

## **San Joaquin County Employee Benefits 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 READ IT CAREFULLY.**

**Notice Effective Date: January 1, 2019**

**Background:** The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires health plans to notify plan participants and beneficiaries about its policies and practices and protect the confidentiality of their health information. This document is intended to satisfy HIPAA's notice requirement with respect to all health information created, received, or maintained by San Joaquin County's employee benefit plans (the "Plan"). The HIPAA Privacy Standards will supersede any discrepancy between the information in this Notice and the Privacy Standards.

The Plan needs to create, receive, and maintain records that contain health information about you to administer the Plan and provide you with health care benefits. This notice describes the Plan's health information privacy policy with respect to your medical, prescription drug, dental, and/or Section 125 Flexible Benefits Programs. The notice tells you the ways the Plan may use and disclose protected health information (PHI) about you, describes your rights to privacy with respect to your PHI, the Plan's duties regarding your PHI, your right to file a complaint with the Plan and with the Secretary of the U.S. Department of Health and Human Services (HHS), the person or office you should contact for further information about the Plan's privacy practices, and the Plan's duty to notify affected individuals following a breach of unsecured PHI. However, it does not address the health information policies and practices of your health care providers.

### ***San Joaquin County's Pledge Regarding Health Information Privacy***

The privacy policy and practices of the Plan protects information that relates to your past, present or future physical or mental health condition that individually identifies you or could be used to identify you and is transferred to another entity or maintained by the Plan in oral, written, electronic or any other form. This individually identifiable health information is known as "protected health information" (PHI). Your PHI will not be used or disclosed without a written authorization from you, except as described in this notice or as otherwise permitted by federal and state health information privacy laws. In the event your unsecured PHI is used or disclosed in violation of the privacy policy and practices of the Plan or the HIPAA Privacy Rule, you will receive notification of such breaches.

PHI does not include health information contained in employment records held by San Joaquin County in its role as an employer, including but not limited to health information on disability, work-related illness/injury, sick leave, Family or Medical Leave (FMLA), life insurance, dependent care flexible spending account, drug testing, etc.

### ***Privacy Obligations of the Plan***

The Plan is required by law to:

- Make sure that protected health information that identifies you is kept private;
- Give you this notice of the Plan's legal duties and privacy practices with respect to protected health information about you; and
- Follow the terms of the notice that is currently in effect.
- Let you know promptly if a breach occurs that may have compromised the privacy or security of your information.
- Not use or share protected health information other than as described here unless you provide written authorization for the use or disclosure. You may revoke such authorization at any time.

### ***How the Plan May Use and Disclose Health Information About You***

#### **When the Disclosure of Your PHI Requires Your Written Authorization**

Generally, the Plan will require that you sign a valid authorization form in order to use or disclose your PHI **other than** when you request your own PHI, when a government agency requires it, or if the Plan uses it for treatment,

payment or health care operation. You have the right to revoke an authorization. The Plan never markets or sells personal information.

Although the Plan does not routinely obtain psychotherapy notes, generally, an authorization will be required by the Plan before the Plan will use or disclose psychotherapy notes about you. Psychotherapy notes are separately filed notes about your conversations with your mental health professional during a counseling session. They do not include summary information about your mental health treatment. However, the Plan may use and disclose such notes when needed by the Plan to defend itself against litigation filed by you.

#### **Use or Disclosure of Your PHI Where You Will Be Given an Opportunity to Agree or Disagree Before the Use or Release**

Disclosure of your PHI to family members, other relatives and your close personal friends without your written consent or authorization is allowed if the information is directly relevant to the family or friend's involvement with your care or payment for that care, and you have either agreed to the disclosure or have been given an opportunity to object and have not objected.

Under this Plan your PHI will automatically be disclosed to internal employer departments as outlined below. If you disagree with this automatic disclosure by the Plan you may contact the Privacy Officer to request that such disclosure not occur without your written authorization:

- In the event of your death while you are covered by this Plan, when the Plan is notified it will automatically communicate this information to the following internal departments: payroll, life insurance, deferred compensation plan department.
- In the event the Plan is notified of a work-related illness or injury, the Plan will automatically communicate this information to the Workers' Compensation Division to allow the processing of appropriate paperwork.

Note that PHI obtained by the County of San Joaquin's employees through Plan administration activities will NOT be used for employment related decisions.

#### **Use or Disclosure of your PHI Where Consent, Authorization or Opportunity to Object is Not Required**

The Plan, its business associates, and their agents/subcontractors, if any, will use or disclose PHI without your written authorization or opportunity to agree or object, to carry out treatment, payment and health care operations, to you at your request, or as required by a government agency. The Plan will disclose PHI to a business associate only if the Plan receives satisfactory assurance that the business associate will appropriately safeguard the information. The following are the different ways the Plan may use and disclose your PHI:

- **For Treatment.** The Plan may disclose your PHI to health care providers for the provision, coordination or management of health care and related services by one or more health care providers. It also includes, but is not limited to, consultations and referrals between one or more of your providers. For example, the Plan may disclose to a treating orthopedist the name of the radiology facility where you obtained x-rays so that the orthopedist may ask for your x-rays from the radiologist.
- **For Payment.** The Plan may use or disclose your PHI for activities undertaken by the Plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the Plan, or to obtain or provide reimbursement for the provision of health care. Payment includes, but is not limited to, actions to make eligibility or coverage determinations, billing, claims management, collection activities, subrogation, reviews for medical necessity and appropriateness of care, utilization review and pre-authorizations. The Plan may disclose PHI to stop-loss carriers, excess loss carriers, or managing general underwriters (MGUs) for underwriting and other purposes in order to obtain and maintain stop-loss or excess loss coverage related to benefits claims under the Plan. For example, the Plan may tell a doctor whether you are eligible for coverage or what percentage of the bill might be paid by the Plan.
- **For Health Care Operations.** The Plan may use and disclose your PHI to enable it to operate or operate more efficiently or make certain all of the Plan's participants receive their health benefits. The Plan may use your PHI to conduct quality assessment and improvement activities, population-based activities relating to improving health or reducing health care costs, contacting health care providers and patients with information about treatment alternatives, reviewing the competence or qualifications of health care professionals, evaluating health plan performance, underwriting, premium rating and other insurance activities relating to creating, renewing or replacing health insurance contracts or health benefits. It also includes disease

management, case management, conducting or arranging for medical review, legal services and auditing functions including fraud and abuse detection and compliance programs, business planning and development, business management and general administrative activities. For example, the Plan may use information about your claims to refer you to a disease management program, project future benefit costs or audit the accuracy of its claims processing functions.

- **To a Business Associate.** Certain services are provided to the Plan by third party administrators and service providers known as “business associates.” For example, the Plan may input information about your health care treatment into an electronic claims processing system maintained by the Plan’s business associate so your claim may be paid. In so doing, the Plan will disclose your PHI to its business associate so it can perform its claims payment function. However, the Plan will require its business associates, through contract, to appropriately safeguard your health information.
- **Treatment Alternatives.** The Plan may use and disclose your PHI to tell you about possible treatment options or alternatives that may be of interest to you.
- **Health-Related Benefits and Services.** This Plan may use and disclose your PHI to tell you about health-related benefits or services that may be of interest to you.
- **Individual Involved in Your Care or Payment of Your Care.** The Plan may disclose PHI to a close friend or family member involved in or who helps pay for your health care. The Plan may also advise a family member or close friend about your condition, your location (for example, that you are in the hospital), or death.
- **As Required by Law.** The Plan will disclose your PHI when required to do so by federal, state or local law, including those that require the reporting of certain types of wounds or physical injuries.

#### *Special Use and Disclosure Situations*

The Plan may also use or disclose your PHI without your written authorization or opportunity to agree or object under the following circumstances:

- **Lawsuits and Disputes.** If you become involved in a lawsuit, administrative proceeding, or other legal action, the Plan may disclose your PHI in response to a court or administrative order, a subpoena, warrant, discovery request, or other lawful due process, provided certain conditions are met, including that:
  - the requesting party must give the Plan satisfactory assurances a good faith attempt has been made to provide you with written notice, and
  - the notice provided sufficient information about the proceeding to permit you to raise an objection, and
  - no objections were raised or were resolved in favor of disclosure by the court or tribunal.
- **Law Enforcement.** The Plan may release your PHI if asked to do so by a law enforcement official, for example, to identify or locate a suspect, material witness, or missing person or to report a crime, the crime’s location or victims, or the identity, description, or location of the person who committed the crime.
- **Workers’ Compensation.** The Plan may disclose your PHI to the extent authorized by and to the extent necessary to comply with workers’ compensation laws and other similar programs.
- **Military and Veterans.** If you are or become a member of the U.S. armed forces, the Plan may release medical information about you as deemed necessary by military command authorities.
- **To Avert Serious Threat to Health or Safety.** The Plan may use and disclose your PHI when necessary to prevent a serious threat to your health and safety, or the health and safety of the public or another person.
- **Public Health Risks.** The Plan may disclose health information about you for public health activities. These activities include preventing or controlling disease, injury or disability; reporting births and deaths; reporting child abuse or neglect; or reporting reactions to medication or problems with medical products or to notify people of recalls of products they have been using.

- **Health Oversight Activities.** The Plan may disclose your PHI to a health oversight agency for audits, investigations, inspections, and licensure necessary for the government to monitor the health care system and government programs.
- **Research.** Under certain circumstances, the Plan may use and disclose your PHI in a limited data set for medical research purposes.
- **National Security, Intelligence Activities, and Protective Services.** The Plan may release your PHI to authorized federal officials: (1) for intelligence, counterintelligence, and other national security activities authorized by law and (2) to enable them to provide protection to the members of the U.S. government or foreign heads of state or to conduct special investigations.
- **Organ and Tissue Donation.** If you are an organ donor, the Plan may release medical information to organizations that handle organ procurement or organ, eye, or tissue transplantation or to an organ donation bank to facilitate organ or tissue donation and transplantation.
- **Coroners, Medical Examiners, and Funeral Directors.** The Plan may release your PHI to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or to determine the cause of death. The Plan may also release your PHI to a funeral director, as necessary, to carry out his/her duty.

### *Your Rights Regarding Protected Health Information About You*

Your rights regarding the health information the Plan maintains about you are as follows:

- **Right to Inspect and Copy.** You have the right to inspect and obtain a copy (in hard copy or electronic form) your PHI. This includes information about your plan eligibility, claim and appeal records, and billing records, but does not include psychotherapy notes or information compiled in reasonable contemplation of an administrative action or proceeding.

To inspect and copy health information maintained by the Plan, submit your request in writing to the Plan Administrator. The Plan may charge a fee for the cost of copying and/or mailing your request. In limited circumstances, the Plan may deny your request to inspect and copy your PHI.

The Plan must provide the requested information within 30 days of its receipt of the request, if the information is maintained onsite or within 60 days if the information is maintained offsite. A single 30-day extension is allowed if the Plan is unable to comply with the deadline and notifies you in writing in advance of the reasons for the delay and the date by which the Plan will provide the requested information.

If access is denied, you or your personal representative will be provided with a written denial describing the basis for the denial, a description of how you may exercise those review rights and a description of how you may complain to the Plan's Privacy Officer or the Secretary of the U.S. Department of Health and Human Services.

- **Right to Amend.** If you feel that health information the Plan has about you is incorrect, or incomplete, you may ask the Plan to amend it. You have the right to request an amendment for as long as the information is kept by or for the Plan.

To request an amendment, send a detailed request in writing to the Plan Administrator. You must provide the reason(s) to support your request. The Plan may deny your request if you ask the Plan to amend health information that was: accurate and complete, not created by the Plan; not part of the health information kept by or for the Plan; or not information that you would be permitted to inspect or copy.

The Plan has 60 days after receiving your request to act on it. The Plan is allowed a single 30-day extension if the Plan is unable to comply with the 60-day deadline (provided that the Plan notifies you in writing in advance of the reasons for the delay and the date by which the Plan will provide the requested information).

If the Plan denies your request in whole or part, the Plan must provide you with a written denial that explains the basis for the decision. You or your personal representative may then submit a written statement disagreeing with the denial and have that statement included with any future disclosures of your PHI.

- **Right to An Accounting of Disclosures.** You have the right to request an “accounting of disclosures.” This is a list of disclosures of your PHI that the Plan has made to others, except for those necessary to carry out health care treatment, payment or operations; disclosures made to you; or in certain other situations.

To request an accounting of disclosures, submit your request in writing to the Plan Administrator. Your request must state a time period, which may not be longer than six years prior to the date the accounting was requested.

The Plan has 60 days after its receipt of your request to provide the accounting. The Plan is allowed an additional 30 days if the Plan gives you a written statement of the reasons for the delay and the date by which the accounting will be provided. If you request more than one accounting within a 12-month period, the Plan will charge a reasonable, cost-based fee for each subsequent accounting.

- **Right to Request Restrictions.** You have the right to request a restriction on the health information the Plan uses or discloses about you for treatment, payment, or health care operations. You also have the right to request a limit on the health information the Plan discloses about you to someone who is involved in your care or the payment for your case, like a family member or friend. For example, you could ask that the Plan not use or disclose information about a surgery you had.

To request restrictions, make your request in writing to the Plan Administrator. You must advise us: (1) what information you want to limit; (2) whether you want to limit the Plan’s use, disclosure, or both; and (3) to whom you want the limit(s) to apply.

The Plan will accommodate an individual’s reasonable request to receive communications of PHI by alternative means or at alternative locations where the request includes a statement that disclosure could endanger the individual. The Plan, however, is not required to agree to your request if the Plan Administrator or Privacy Officer determines it to be unreasonable, for example, if it would interfere with the Plan’s ability to pay a claim. A restriction agreed to by the Plan is not effective to prevent uses or disclosures when required by the U.S. Department of Health and Human Services to investigate or determine the Plan’s compliance with the Privacy Standards or uses or disclosures that are otherwise required by law.

- **Right to Request Confidential Communications.** You have the right to request that the Plan communicate with you about health matters by alternative means or at alternative locations if you clearly state that the disclosure of all or part of the information to which the request pertains could endanger you.

To request confidential communications, make your request in writing to the Plan Administrator. The Plan will make every attempt to accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

- **Right to a Paper Copy of this Notice.** You have the right to a paper copy of this notice. You may write to the Plan Administrator to request a written copy of this notice at any time.
- **Breach Notification.** If a breach of your unsecured Protected Health Information occurs, the Plan will notify you.

### *Your Personal Representative*

You may exercise your rights to your Protected Health Information (PHI) by designating a person to act as your Personal Representative. Your Personal Representative will generally be required to produce evidence (proof) of the authority to act on your behalf before the Personal Representative will be given access to your PHI or be allowed to take any action for you.

Under this Plan, proof of such authority will include (1) a completed, signed and approved Appoint a Personal Representative form; (2) a notarized power of attorney for health care purposes; or (3) a court-appointed conservator or guardian.

The Plan retains discretion to deny access to your PHI to a Personal Representative to provide protection to those vulnerable people who depend on others to exercise their rights under these rules and who may be subject to abuse or neglect.

Because HIPAA regulations give adults certain rights and generally children age 18 and older are adults, if you have dependent children age 18 and older covered under the Plan, and the child wants you, as the parent(s), to be able to access their Protected Health Information (PHI), that child will need to complete a form to Appoint a Personal Representative to designate you (the employee/retiree) and/or your Spouse as their Personal Representatives.

The Plan will consider a parent, guardian, or other person acting *in loco parentis* as the Personal Representative of an unemancipated minor (a child generally under age 18) unless the applicable law requires otherwise. *In loco parentis* may be further defined by State law, but in general it refers to a person who has been treated as a parent by the child and who has formed a meaningful parental relationship with the child for a substantial period of time. Spouses and unemancipated minors may, however, request that the Plan restrict PHI that goes to family members as described above under the section titled "Your Rights Regarding Protected Health Information About You."

### ***Changes to this Notice***

The Plan reserves the right to change this notice at any time and to make the revised or changed notice effective for health information the Plan already has about you, as well as any information the Plan receives in the future.

If a privacy practice of this Plan is changed affecting this Notice, a revised version of this Notice will be provided to you and all participants covered by the Plan at the time of the change. Any revised version of the Notice will be distributed within 60 days of the effective date of a material change to the uses and disclosures of PHI, your individual rights, the duties of the Plan or other privacy practices stated in this Notice.

Material changes are changes to the uses and disclosures of PHI, an individual's rights, the duties of the Plan or other privacy practices stated in the Privacy Notice. Because our health plan posts its Notice on its website, we will prominently post the revised Notice on that website by the effective date of the material change to the Notice. We will also provide the revised notice, or information about the material change and how to obtain the revised Notice, in our next annual mailing to individuals covered by the Plan.

### ***Complaints***

If you believe your privacy rights under this policy have been violated, you may file a written complaint with the Plan's Privacy Officer at the address listed below. Alternatively, you may complain to the Secretary of the U.S. Department of Health and Human Services, generally within 180 days of when the act or omission complained of occurred. ***You will not be penalized or retaliated against for filing a complaint by either your employer or the Plan.***

### ***Other Uses and Disclosures of Health Information***

Other uses and disclosures of health information not covered by this notice or by the laws that apply to the Plan will be made only with your written authorization. If you authorize the Plan to use or disclose your PHI, you may revoke the authorization, in writing, at any time. If you revoke your authorization, the Plan will no longer use or disclose your PHI for the reasons covered by your written authorization; however, the Plan will not reverse any uses or disclosures already made in reliance on your prior authorization.

### ***Privacy Officer***

The Plan has designated a Privacy Officer to oversee the administration of privacy by the Plan and to receive complaints. If you have any questions about this notice or the subjects addressed in it, please contact the Privacy Officer at:

Privacy Officer  
c/o The Director of Human Resources  
44 N. San Joaquin Street, Suite 330  
Stockton, CA 95202  
(209) 468-3370