type="checkbox"/>	Does the company provide a notice of rights, benefits, and obligations under USERRA by posting a notice provided by the DOL?	Section 8.0
<input type="checkbox"/>	Does the company abide by all requirements and obligations under USERRA which protects an employee’s job status, promotion and benefit continuation while on leave?	Section 8.0
<b>Code Section 105(h) Nondiscrimination Rules</b>		<b>Section 9</b>
<input type="checkbox"/>	For self-insured* plans, if the company has different benefit eligibility requirements and different premium contributions for different levels of employees, is it operating on a nondiscriminatory basis under Section 105(h) of the Internal Revenue Code with respect to eligibility and benefits?:  <i>*Under PPACA, the nondiscrimination rules will apply to non-grandfathered fully insured plans once additional regulatory guidance is provided. These rules do not apply to fully insured plans at this time.</i>	Section 9.1, 9.3, 9.4 and 18.1
<b>Family and Medical Leave Act (FMLA)</b>		<b>Section 10</b>
<input type="checkbox"/>	Does the company comply with FMLA, which grants an eligible employee up to a total of 12 workweeks of unpaid leave in a 12-month period for qualified leaves of absence?	Section 10.0
<input type="checkbox"/>	Has the company established an administrative process which includes providing all required notices to those employees requesting FMLA leave with details on payment options available and posting a notice for employees that outlines the basic provisions of FMLA?	Section 10.0 and 10.1

<b>Medicare Part D – Medicare Modernization Act (MMA)</b>		<b>Section 11</b>
<input type="checkbox"/>	Does the company annually file a report electronically with the Centers for Medicare and Medicaid Services (CMS) as to whether the prescription drug coverage under the plan is creditable? (Notification is to be provided within 60 days after the beginning of each plan year and/or when the plan’s prescription drug coverage ceases to be creditable.)	Section 11.0 and 11.1
<input type="checkbox"/>	Is the Medicare Part D Notice of Creditable Coverage provided annually to all employees and covered dependents?	Section 11.0 and 11.2
<b>Other Laws and Requirements</b>		<b>Section 12</b>
<input type="checkbox"/>	Do the company’s group health plans comply with the Mental Health Parity Act (MHPA) and <b>Mental Health Parity and Addiction Equity Act (MHPAEA)</b> ?	Section 12.1 and 12.2
<input type="checkbox"/>	Do the company’s group health plans comply with the <b>Newborns’ and Mothers’ Health Protection Act</b> (Newborns’ Act)?	Section 12.3
<input type="checkbox"/>	Do the company’s group health plans provide coverage for mastectomies, is the plan compliant with the <b>Women’s Health and Cancer Rights Act (WHCRA)</b> ? Does the company notify participants about the availability of this coverage at the time of enrollment in the health plan and then annually thereafter?	Section 12.4
<input type="checkbox"/>	Do the company’s group health plans comply with the <b>Qualified Medical Child Support Order (QMCSO)</b> requirements? Does the company maintain written procedures to determine if a medical child support order is qualified under ERISA?	Section 12.6
<input type="checkbox"/>	Does the company respond in a timely fashion to the Centers for Medicaid and Medicare Services (CMS) data match request for the <b>Medicare Secondary Payer (MSP)</b> information?	Section 12.8
<input type="checkbox"/>	Do the company’s group health plans comply with <b>PPACA’s mandates</b> including, but not limited to, the prohibition on annual and lifetime dollar limits on essential benefits, coverage of adult children to age 26, prohibitions on preexisting conditions and rescissions, choice of health care professional and emergency room cost-sharing parity?	Sections 12.10 – 12.18
<input type="checkbox"/>	If the plan is self-insured, has it paid the PCORI fee and the Transitional Reinsurance Program fee?	Section 12.22
<input type="checkbox"/>	Does the company comply with the Notice of Exchange requirement under PPACA, which requires notification to all new employees effective October 1, 2013?	Section 12.23
<input type="checkbox"/>	Has the company considered the impact of PPACA’s Employer Shared Responsibility Provisions (a/k/a the “Play or Pay” mandate), and whether “affordable” coverage that provides “minimum value” will be offered to full-time employees (those working on average 30 or more hours per week)?	Section 12.27 and Section 22
<input type="checkbox"/>	Has the company considered the impact of PPACA’s 90-day limit on waiting periods and its requirements for bona fide employment-based orientation periods?	Section 12.29
<b>Health Savings Accounts (HSA)</b>		<b>Section 13</b>
<input type="checkbox"/>	If the company offers a High Deductible Health Plan (HDHP) with a Health Savings Account (HSA), is the company complying with the rules governing HDHP/HSA plans including contributions?	Section 13.0

<b>Health Reimbursement Arrangements (HRA)</b>		<b>Section 14</b>
<input type="checkbox"/>	If the company offers a Health Reimbursement Arrangement (HRA), does it comply with the rules governing HRAs including COBRA, employer and employee contribution rules, limitations on reimbursements for OTC drugs, and “integration” with group coverage?	Section 14.0
<b>Flexible Spending Accounts (FSAs) – Health Care</b>		<b>Section 15</b>
<input type="checkbox"/>	If the company offers a Health Care Flexible Spending Account (with or without a debit card option), does it comply with the rules governing such arrangements including claim substantiation and limitations on reimbursements for OTC drugs?	Sections 15.0 and 15.1
<b>Flexible Spending Accounts (FSAs) – Dependent Care</b>		<b>Section 16</b>
<input type="checkbox"/>	If the company offers a Dependent Care Flexible Spending Account, does it comply with the rules governing such arrangements including eligible expenses, eligible dependents and allowable changes in status?	Sections 16.0 and 16.1
<b>Filing Requirements – Form 5500</b>		<b>Section 17</b>
<input type="checkbox"/>	Are IRS Form 5500s being filed electronically for all welfare benefits that have over 100 participating (or that pay benefits from a trust) employees by the last day of the 7th month after the end of the plan year? (for a calendar year plan year, the filing date is July 31st)	Sections 17.1 and 17.6
<input type="checkbox"/>	If filing a single Form 5500 for all benefits, does the company have a wrap document explaining that for ERISA purposes all of the company’s health and welfare plans are combined into one consolidated benefit plan?	Section 17.1
<input type="checkbox"/>	Is a Summary Annual Report (SAR) distributed to employees in 100+ groups (or plans with trusts) by the last day of the 9th month after the end of the plan year?	Section 3.6
<b>Filing Requirements – W-2 (Wage and Tax Statement)</b>		<b>Section 17.5</b>
<input type="checkbox"/>	In addition to reporting wages on IRS Form W-2, is the company including taxable benefits such as group legal services contributions or benefits, premiums for group term life insurance above \$50,000, employer contributions towards certain domestic partners, and employer payments under adoption assistance plans?	Section 17.5
<b>Fiduciary Obligations</b>		<b>Section 18</b>
<input type="checkbox"/>	Does the company have an updated fidelity bond in place equal to at least 10% of any health and welfare and retirement funds to a maximum of \$500,000? Is this bond reviewed and updated annually?	Section 18.0

## Miscellaneous

<input type="checkbox"/>	If a plan covers non-dependent domestic partners, is the value of the coverage (minus any post-tax contributions made towards the cost of the non-dependent's coverage) included in the employee's gross income?	Discuss with Your Advisor
<input type="checkbox"/>	If there are multiple companies/subsidiaries covered under a single, self-funded health plan, be sure they are a controlled group to avoid creating a MEWA (Multiple Employer Welfare Arrangement).	Discuss with Your Advisor
<input type="checkbox"/>	Does the company have retirees or other people not on the payroll covered under the benefits plan?	Discuss with Your Advisor
<input type="checkbox"/>	Does the company have any type of special situations in place that would need to be signed off by an insurance carrier?	Discuss with Your Advisor
<input type="checkbox"/>	Does the company have liability insurance in place for Human Resource errors for ERISA fiduciary liability?	Discuss with Your Advisor
<input type="checkbox"/>	Does the company have employees who work (not reside) in any of the following states that require mandatory state short-term disability insurance: CA, HI, NJ, NY, RI, or Puerto Rico?	Discuss with Your Advisor
<input type="checkbox"/>	Can the company confirm that the owners of an S-Corporation, LLC, LLP or Sole Proprietorship are not included in the pre-tax Section 125 plan and do not participate in FSAs?	Discuss with Your Advisor
<input type="checkbox"/>	If any plan with over 100 participants has a trust, is the trust being audited annually?	Discuss with Your Advisor
<input type="checkbox"/>	If the company offers a Health Care Flexible Spending Account, does it qualify as an "excepted benefit" starting with its 2014 plan year?	Discuss with Your Advisor



### Ironwood Insurance Services, LLC

3715 Northside Parkway NW | Suite 1-500 | Atlanta, GA 30327 | 404.503.9100 | ironwoodins.com