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**Human Resources Operating Procedure No. 141**

**HIPAA Privacy and Security**

**Trinity Health Corporation Welfare Benefit Plan**

**Trinity Health Corporation Retiree Benefit Plan (Grandfathered)**

**Integrity & Compliance Policy No. 01 Integrity & Compliance Program**

EFFECTIVE DATE*:* January 1, 2017

Original Effective Date: April 14, 2003

PROCEDURE TITLE:

***State Law Preemption***

***To be reviewed every three years by:***

***Trinity Health Corporation Welfare Benefit Plan Privacy Official***

**REVIEW BY: January 1, 2020**

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This Procedure is in furtherance of the Trinity Health Corporation Integrity & Compliance Program as set forth in Trinity Health Corporation Integrity & Compliance Policy No. 01.

**PURPOSE**

This Procedure applies when State Law is more Stringent than HIPAA and is not preempted by ERISA. If the regulations under HIPAA are changed by HHS the Plan will follow the revised regulations.

**PROCEDURES**

***1.*** The Plan will comply with the HIPAA and State Law when it is possible to comply with both and to the extent the State Law is not preempted by ERISA.

***2.*** As a general rule, if State Law and HIPAA are Contrary, the Plan will comply with the More Stringent law as defined in HIPAA, except to the extent such law is preempted by ERISA. If State Law is Contrary to HIPAA and it is not possible to comply with both HIPAA and State Law, the Plan will comply with HIPAA unless the state has obtained a preemption waiver for such law in accordance with the HIPAA and the State Law is not preempted by ERISA. If State Law is Contrary to HIPAA and More Stringent, the Plan will comply with State Law except to the extent the State Law is preempted by ERISA.

***3.*** In cases where it is not possible to comply with both HIPAA and State Law, the Privacy Official will seek legal advice to determine which law is More Stringent as defined by HIPAA.

***4.*** The Privacy Official, working in conjunction with the Plan Sponsor’s Home Office (i.e., I&AS and Legal), will:

a. Maintain a list of State Laws that are Contrary To and More Stringent than HIPAA; and

b. Monitor new privacy related State Laws.

# DEFINITIONS

The following are definitions of key terms used in this Procedure. Any terms used in this Procedure, but not otherwise defined herein, shall have the meaning set forth in the HIPAA regulations, 45 CFR §§ 160.103, 164.103, 164.304, 164.402 and 164.501.

**Contrary** has the meaning assigned to this phrase in HIPAA.

**Covered Entity means** (a) a health plan, (b) a healthcare clearinghouse, or (c) a health care provider who transmits any health information in an electronic form in connection with a transaction covered under 45 CFR Subtitle A, Subchapter C, Parts, 160, 162 and 164.

**HHS means** the U.S. Department of Health and Human Services.

**HIPAA means** the Privacy Standards of the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. § 1320d, et. seq., and the regulations issued thereunder, 45 CFR Parts 160 and 164, as amended from time to time.

**More Stringent** has the meaning assigned to this phrase in HIPAA.

**Plan means** the Trinity Health Corporation Welfare Benefit Plan (“Welfare Plan”) and the Trinity Health Corporation Retiree Benefit Plan (Grandfathered) (“Retiree Plan”), with respect to the benefit programs thereunder that constitute “health plans,” as defined in 45 CFR § 160.103. For the Welfare Plan, the benefit programs that constitute health plans are the medical/prescription drug, dental, vision, employee assistance, flexible healthcare spending account and healthcare reimbursement account program components of the Plan. For the Retiree Plan, the benefit programs that constitute health plans are the medical/prescription drug, dental, vision and healthcare reimbursement account program components of the Plan. The Welfare Plan and the Retiree Plan are each a Covered Entity. Whenever reference is made to the Plan’s action, the activities of the Plan Sponsor on behalf of the Plan shall be treated as the action of the Plan.

**Plan Sponsor** **means** the “plan sponsor” as defined in section 3(16)(B) of ERISA, 29 U.S.C. § 1002(16)(B) and means Trinity Health Corporation and, except where context indicates otherwise, employees and agents of Trinity Health Corporation and the other participating employers in the Plan who are responsible for Plan administration functions.

**Privacy Official means** the person designated by the Plan or Plan Sponsor to oversee and administer the Plan’s compliance with these Procedures and HIPAA.

**State Law** means a constitution, statute, regulation, rule, common law, or other state action having the force and effect of law.

**RELATED PROCEDURES AND OTHER MATERIALS**

* Human Resources Operating Procedure No. 120 (Use or Disclosure of Protected Health Information)
* Enterprise Information Security Procedures

**APPROVALS**

**Initial Approval: 04/14/2003**

**Subsequent Review/Revisions: December 20, 2016**