

NOTICE OF PRIVACY PRACTICES

Employee Benefits: HIPAA 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 this document carefully.

We understand that medical information about you and your health is personal and should be kept private. Moreover, effective April 14, 2004, there were legal requirements imposed on the employee assistance program and flexible spending account plans (the "Plan") to ensure the privacy of your personally identifiable health information. This Notice is intended to summarize these rules and to inform you about:

- the Plan's uses and disclosures of Protected Health Information ("PHI") (as defined below);
- your privacy rights with respect to your PHI;
- the Plan's duties with respect to your PHI;
- your right to file a complaint with the Plan and the Secretary of the U.S. Department of Health and Human Services (the "Secretary"); and
- who (the person or office) to contact for further information about the Plan's privacy practices.

Information about the privacy practices relating to the medical and dental plans is available from the insurance companies providing coverage under those plans. Contact the Office of Human Resources for more information.

Generally, the term "Protected Health Information" ("PHI") includes all individually identifiable health information concerning you that is maintained by the Plan. PHI does not include health information that is held by the College in its role as your employer (for example, health information held for purposes of your employment records.)

PHI uses and disclosures by the Plan are regulated by a federal law called the Health Insurance Portability and Accountability Act of 1996 (referred to as "HIPAA") and the regulations which were promulgated to enforce HIPAA. You can find these regulations at 45 *Code of Federal Regulations* Parts 160 and 164.

Section 1. Notice of PHI Uses and Disclosures


A. General Rule

Generally, except for the purposes discussed below, the Plan cannot use or disclose your PHI without your written authorization. Moreover, if you provide authorization to use or disclose your PHI, you have the right to revoke your authorization at any time.

B. Uses and Disclosures of PHI to Carry Out Treatment, Payment and Health Care Operations

The Plan and individuals or entities who the Plan has engaged to assist in its administration (called "business associates") will use PHI to carry out "treatment," "payment" and "health care operations" (these terms are described below). Neither the Plan, nor the business associates, require your consent or authorization to use or disclose your PHI to carry out these functions.

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"Treatment" includes the provision, coordination or management of health care and related services. This includes consultations and referrals between one or more of your health care providers, and the coordination or management of health care by a health care provider with a third party. For example, an EAP counselor who refers you for treatment with another EAP counselor with a different specialty could share information with that counselor about your treatment needs.

"Payment" includes actions to make coverage determinations and payment (including, billing, claims processing, subrogation, plan reimbursement, reviews for medical necessity and appropriateness of care, utilization review and preauthorizations). For example, the administrator of the medical flexible spending account will use PHI to determine whether your submitted claims qualify as reimbursable expenses from your health care account

"Health care operations" include quality assessment and improvement, reviewing the competence or qualifications of health care professionals, underwriting, premium rating, and other insurance activities related to creating or renewing insurance contracts. It also includes disease management, case management, conducting or arranging for medical review, legal services and auditing functions (including fraud and abuse compliance programs), business planning and development, business management, and general administrative activities. For example, the Plan may hire auditors to review flexible spending account claims processing and assess the quality of plan administration.

Business Associates provide business services to the Plan related to transactions with you like plan administration, claim processing, or audit services. Examples of third parties include medical insurers, third party administrators, consultants and reinsurance companies. Prior to disclosure, the Plan will require its business associates, through contract, to appropriately safeguard your health information.


The Plan also may disclose PHI to employees of the College if such employees assist in carrying out treatment, payment and health care operations, provided that the PHI is used for such purposes. These individuals receive training to ensure that they will protect the privacy of your health information and that it is used only as described in this notice or as permitted by law. Health information will generally not be disclosed to the College in its capacity as Plan Sponsor, except that information regarding enrollment in the Plan or enrollment in a specific benefit will be disclosed to allow for payroll processing of premium payments. Summary health information may be provided to the College, which may be used to shop for insurance or amend the Plan, but identifying information, such as your name or social security number, will not be included. Unless authorized by you in writing, your health information: (1) may not be disclosed by the Plan to any other College employee or department, and (2) will not be used by the College for any employment-related actions and decisions or in connection with any other employee benefit plan sponsored by the College.

C. Uses and Disclosures of PHI for which Consent, Authorization or Opportunity to Object Is Not Required

HIPAA sets forth a limited number of additional situations in which the Plan may use or disclose your PHI without your authorization, including:

1. When such uses or disclosures are required by law.
2. When uses or disclosures are permitted for purposes of public health activities, including preventing or controlling disease, injury or


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disability, and when necessary to report product defects in connection with FDA regulated products, to permit product recalls with respect to such products, and to conduct post-marketing surveillance. PHI may also be used or disclosed if you have been exposed to a communicable disease or are at risk of spreading a disease or condition, if authorized by law.

3. When the Plan is authorized by law to allow reporting of information about abuse, neglect or domestic violence to public authorities, and there exists a reasonable belief that you may be a victim of abuse, neglect or domestic violence. In such cases, the Plan will promptly inform you that such a disclosure has been or will be made unless the notice would cause you a risk of serious harm. In instances of reports of child abuse or neglect, it is not necessary to inform the minor that such a disclosure has been or will be made. Disclosure may generally be made to the minor's parents or other representatives, although there may be circumstances under federal or state law when the parents or other representatives may not be given access to the minor's PHI.
4. To a public health oversight agency for oversight activities authorized by law. This includes uses or disclosures in civil, administrative or criminal investigations; inspections; licensure or disciplinary actions (for example, to investigate complaints against providers); and other activities necessary for appropriate oversight of government benefit programs (for example, to investigate Medicare or Medicaid fraud).
5. When required by judicial or administrative order, or in response to a subpoena, discovery request or other lawful process which is not accompanied by an order, provided that certain conditions are met. One of those conditions is that satisfactory assurances must be given to the Plan that (a) the requesting party has made a good faith attempt to provide written notice to you, or (b) the party seeking the information has made reasonable efforts to secure a qualified protective order.
6. For law enforcement purposes, including for the purpose of identifying or locating a suspect, fugitive, material witness or missing person. Also, for disclosing information about you if you are suspected of being a victim of a crime, but only if you agree to the disclosure or the Plan is unable to obtain your agreement because of incapacity or emergency circumstances. Furthermore, the law enforcement official must represent that the information is not intended to be used against you, that the immediate law enforcement activity would be materially and adversely affected by waiting to obtain your agreement, and that disclosure is in your best interest as determined by the exercise of the Plan's best judgment.
7. When required to be given to a coroner or medical examiner for the purpose of identifying a deceased person, determining the cause of death, or other duties as authorized by law. Also, disclosure is permitted to funeral directors, consistent with applicable law, as necessary to carry out funeral directors' duties with respect to the decedent.

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8. For cadaveric organ, eye or tissue donation purposes, to organ procurement or like entities.
9. For research, subject to conditions.
10. When consistent with applicable law and standards of ethical conduct, if the Plan, in good faith, believe the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and the disclosure is to a person reasonably believed to be able to prevent or lessen the threat, including the target of the threat.
11. When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.
12. If you are not present or your consent cannot be obtained because of your incapacity or an emergency circumstance, the Plan may, in the exercise of its professional judgment, disclose to your family member, relative, or other person who is responsible for your care your PHI directly relevant to such care, if the Plan concludes that disclosure is in your best interests.
13. For those specialized government functions set forth in the regulations promulgated pursuant to HIPAA or such other purposes provided under HIPAA.

Section 2. Your Rights as Individuals

A. Right to Request Restrictions on Uses and Disclosures of PHI

If you wish, you may (i) request that the Plan restrict uses and disclosures of your PHI to carry out treatment, payment or health care operations, or (ii) request that the Plan restrict uses and disclosures of your PHI to family members, relatives, friends or other persons identified by you who are involved in your care or the payment for your care. Please note, however, that the Plan is not required to agree to your request.

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI.

B. Right to Receive Confidential Communications of PHI


The Plan will accommodate reasonable requests to receive communications of PHI by alternative means or at alternative locations to better ensure your privacy.

Requests for restrictions and to receive communications by alternative means or at alternative locations should be made to the following: Human Resources Department, St. John Fisher College.

C. Right to Inspect and Copy PHI

You also have a right to inspect and obtain a copy of your PHI to the extent that it is contained in a "designated record set." This right extends for as long as the Plan maintains the PHI, but does not apply to: psychotherapy notes; information compiled in anticipation of, or for use in, a civil, criminal or administrative action or proceeding; or information subject to the Clinical Laboratory Improvement Amendments of 1988 (to the extent that providing access to that information would be prohibited by law), and information which is exempt from those Amendments.

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A “designated record set” includes: medical records and billing records about individuals which are maintained by or for a covered health care provider; enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health plan; and other information used by or for a covered entity to make decisions about individuals. Information used for quality control or peer review analyses and not used to make decisions about individuals is not considered part of a designated record set.

The requested information will be provided within 30 days if the information is maintained on site, 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.

You or your personal representative will be required to complete a form to request access to the PHI in your designated record set. Requests for access to PHI should be made to the following person: Karen Gagie, Director, Human Resources. St John Fisher College, 3690 East Avenue, Rochester, NY 14618. If access is denied, you or your personal representative will be provided with a written denial setting forth the basis for the denial, a description of how you may exercise review rights with respect to the denial, and a description of how you may complain to the Secretary.

D. Right to Amend PHI

You have the right to request that the Plan amend your PHI or a record about you in a designated record set that is inaccurate or incomplete for as long as the PHI is maintained in the designated record set.

The Plan has 60 days after the request is made to act on the request. A single 30-day extension is allowed if the Plan is unable to comply with the deadline. If the request is denied in whole or part, the Plan must provide you with a written denial that explains the basis for the denial. You or your personal representative may then submit a written statement disagreeing with the denial and have that statement included with any future disclosure of your PHI.

Requests for amending records containing your PHI in a designated record set should set forth the reason for the amendment and should be made, in writing, to the following person: Karen Gagie, Director, Human Resources Department, St. John Fisher College, 3690 East Avenue, Rochester, NY 14618.

E. The Right to Receive an Accounting of PHI Disclosures

At your request, the Plan will also provide you with an accounting of disclosures of your PHI by the Plan during the period covered by your request (which may be a period of up to six years prior to the date of your request).

However, such accounting need not, consistent with the HIPAA privacy regulations, include PHI disclosures made: (1) to carry out treatment, payment or health care operations; (2) to you about your own PHI; (3) incident to a use or disclosure otherwise permitted or required by law; (4) pursuant to your authorization; (5) for national security or intelligence purposes; (6) to correctional or law enforcement officials; (7) as part of a limited data set; or (8) prior to the date the Plan was required to comply with HIPAA privacy regulations.

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If the accounting cannot be provided within 60 days, an additional 30 days is allowed 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.

F. Copies of this Notice

You have a right to obtain a paper copy of this notice from the Plan upon request. You may ask us to give you a copy of this notice at any time. Even if you have agreed to receive this notice electronically, you are still entitled to a paper copy of this notice. A copy of this notice is found on pages E19.1-8 of the Employee Handbook, available on the Human Resources Web site at <http://www.sjfc.edu/humanresources/documents/EmployeeHandbook.pdf>. You may also request a paper copy from the Office of Human Resources at (585) 385-8048. The Office of Human Resources is located in Kearney Hall, Room 211. The address for written correspondence is Karen Gagie, Director, Human Resources, St John Fisher College, 3690 East Avenue, Rochester, NY 14618.

G. Personal Representatives

You may exercise your rights under this notice through a personal representative. If you have a personal representative, he/she will, unless otherwise allowed by law, be required to produce evidence of his/her authority to act on your behalf before he/she will be given access to your PHI or allowed to take any action for you. Proof of such authority may take one of the following forms:

- a power of attorney for health care purposes, notarized by a notary public;
- a court order of appointment of the person as your conservator or guardian; or
- proof that the representative is your parent (if you are a minor child).

The Plan retains the discretion to deny your personal representative access to your PHI to protect you if it is believed that you may be subject to abuse or neglect. This also applies to personal representatives of minors.

Section 3. The Plans' Duties

Beginning April 14, 2004, the Plan is required by law to maintain the privacy of PHI in accordance with HIPAA and to provide individuals (employees and their dependents who are enrolled in the plan) with notice of the Plans' legal duties and privacy practices. The Plan is required to abide by the terms of the privacy notice then in effect. The Plan reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by the Plan. If a privacy practice is materially changed, a revised version of this notice will be provided to all past and present participants and beneficiaries for whom the Plan still maintains PHI.

Any revised version of this notice will be distributed within 60 days of the effective date of any material change to the uses or disclosures, the individual's rights, the duties of the Plan or other privacy practices stated in this notice.

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A. Minimum Necessary Standard

When using or disclosing PHI or when requesting PHI from another covered entity, the Plan will make reasonable efforts not to use, disclose or request more than the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request, taking into consideration practical and technological limitations. However, the minimum necessary standard will not apply in certain circumstances such as uses or disclosures made to you, authorized by you, made to a health care provider for treatment purposes, made to the Secretary or required by law.

B. De-Identified Information, Limited Data Sets, and Summary Information

This notice does not apply to health information that has been de-identified. De-identified information is information that does not identify an individual (i.e., you) and with respect to which there is no reasonable basis to believe that the information can be used to identify you.

In addition, the Plan may use or disclose information in a limited data set, provided that the Plan enters into a data use agreement with the limited data set recipient that complies with the federal privacy regulations. A limited data set is PHI which excludes certain direct identifiers relating to you and your relatives, employers and household members.

The Plan may disclose "summary health information" to the College without your authorization if the College requests the summary information for the purpose of obtaining premium bids from health plans for providing health insurance coverage under the Plan, or for modifying, amending or terminating the Plan. "Summary health information" means information that summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom the College has provided health benefits under the Plan; and from which most identifying information has been deleted. The Plan may also disclose to the College information on whether an individual is participating in the Plan and the coverage in which an individual has enrolled.

Section 4. Your Right to File a Complaint With the Plan or the Secretary

If you believe that your privacy rights have been violated, you may complain to the Plan by contacting the following individual, at the following street address, telephone number and e-mail address: Karen Gagie, Human Resources Department, St. John Fisher College, 3690 East Avenue, Rochester, NY 14618. 585-385-8048, kgagie@sjfc.edu.

You may also file a complaint with the Secretary of the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201.

The Plan will not retaliate against you for filing a complaint.

Section 5. Who to Contact at the Plan for More Information

If you have any questions regarding this notice or the subjects addressed in the notice, you may contact the following privacy officer at the following street address, telephone number and e-mail address: Karen Gagie, Human Resources Department, St. John Fisher College, 3690 East Avenue, Rochester, NY 14618. 585-385-8048, kgagie@sjfc.edu.

Section 6. Effective Date

This notice has been revised and is effective August 1, 2009.

This notice represents the Plan's effort to summarize the privacy regulations under HIPAA. In the event of a discrepancy between the terms or requirements of this notice and the privacy regulations themselves, the terms of the regulations shall prevail.

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