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**Human Resources Operating Procedure No. 127**

**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:

***Verification of Individuals Requesting***

***Access to or Disclosure of***

***Protected Health Information***

***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**

The purpose of this Procedure is to establish procedures for the Plan to verify the identity of a person requesting PHI, the authority of any person to have access to PHI if the identity or authority of the person is not known to the Plan and to facilitate compliance with 45 CFR §164.514(h) of HIPAA. If the regulations under HIPAA are changed by HHS the Plan will follow the revised regulations.

**PROCEDURES**

1. ***Verification of Identity and Authority***

a. The Plan’s Privacy Official will be responsible for taking steps to ensure that Workforce Members are educated to appropriately verify the identity and authority of persons and organizations requesting access to or Disclosure of PHI.

b. Workforce Members who provide access to or Disclose PHI will verify the identity and authority of a person or organization requesting access to or Disclosure of PHI, if such person or organization is not already known to the Workforce Member, through one or more of the following methods:

i. Verifying Identity.

I. **In-Person.** The identity of a person requesting PHI may be verified by viewing a valid picture I.D. in the form of a driver’s license, passport, or other State or government issued identification card, or pursuant to any other method reasonably effective to verify the identity. The identity and authority of a Workforce Member requesting PHI, if that individual is not already known, may be verified by requesting to see a valid picture I.D. as described in the prior sentence, a valid corporate I.D. or a letter of authority on corporate letterhead signed by an appropriate Plan Sponsor officer. If the appropriateness of Disclosing PHI to a properly identified Workforce Member is in question, see Human Resources Operating Procedure No. 122 (Minimum Necessary Use or Disclosure of Protected Health Information).

II. **Telephone.**  Telephone requests for PHI may be verified by having the telephone caller respond to three (3) or more questions about data contained in the information system (e.g., last four social security numbers, date of birth, maiden name, insurance information, employer, last date-of-service, etc.) along with a call-back procedure to the telephone number on record.

III. **Facsimile.**  Fax requests for access to or Disclosure of PHI should be screened by the Workforce Member. Generally, faxed requests are verified by the letterhead header information that contains the requestor’s name, address and phone number. If the Workforce Member has any doubt about the identity of the party who sent the fax request, the Workforce Member should contact the requesting party by telephone and verify his or her identity.

IV. **E-mail.** E-mail requests for PHI should be limited to the Individual and not the personal representative of the Individual. The Individual must follow Trinity Health’s email requirements (i.e., sign and return Trinity Health’s email consent form).

ii. Verifying Authority. The authority of a person or organization requesting PHI may be verified through one or more of the following methods:

I. By viewing an Authorization from the Individual who is the subject of the PHI.

II. By viewing the Business Associate Agreement between the Plan and the requester.

III. By viewing a letter of authorization for the requestor from the Business Associate organization or other organization; or

IV. By obtaining any documentation, statements or representations, whether verbal or written, from the person or organization requesting the PHI, if such documentation, statement or representation is a condition of Disclosure of the PHI. Conditions on Disclosures are considered satisfied through receipt of an administrative request--including an administrative subpoena or summons, a civil or an authorized investigative demand or similar process authorized under law--that, on its face:

(1) Demonstrates that the PHI sought is relevant and material to a legitimate law enforcement inquiry;

(2) Requests specific PHI which is limited in scope to the extent reasonably practicable in light of the purpose for which it is sought; and

(3) Explains why de-identified information cannot reasonably be used.

c. Personal Representative Requests. Workforce Members who provide access to or disclose PHI will verify the identity and authority of a personal representative requesting PHI, if that individual is not already known to the Workforce Member, through one or more of the following methods:

i. If the personal representative claims to be the parent, guardian or acting *in loco parentis* of an unemancipated minor, the Workforce Member will:

I. Request to see a valid picture I.D., as described in Section b.i.I., above.; and

II. Ask questions relating to personal information designed to reasonably determine the identity of the person as a parent, guardian or acting *in loco parentis*.

ii. If the person claims to be the personal representative of an emancipated minor or an adult, the Workforce Member will:

I. Request to see a valid picture I.D., as described in Section b.i.I., above; and

II. Request to see a Power of Attorney or other legal document, if applicable, granting the person legal authority to make decisions on behalf of the Individual, and access to the Individual’s PHI.

iii. Workforce Members should consult Human Resources Operating Procedure No. 128 (Personal Representatives) for more information on PHI that may be Disclosed to personal representatives.

d. Public Official Requests for PHI. The Plan will be responsible for answering requests for PHI from public officials.

i. Workforce Members who provide access to or Disclose PHI will verify the identity of the public official, or person acting on behalf of the public official, through one of the following methods:

I. If the request for PHI is made in person, the Plan will ask to see an agency identification badge, other official credentials or other proof of government status.

II. If the request for PHI is made in writing, the identity of the public official is deemed verified if the request is made on appropriate government letterhead and independently confirmed (e.g., quick Google search to verify the agency, address, and telephone number on the request).

III. If the request for PHI is made by a person acting on behalf of a public official, verification of identity can be made through one of the following methods:

(1) A written statement on appropriate government letterhead stating that the person is acting under the government’s authority; or

(2) Evidence or documentation, such as a contract for services, memorandum of understanding or purchase order that establishes that the person is acting on behalf of a public official.

ii. The Plan will verify the authority of public officials using one of the following methods:

I. Obtain a written statement of the legal authority under which the information is requested; or

II. If a written statement is impracticable under the circumstances, obtain an oral statement of the legal authority under which the information is requested.

III. A request made pursuant to a legal process, warrant, subpoena, order or other legal process issued by a grand jury or an administrative tribunal is presumed to constitute legal authority.

iii. The Plan will consult with legal counsel as necessary under this Section 1.d.

e. In all instances where the Workforce Member has a doubt about the identity of a requestor, he/she should refer the request to the Plan’s Privacy Official.

***2. Exceptions to Verification Requirements***

a. The following circumstances do not require verification of identity:

i. Emergency circumstances;

ii. Uses and Disclosures for involvement in the Individual’s care and notification purposes;

iii. Uses and Disclosures with the Individual present;

iv. Limited Uses and Disclosures when the Individual is not present;

v. Uses and Disclosures for disaster relief purposes; and

vi. Uses and Disclosures to avert a serious threat to health or safety.

b. Disclosures under this Section 2. must be made in the exercise of professional judgment or on a good faith belief that the Disclosure should be made.

# 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.

**Business Associate means**, with respect to a Covered Entity, a person or organization that:

1. Creates, receives, maintains, or transmits PHI for a function or activity on behalf of a Covered Entity other than in the capacity of a member of the Covered Entity’s Workforce; or

2. Provides, other than in the capacity of a member of the Covered Entity’s Workforce, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for the Covered Entity, where the provision of the service involves the Disclosure of PHI from the Covered Entity, or from another Business Associate of the Covered Entity, to the person.

However, a person or organization is not a Business Associate if it is:

3. A health care provider (e.g., hospital medical staff), with respect to Disclosures by a Covered Entity to the health care providing concerning the treatment of an individual; or

4.. A plan sponsor with respect to Disclosures by a group health plan (or by a health insurance issuer or HMO with respect to a group health plan) to the plan sponsor, to the extent the requirements of 45 CFR § 164.504(f) of HIPAA apply and are met.

**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.

**Disclosure (or Disclose) means**, with respect to PHI, the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

**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.

**Individual** **means** the person who is the subject of PHI and who is also a participant or former participant in the Plan or a covered spouse, dependent or beneficiary under the Plan.

**Individually Identifiable Health Information means** information that is a subset of health information, including demographic information collected from an Individual, and that:

1. Is created or received by a health care provider, health plan, employer, or health care clearing house; and

2. Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an Individual; or the past, present, or future payment for the provision of health care to an Individual; and

3. Identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual.

**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.

**Protected Health Information or PHI means** Individually Identifiable Health Information that is transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes Individually Identifiable Health Information: (a) in education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; (b) in records described at 20 U.S.C. 1232g(a)(4)(B)(iv); (c) in employment records held by a the Plan Sponsor or a Covered Entity in its role as employer; and (d) regarding a person who has been deceased for more than 50 years.

**Use (or Uses) means**, with respect to PHI, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

**Workforce or Workforce Member** **means** employees and other persons whose conduct, in the performance of work for the Plan, is under the direct control of the Plan or Plan Sponsor or one of its affiliated entities on behalf of the Plan, whether or not they are paid by the Plan or Plan Sponsor or one of its affiliated entities. The Workforce Members are described in Section 2.a.i. of Human Resources Operating Procedure No. 122 (Minimum Necessary Use or Disclosure of Protected Health Information)

**RELATED PROCEDURES AND OTHER MATERIALS**

* Human Resources Operating Procedure No. 120 (Use or Disclosure of Protected Health Information)
* Human Resources Operating Procedure No. 122 (Minimum Necessary Use or Disclosure of Protected Health Information)
* Human Resources Operating Procedure No. 123 (Business Associate Agreements)
* Human Resources Operating Procedure No. 128 (Personal Representatives)
* Enterprise Information Security Procedures

**APPROVALS**

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

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