

**TUFTS UNIVERSITY GROUP HEALTH PLANS  
NOTICE OF PRIVACY PRACTICES  
(Revised September 23, 2013)**

**THIS NOTICE DESCRIBES HOW HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION.**

**PLEASE REVIEW THE NOTICE CAREFULLY, AND DIRECT YOUR QUESTIONS TO THE PRIVACY AND SECURITY OFFICER LISTED BELOW.**

**I. BACKGROUND INFORMATION**

This Notice provides you with information about how the Tufts University Health Plan, the Tufts University Dental Plan, and the Tufts University Health Care Flexible Spending Account Plan, the Tufts University Retiree Health Insurance Plan, the Tufts University Retiree Dental Benefits Plan, and the Tufts University Postdoctoral Health Benefit Plan (the "Plans") may use your protected health information ("PHI") and disclose your PHI to other entities, including Tufts University (the "Plan Sponsor"). It also describes your rights to access and control your PHI.

The Plans are required by law to (i) maintain the privacy of your PHI, (ii) provide you with this Notice of the Plans' privacy practices and related legal duties and your rights, and (iii) notify you if there is ever a breach of your unsecured PHI. The Plans are required to follow the terms of this Notice until it is replaced, but they reserve the right to change this Notice at any time. Any change in the terms of this Notice will be effective for all PHI maintained by the Plans at that time, although changes in the law may take effect at different times. A revised Notice will be provided to you within 60 days of the date the revised Notice takes effect.

**II. HEALTH INFORMATION TO WHICH THIS NOTICE APPLIES**

**Protected Health Information (PHI)**

Your PHI is information, including demographic information, that may identify you and relates to (i) health care services provided to you, (ii) payment for health care services provided to you, or (iii) your physical or mental health or condition, in the past, present, or future. This includes documentation that reveals your identity and your health status or payment issues, such as medical records, medical bills, claims data, and payment information.

The Plans receive and maintain your PHI in the course of providing Plan benefits to you, as described in your summary plan descriptions. The Plans are required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended, to maintain the privacy and security of your PHI.

**Health Information that is not PHI**

Not all health information relating to you is considered PHI that is subject to HIPAA's privacy and security rules. The use and disclosure of health information that you provide (or that is provided by someone else at your request) to your employer that is received and maintained as part of your employment records is not subject to these rules. Your employer may use or disclose such information for employment-related purposes, such as (i) fulfilling its legal obligations under the Family and Medical Leave Act or the Americans With Disabilities Act or (ii) providing you (or your beneficiaries) with life insurance, disability, or workers' compensation benefits. In addition, your health information is no longer treated as PHI 50 years after your death.

**III. PERMITTED USES AND DISCLOSURES OF PHI**

**Treatment, Payment, and Health Care Operations**

Under HIPAA, the Plans may use and disclose PHI for purposes of treatment, payment, and health care operations, without your consent or authorization.

- **Treatment.** Treatment refers to the provision, coordination, and management of health care by a doctor, hospital, or other health care provider. The Plans themselves do not provide treatment, but may need to disclose PHI to a health care provider in connection with your treatment.

For example: Information obtained by a nurse, physician, or other member of your health care team will be recorded in your record and used to determine the course of treatment that should work best for you. Members of your healthcare team will record the actions they took and their observations. In that way, the health care team will know how you are responding to treatment.

- **Payment.** Payment refers to the activities of the Plans in collecting contributions and paying claims for health care services you receive. Information on bills may identify you, your diagnosis, and the treatment that you receive.

For example: The Plans may: (i) send your PHI to an external medical review company to determine the medical necessity or experimental status of a treatment; (ii) share your PHI with other payors (such as insurance companies) to coordinate benefits or settle subrogation claims; (iii) provide PHI to the Plans' third party administrators for pre-certification or case management services; (iv) provide PHI in billing, collection, and payment of contributions and fees to Plan vendors such as network providers, prescription drug card companies, and reinsurance carriers; and (v) send PHI to reinsurance carriers to obtain reimbursement of claims paid under the Plans.

- **Health Care Operations.** Health Care Operations refers to the basic business functions necessary to operate the Plans.

For example: the Plans may use or disclose your PHI: (i) to conduct quality assessment studies of the Plans' performance or the performance of health care providers, networks, or vendors; (ii) to determine the cost impact of Plan design changes (e.g., adding benefits); (iii) for underwriting, premium rating, or other activities relating to the calculation of contribution rates or reinsurance quotes; (iv) to business associates who provide legal, actuarial, and auditing services to the Plans; (v) to engage in care coordination or case management; and (vi) for general data analysis used in managing, developing, and planning for each Plan.

#### **Other Uses and Disclosures that do Not Require Your Oral Consent or Written Authorization**

HIPAA also allows the Plans to use and disclose PHI, without your consent or authorization, in the following ways.

- **Personal Communications.** The Plans may disclose PHI about a covered individual to the covered individual. For example, the Plans may contact you or your dependent to provide appointment or refill reminders and other matters that may be of interest to you (See **Sales and Marketing of PHI** in Part V below).
- **Communications with Individuals Involved in your Care or Payment for your Care.** Health professionals, such as physicians or nurses, using their professional judgment, may disclose to a family member, other relative, close personal friend or any other person you identify, PHI relevant to that person's involvement in your care or payment related to your care (See **Disclosures to Family Members** in Part IV below).
- **Personal Representative.** The Plans may disclose PHI to a personal representative designated by you to receive PHI or a personal representative designated by law such as the parent or legal guardian of child, or the surviving family members or representative of the estate of a deceased individual (see **Coroner, Medical Examiner, or Funeral Director** below in this Section III).
- **Covered Entities.** The Plans may disclose PHI to health care providers and other plans (to the extent permitted by law) to assist them in connection with treatment, payment, or health care operations.
- **Business Associates.** The Plans may disclose PHI to a "business associate." In general, a business associate is an individual or entity that that performs services to or for a Plan and creates, receives, maintains, or transmits PHI. Examples of services provided by business associate include claims processing and administration, pharmacy services, data analysis, billing, utilization review, quality assurance, patient safety activities, benefit and practice management and repricing. When the Plans contract for these services, they may disclose PHI so that the business associates can perform their jobs. Each business associate, and any subcontractor that creates, receives, maintains, or transmits PHI on behalf of the business associate, must ensure the continuing confidentiality and security of your PHI essentially in the same manner as the Plans and agree in writing to maintain the privacy of your PHI.

- **Plan Sponsor.** The Plans may disclose PHI to the Plan Sponsor, as necessary to carry out administrative functions of the Plans, such as evaluating renewal quotes for reinsurance of the Plans, funding check registers, reviewing claims appeals, approving subrogation settlements, evaluating the performance of the Plans and Plan management, provided the Plan Sponsor agrees in writing to ensure the continuing confidentiality and security of your PHI and not to use or disclose your PHI for employment-related activities or for any other benefit plans. The Plans also may disclose (i) claims history and other similar information that does not disclose your name or other distinguishing characteristics and (ii) the fact that you are enrolled in, or disenrolled from the Plan.
- **Secretary of Health and Human Services (“HHS”).** The Plans may disclose PHI to HHS or any employee of HHS as part of an investigation to determine the Plan’s compliance with the privacy rules.
- **Legal Compliance.** The Plans may disclose PHI when required to do so by any federal, state, or local law. For example, the Plans may disclose PHI to comply with Workers’ Compensation or other similar programs established by law. In addition, the Plans may disclose PHI in response to a court order, or in response to a subpoena or discovery request that is not accompanied by an order, provided that the Plans receive satisfactory assurance that the party seeking PHI has made reasonable efforts to notify you about the request or to obtain an order protecting your PHI.
- **Law Enforcement/Health or Safety Threat.** The Plans may disclose PHI as required for limited law enforcement purposes or to avert a serious and imminent threat to the health or safety of an individual or the public (for example, to notify authorities of a criminal act).
- **Food and Drug Administration (FDA):** The Plans may disclose to the FDA, or persons under the jurisdiction of the FDA, PHI relative to adverse events with respect to food, medicines, supplements, product and product defects, or post marketing surveillance information to enable product recalls, repairs, or replacement.
- **Military and Veterans:** If you are a member of the armed forces, the Plans may release PHI about you as required by military command authorities. The Plans also may release PHI about foreign military personnel to the appropriate foreign military authority.
- **Correctional Institution:** If you are or become an inmate of a correctional institution, the Plans may disclose to the institution or its agents PHI necessary for your health and the health and safety of other individuals.
- **National Security and Intelligence Activities:** The Plans may release PHI about you to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law, including disclosure to provide protection to the President, foreign heads of state, and other authorized persons, or to conduct special investigations.
- **Public Health Activities/Health Oversight Agencies.** The Plans may disclose PHI to assist public health authorities and other legal authorities to prevent or control disease, injury, or disability, or for other public health activities specified by law. In addition, the Plans may disclose PHI to a health oversight agency (e.g., HHS or the Department of Labor) for health oversight activities authorized by law, such as audits and civil, administrative or criminal investigations, proceedings, or actions. The Plans may not disclose your PHI if you are the subject of an investigation and the investigation does not arise out of and is not directly related to your receipt of health care or public benefits.
- **Victims of Abuse, Neglect, or Domestic Violence.** The Plans may disclose PHI in limited circumstances about individuals who are reasonably believed to be victims of abuse, neglect or domestic violence to a government authority including a social service or protective services agency, authorized by law to receive such reports. Examples of government agencies include the Massachusetts Office for Children or the Massachusetts Executive Office of Elder Affairs. The Plans will disclose this type of information only (i) to the extent required by law, (ii) if you agree to the disclosure, (iii) if the disclosure is allowed by law and is necessary to prevent serious harm to you or someone else, or (iv) the law enforcement or public official that will receive the report represents that it is necessary and will not be used against you. In such cases, the Plans will promptly inform you that a report has been or will be made unless there is reason to believe that providing this information will place you in serious harm.

In Massachusetts, health care providers are required to report cases of abuse or neglect of children or elders, but they are not required to report cases of domestic violence.

- **Government-Approved Research.** The Plans may disclose PHI in limited circumstances to researchers when their research has been approved by an institutional review board that has reviewed the research proposal and established protocols to ensure the privacy of your information.
- **Coroner, Medical Examiner, or Funeral Director.** The Plans may disclose PHI to a coroner, medical examiner, or funeral director about a deceased person. The Plans also may disclose relevant PHI to a family member, relative, or close friend of the decedent who was involved in the decedent's care or payment for health care prior to the decedent's death, unless doing so is inconsistent with a known expressed preference of the decedent.
- **Organ Donations and Transplants.** The Plans may disclose PHI to an organ procurement organization (or other entities engaged in the procurement, banking, or transplantation of organs) in limited circumstances for purposes of facilitating donations and transplants.
- **Plan Merger or Transfer of Plan Assets.** The Plans may disclose PHI in the event of transfer of assets from a Plan to another plan or merger of a Plan with another plan (generally in the context of a business transaction of the Plan Sponsor) and for related due diligence.
- **Immunization Records for Schools.** The Plans may disclose limited PHI relating to proof of immunizations to schools that are required by law to obtain such proof of immunization.

These examples describe the general types of uses and disclosures of PHI that may be made and are not intended to be an all inclusive list. All uses and disclosures of PHI without your consent or authorization will be in accordance with applicable law.

#### **IV. USES AND DISCLOSURE OF PHI THAT REQUIRE AN OPPORTUNITY FOR YOU TO CONSENT OR OBJECT ORALLY**

The Plans may disclose your PHI in certain circumstances described below, provided they inform you in advance of the use and disclosure and provide you with the opportunity to agree to, prohibit, or restrict the use or disclosure of your PHI. The Plans may inform you orally and obtain your oral consent or objection.

##### **Disclosures to Family Members**

The Plans may disclose PHI to family members, relatives, or others involved in your care in order to ensure quality care, or to notify family members, relatives, or others of your condition or location. The Plans will provide you with the opportunity to consent or object to the disclosure of your PHI, unless your consent cannot be obtained because you are not present or because of your incapacity or emergency circumstances. The disclosure will be limited to PHI that is (i) directly relevant to the person's involvement in your health care or payment related to your care or (ii) necessary to identify, locate, and/or notify a family member, personal representative or other personal responsible for you of your location, general condition, or death.

##### **Disaster Relief**

The Plans may disclose PHI in limited circumstances to a public or private entity authorized by law or by its charter to assist in disaster relief efforts. The Plans will provide you with the opportunity to consent or object to the disclosure of your PHI. The Plans may disclose PHI without your consent, however, if you are not present or your consent cannot be obtained because of your incapacity or emergency circumstances. The Plans will limit disclosure to PHI that is directly relevant to the entity's or other person's involvement with your health care. In addition, the Plans may disclose PHI without your consent if obtaining your consent would interfere with the entity's ability to respond to emergency circumstances.

##### **Facility Directories**

A health care facility, such as a hospital, may include limited PHI in a facility directory including your name, location in the facility, general condition, and religious affiliation, if any. The facility will provide you with the opportunity to consent or object to the inclusion of your PHI in a directory, unless your consent cannot be obtained because of your incapacity or emergency circumstances. The Plans may provide PHI to a health

care facility with respect to your care, treatment, and payment, but is not involved in a facility's decision to include your PHI in a facility directory.

## **V. USES AND DISCLOSURES OF PHI THAT ARE PROHIBITED OR REQUIRE WRITTEN AUTHORIZATION**

### **Genetic Information**

Your genetic information is treated as PHI and is subject to special protections. The Plans are not permitted to use or disclose your genetic information to determine: (i) whether you are eligible for Plan participation; (ii) your premium or contribution level for coverage; (iii) the application of a pre-existing condition exclusion (if any); or (iv) other matters related to the creation, renewal, or replacement of the coverage under the Plan. "Genetic information" includes genetic tests of an individual or family member, family medical histories, and genetic services requested for or received by an individual or family member (e.g., counseling, education, participation in clinical research, and evaluation of genetic information).

Family members include dependents, immediate family members, and extended family members up to the fourth degree of kinship (great, great grandparents, great, great grandchildren, and children of first cousins). For purposes of protecting your genetic information, any reference to an individual or family member also includes a fetus carried by an individual or family member and an embryo legally held by an individual or family member utilizing an assisted reproductive technology.

### **Psychotherapy Notes**

The Plans and health care providers may not use or disclose psychotherapy notes without your written authorization except for limited purposes, such as carrying out treatment, payment, or health care operations. The Plans do not maintain or have access to psychotherapy notes.

### **Sales and Marketing of PHI**

The Plans may not sell or market your PHI without your written authorization. The Plans do **not** sell, rent, or license your PHI. Your PHI is **not** marketed to anyone (for this purpose, marketing means communications that encourage you to purchase or use a product or service). However, certain communications are not treated as marketing and do not require your authorization. First, the Plans may provide you with refill reminders and other communications about a drug or biologic currently prescribed for you, including communications about generic equivalents of prescription, adherence, and all aspects of the drug delivery (e.g., information about insulin pumps). Second, the Plans may provide you with communications that promote health in general and do not promote a product or service from a particular provider (e.g., communications promoting a healthy diet and annual mammogram reminders). Third, the Plans may provide communications about government-sponsored programs, such as Medicare or Medicaid. Fourth, the Plans may provide communications about health-related products or services covered by the Plan, network providers, replacements of or enhancements to a Plan, case management or care coordination, treatment alternatives, and other benefits and services that may be of interest to you as a result of a specific condition that the Plan is case managing, provided the Plan receives no remuneration for doing so. If a Plan receives remuneration for these communications, then the Plan must obtain your written authorization to receive communications. Fifth, the Plans may disseminate limited information in face-to-face communications and provide promotional gifts of nominal value.

### **Fundraising**

You have the right to opt out of receiving any communications relating to fundraising. The Plans do not engage in any fundraising activities.

### **Other Uses and Disclosures Permitted with Your Authorization**

A Plan will not use or disclose your PHI for any purpose that is not permitted under this Notice unless it receives your written authorization. You may revoke your authorization at any time by providing written notice to the Privacy and Security Officer. Your revocation will be effective on the day it is received for all of your PHI that the Plan maintains, to the extent that the Plan has not already used or disclosed PHI in reliance on your authorization.

## **VI. YOUR RIGHTS UNDER HIPAA REGARDING YOUR PHI**

### **Right to Request Restrictions on Uses and Disclosures**

You have the right to request that a Plan limit its uses and disclosures of PHI in relation to treatment, payment, and health care operations, or not use or disclose your PHI for any reason. You also may request a Plan to restrict the use or disclosure of your PHI to family members or personal representatives. Any such request must be made in writing to the Privacy and Security Officer, and must state the specific restriction requested and to whom that restriction will apply.

The Plan is not required to agree to a restriction that you request, but if it does so, it may not violate that restriction except as necessary to allow the provision of emergency medical care to you.

The Plan must agree to your request to restrict the use or disclosure of PHI for payment or healthcare operations if you have made payment in full (out-of-pocket) for the services. This restriction does not apply to disclosures of PHI for treatment purposes. In addition, this restriction does not apply to disclosures by the Health Care Reimbursement Plan that are necessary to effectuate payment.

### **Right to Receive Confidential Communications**

You have the right to request that communications involving PHI be made to you at an alternative location or by an alternative means of communication to ensure confidentiality. The Plan is required to accommodate a reasonable request if the normal method of disclosure would endanger you, that danger is stated in your request, and your request permits the Plan to continue collecting contributions and paying claims. Any such request must be made in writing to the Privacy and Security Officer and must specify the danger and the alternative means or location to communicate PHI.

### **Right to Access to Your Protected Health Information**

You have the right to inspect and receive a copy of your PHI that is contained in a “designated record set” for as long as the Plan maintains the PHI. A designated record set contains claim information, payment, and billing records and any other records the Plan has created in making claim and coverage decisions relating to you. If your PHI is maintained electronically, then you may request the PHI in electronic form. In addition, you may designate a third party to receive your PHI. You may not have access to the following records: psychotherapy notes; information compiled in reasonable anticipation of, or for use in a civil, criminal or administrative action or proceeding, and PHI that is subject to a law that prohibits access to that information. Requests for access to your PHI must be in writing and directed to the Privacy and Security Officer. If your request for access is denied, you may have the right to have that decision reviewed.

### **Right to Amend Protected Health Information**

You have the right to request that PHI in a designated record set be amended for as long as the Plan maintains the PHI. The Plan may deny your request for amendment if it determines that the PHI (i) was not created by the Plan, (ii) is not part of a designated record set, (iii) is not information that is available for inspection, or (iv) is accurate and complete. If your request for amendment is denied, you have the right to include a statement of disagreement with the PHI, and the Plan has a right to include a rebuttal to your statement (a copy of which will be provided to you). Requests for amendment of your PHI must be in writing and directed to the Privacy and Security Officer.

### **Right to Receive an Accounting of Disclosures**

You have the right to receive an accounting of all disclosures of your PHI by the Plan and its business associates, if any, other than disclosures made: (i) for treatment, payment and health care operations, as described above; (ii) to you or to your personal representative; (iii) pursuant to your written authorization; and (iv) as permitted or required under HIPAA. Your right to an accounting of disclosures applies only to PHI created by the Plan after April 14, 2004 and may not exceed a period of six (6) years prior to the date of your request. Requests for an accounting must be made in writing to the Privacy and Security Officer. The first accounting in any 12-month period will be provided without charge. Each subsequent accounting within the 12-month period may be subject to a reasonable, cost-based fee.

### **Right to Receive Notice of Breach of PHI**

A Plan must notify you of a breach of your unsecured PHI. In general, a breach occurs if an unauthorized acquisition, access, use, or disclosure of PHI compromises the security or privacy of such information. The Plans have implemented policies and procedures to comply with the HIPAA Privacy and Security requirements and the breach notification requirements, including risk assessment standards to determine when the security or privacy of unsecured PHI has been compromised.

### **Right to be Safe from Intimidation or Retaliation**

The Plans, a health care provider, or a business associate may not threaten, intimidate, coerce, harass, discriminate against, or take any other retaliatory action against you or any other person for (i) filing a complaint under Article VI below, (ii) testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing under the HIPAA privacy rules, or (iii) opposing any act or practice that is unlawful under HIPAA, provided the individual or person has a good faith belief that the act or practice is unlawful and acts in a manner that is both reasonable and does not disclose PHI in violation of HIPAA.

### **Minimum Necessary Amount**

As required by law, when the Plans use or disclose your PHI, or request PHI from another covered entity (e.g., a health care provider) or a business associate, they will make reasonable efforts to limit PHI to the minimum necessary amount to accomplish the intended purposes of the use, disclosure, or request.

### **Right to Receive a Paper Copy of this Notice**

If you have received this Notice in electronic form, then you may request a paper copy from the Privacy and Security Officer (even if you previously agreed to receive the Notice electronically).

**IMPORTANT:** To exercise any of the rights described above, please contact the Privacy and Security Officer. You will receive the necessary information and forms to complete and return. In some cases, the Plan may charge you a nominal, cost-based fee to carry out your request.

## **VII. COMPLAINTS**

If you believe your privacy or security rights under HIPAA have been violated or that your employer has violated the policies adopted by the Plan Sponsor for protecting your rights, you may file a complaint with the Privacy and Security Officer. Upon written request, the Privacy and Security Officer will provide you with the pertinent Plan's complaint procedure and the form (if any) necessary to file a complaint. No party will retaliate against you for filing a complaint. You also may file a complaint at any time with the U.S. Department of Health and Human Services. Please go to the DHHS website (<http://www.dhhs.gov>) for information about filing a complaint.

## **VIII. PRIVACY AND SECURITY OFFICER**

The Plan Sponsor and the Plans have designated a Privacy and Security Officer, who oversees compliance with the HIPAA privacy and security standards under the Plans and can answer questions about your rights. As of the effective date of this Notice, the Privacy and Security Officer is Ann MacKenzie, Director of Benefits and HRSC, Tufts University, 200 Boston Avenue, Suite 1600, Medford, MA 02155 (617) 627-3270.

## **IX. EFFECTIVE DATE OF NOTICE**

This Notice was first published and originally became effective on April 14, 2004. This Notice was updated February 17, 2010, and is now revised generally effective September 23, 2013. Changes in laws affecting your privacy rights may take effect at different times.