

## TUFTS UNIVERSITY GROUP HEALTH PLANS 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 THE NOTICE CAREFULLY, AND DIRECT YOUR QUESTIONS TO THE PRIVACY OFFICER LISTED BELOW.**

This Notice provides you with information about how the Tufts University Medical Plan, the Tufts University Dental Plan and the Tufts University Health Care Flexible Spending Account 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. Your PHI is information about you, including demographic information that may identify you and relates to your past, present, or future physical or mental health or condition, and related health care services and payments for such services.

The Plans receive and maintain your PHI in the course of providing group health benefits to you, as described in your Summary Plan Description. The Plans are required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") to maintain the privacy of your PHI and to provide you with this Notice of the Plans' privacy practices and related legal duties and your rights. 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. A revised Notice will be provided to you within 60 days of the date the revised Notice takes effect.

### PERMITTED USES AND DISCLOSURES

#### 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 and coordination of health care by a doctor, nurse, 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 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 to you, as the covered individual. For example, the Plans may contact you to provide appointment or refill reminders or information about treatment alternatives or other health-related benefits and services that may be of interest to you.
- **Communication with Individuals Involved in your Care or Payment for your Care:** Health professionals, such as a physician or nurse, 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.
- **Notification:** 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.
- **Health Oversight Activities:** The Plans may disclose PHI to the Secretary of Health and Human Services ("HHS") or any employee of HHS to determine the Plans' compliance with the privacy rules. or disclose PHI to HHS or another oversight agency as part of an audit, investigation, or inspection for licensure and for the government to monitor the health care system, government programs, and compliance with civil rights laws.
- **Business Associates:** The Plans may disclose PHI to a "business associate" that performs services for the Plans. Examples of business associates include pharmacy services or billing services. When the Plans contract for these services, they may disclose your PHI to business associate(s) so that they can perform the job they have agreed to do and bill the Plans, you, or your third-party payor for services rendered. Each business associate must appropriately safeguard the confidentiality and security 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; (ii) the fact that you are enrolled in, or disenrolled from the Plan, and (iii) information necessary for your employer to respond to a health oversight agency (e.g., the Department of Labor or Internal Revenue Service), federal officials for national security purposes, public health authorities for public health purposes, and appropriate military authorities.
- **Law Enforcement/Regulatory Compliance:** The Plans may disclose PHI (i) in response to a court order, subpoena, discovery request, or other lawful judicial or administrative proceeding, (ii) to avert a serious threat to an individual's health or safety (for example, to notify authorities of a criminal act), or (iii) as otherwise required by federal, state, or local law.
- **Workers' Compensation:** the Plans may disclose PHI as required to comply with Workers' Compensation or other similar programs established by law.

- **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.
- **Public Health:** As required by law, the Plans may disclose your PHI to public health or legal authorities charged with preventing or controlling disease, injury or disability, or to prevent a serious threat to your health and safety or the health and safety of the public or another person.
- **Coroner, Medical Examiner, or Funeral Director:** The Plans may disclose PHI to a coroner, medical examiner, or funeral director about a deceased person. This may be necessary to identify a deceased person, determine cause of death, or enable a funeral director consistent with applicable law to carry out his or her duties.
- **Organ or Tissue Procurement Organizations:** Consistent with applicable law, the Plans may disclose your PHI to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of organs for the purpose of tissue donation and transplant.
- **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, other authorized persons or foreign heads of state, or conduct special investigations.
- **Victims of Abuse or Neglect:** The Plans may disclose PHI about you to a government authority, such as the Massachusetts Office for Children or the Massachusetts Executive Office of Elder Affairs, if they reasonably believe you are a victim of abuse or neglect. The Plans will disclose this type of information only to the extent required by law, if you agree to the disclosure, or if the disclosure is allowed by law and disclosure is necessary to prevent serious harm to you or someone else, or 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.

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. The Plans do not sell, rent, or license your PHI, and your PHI is not marketed to anyone by the Plans.

### **Genetic Information**

By law, special protections are given to your genetic information. 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 (e.g., counseling, education and evaluation of genetic information). Family members include immediate family members and extended family members, up to the fourth degree of kinship.

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

A Plan will not use or disclose your PHI for other purposes unless it receives your written authorization. You may revoke your authorization at any time by providing written notice to the Privacy Officer. Your revocation will be effective on the day it is received for your entire PHI that the Plan maintains, to the extent that the Plan has not already used or disclosed PHI in reliance on your authorization.

### **HEALTH INFORMATION THAT IS NOT PHI**

Not all health information relating to you is considered PHI that is subject to these 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.

### **YOUR RIGHTS UNDER HIPPA 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 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.

#### **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. 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 Officer and must specify the alternative means or location.

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

You have the right to inspect and copy 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. 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 should be in writing and directed to the Privacy Officer. If your request for access is denied, you may have a 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 should be in writing and directed to the Privacy 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 should be made to the Privacy Officer.

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

Pursuant to the Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act"), 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. Security and privacy are considered compromised when the disclosure poses a significant risk of financial, reputational, or other harm to you. The Plans have implemented policies and procedures to comply with the breach notification requirements under the HITECH Act.

### **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 Officer (even if you previously agreed to receive the Notice electronically).

**IMPORTANT:** To exercise any of the rights described above, please contact the Privacy 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.

### **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 Officer. Upon written request, the Privacy 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.

### **PRIVACY OFFICER**

The Plan Sponsor and the Plans have designated a Privacy Officer, who oversees compliance with the HIPAA privacy standards under the Plans. You may contact the Human Resources Benefits Office or the Privacy Officer with questions about your rights. As of the effective date of this Notice, the Privacy Officer is Ann MacKenzie, Tufts University, 200 Boston Avenue, Medford, MA 02155, (617) 627-3270.

### **EFFECTIVE DATE OF NOTICE**

This Notice was first published and originally became effective on April 14, 2004. This Notice was updated February 22, 2010. Changes in laws affecting your privacy rights may take effect at different times.