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**Human Resources Operating Procedure No. 120**

**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:

***Use 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 when the Plan may Use or Disclose an Individual’s PHI to ensure that the Plan’s Use and Disclosure of PHI is consistent with HIPAA. If the regulations under HIPAA are changed by HHS the Plan will follow the revised regulations.

**PROCEDURES**

1. ***Required Disclosures***

The Plan will Disclose PHI:

a. To the Individual who is the subject of the PHI when required pursuant to Human Resources Operating Procedure No. 150 (Individual Rights Regarding Access to Protected Health Information) or Human Resources Operating Procedure No. 160 (Individual Rights Regarding Accounting of Disclosures of Protected Health Information).

b. When required by the Secretary of HHS to investigate or determine the Plan’s compliance with HIPAA.

1. ***Uses and Disclosures of PHI Permitted by HIPAA***
   1. The Plan will Use and Disclose PHI in accordance with HIPAA, consistent with the following permitted Uses or Disclosures described in this Procedure.
      1. Uses or Disclosures not requiring Individual Authorization; and
      2. Uses or Disclosures requiring Individual Authorization.
   2. In no event will the Plan Use or Disclosure PHI that is genetic information for underwriting purposes.
2. ***Use or Disclosure Not Requiring Authorization***

a. Treatment, Payment and Healthcare Operations. The Plan may Use or Disclose PHI for Treatment, Payment or Healthcare Operations without the consent or Authorization of the Individual who is the subject of the PHI and without giving the Individual the opportunity to agree or object to the Use or Disclosure as follows:

i. For the Treatment activities of a health care provider to whom the Disclosure is being made;

ii. For Payment to the Plan or Payment to another Covered Entity or health care provider to whom the Disclosure is being made;

iii. For Healthcare Operations of the Plan or another Covered Entity to whom the Disclosure is being made, provided such Covered Entity either has or had a relationship with the Individual who is the subject of the PHI being Disclosed, the PHI pertains to such relationship, and the Disclosure is for the purpose of:

I. Health care fraud and abuse detection or compliance;

II. Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; patient safety activities (as defined in 42 CFR § 3.20); population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment; or

III. Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing, or credentialing activities; or

iv. For the Healthcare Operations of an Organized Health Care Arrangement in which the Plan is a participant.

Before Using or Disclosing an Individual’s PHI for Treatment, Payment or Healthcare Operations purposes, the Plan will confirm that the Use or Disclosure is for Treatment, Payment or Healthcare Operations purposes and will determine if a restriction or objection from the Individual exists that limits the Use or Disclosure for Treatment, Payment or Healthcare Operations in a manner that creates a conflict. The Plan will attempt to resolve a conflict between a restriction and an agreement or objection by:

v. Revocation of the conflicting restriction or agreement/objection; or

vi. Communicating verbally or in writing with the Individual to determine the Individual’s preference, documenting the Individual’s preference and only Disclosing PHI according to such preference.

b. Use or Disclosure for Which an Opportunity to Agree or Object **Is** Required.

i. The Plan will give an Individual an opportunity to agree or object prior to Using or Disclosing his or her PHI in certain situations described in this Section 3.b.

ii. The Plan will give an Individual an the opportunity to agree or object prior to Disclosing the Individual’s PHI to friends and family members that are involved in the Individual’s care or Payment for the Individual’s care and to Uses or Disclosures for notification purposes.

iii. The Plan will be responsible for asking Individuals whether they object to their PHI being Used or Disclosed for the purposes described in this Section 3.b., for documenting such response and for communicating the Individuals’ responses to appropriate Workforce Members to ensure proper Use and Disclosure of the Individuals’ PHI for the purposes described in this Section 3.b. The Plan may orally inform the Individual of and obtain the Individual’s oral agreement or objection to a Use or Disclosure permitted by this Section.

I. If the Individual objects, the Plan’s Privacy Official is responsible for ensuring that such PHI is not Use or Disclosed unless the Use or Disclosure is otherwise permitted under the Plan’s HIPAA Privacy Procedures (i.e., an Authorization).

iv. The Plan may Disclose to a family member, other relative, or a close personal friend of the Individual, or any other person identified by the Individual, an Individual’s PHI that is directly relevant to the information-recipient’s involvement with the Individual’s health care, or with Payment related to the Individual’s individual care or may Disclose PHI to notify, or assist in the notification of (including identifying or locating) an Individual’s family member, a personal representative of the Individual, or another person responsible for the care of the Individual of the Individual’s location, general condition or death, if it:

I. Obtains the Individual’s agreement;

II. Provides the Individual with the opportunity to object to the Disclosure, and the Individual does not express an objection; or

III. Reasonably infers from the circumstances, based on the exercise of professional judgment, that the Individual does not object to the Disclosure.

IV. If an Individual is not present or cannot agree or object because of the Individual’s incapacity or because of an emergency circumstance, and based upon the professional judgment of the Plan that the Disclosure is in the Individual’s best interest, the Plan may Disclose information that is directly relevant to that person’s involvement with the Individual’s health care, Payment related to the Individual’s health care or needed for notification purposes.

v. The Plan may Use or Disclose PHI to a public or private entity authorized by law or by its charter to assist in disaster relief efforts, for the purpose of coordinating with such entities Uses or Disclosures to notify, or assist in the notification of (including identifying or locating) a family member, a personal representative of the Individual, or another person responsible for the care of the Individual of the Individual’s location, general condition or death. The requirements in Sections 3.b.iv.II., III. and IV. and 3.b.vi. apply to such Uses and Disclosures to the extent that the Plan, in the exercise of professional judgment, determines that the requirements do not interfere with the ability to respond to the emergency circumstances.

vi. If the Individual is deceased, the Plan may Disclose to a family member, other relative, or close personal friend of the Individual, the personal representative of the Individual, any other person identified by the Individual, or any other person responsible for the care of the Individual who was involved in the Individual's care or Payment for health care prior to the Individual's death, PHI of the Individual that is relevant to such person’s involvement, unless doing so is inconsistent with any prior expressed preference of the Individual that is known to the Plan.

c. Use or Disclosure for Which an Opportunity to Agree or Object is **Not** Required. In addition to the Uses and Disclosures of PHI for Treatment, Payment and Healthcare Operations described in Section 3.a., the Plan may Use or Disclose an Individual’s PHI for the reasons set forth in this Section 3.c. without the consent or Authorization of the Individual who is the subject of the PHI and without giving the Individual the opportunity to agree or object to the Use or Disclosure. However, the Plan reserves the right to refuse to make a Use or Disclosure for a reason described in this Section 3.c. or to seek legal guidance regarding whether the Use or Disclosure should be made under this Section 3.c., including, but not limited to, seeking guidance from a court of applicable jurisdiction. Uses and Disclosures made for a reason set forth in this Section 3.c. must comply with the minimum necessary rule – that is, the information Used or Disclosed must be limited to that minimally necessary to accomplish the purpose(s). Prior to Using or Disclosing PHI for a purpose set forth in this Section 3.c., the Privacy Official or his or her designee must review and authorize the Use or Disclosure; the review will include determining whether an Authorization or an opportunity to agree or object is required.

i. Uses and Disclosures Required by Law.The Plan may Use or Disclose PHI to the extent that the Use or Disclosure is required by law and the Use or Disclosure complies with and is limited to the relevant requirements of the law.

ii. Public Health Activities.The Plan may Use or Disclose PHI for the following public health activities and purposes:

I. To a public health authority that is authorized by law to collect or receive PHI for the purpose of preventing or controlling disease, injury or disability. This includes, but is not limited to the following:

A. Reporting disease or injury;

B. Reporting vital events such as birth or death;

C. Conduct of public health surveillance;

D. Conduct of public health investigations; and

E. Conduct of public health interventions; or

F. At the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority.

II. To a public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect.

III. To a person subject to the jurisdiction of the Food and Drug Administration (“FDA”) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety or effectiveness of such FDA-regulated product or activity, including:

A. To collect or report adverse events (or similar activities with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations;

B. To track FDA-regulated products;

C. To enable product recalls, repairs, or replacement, or lookback (including locating and notifying individuals who have received products that have been recalled, withdrawn, or are the subject of lookback); or

D. To conduct post marketing surveillance;

IV. To a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if the Plan or public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation; or

V. To a school about an Individual who is a student or prospective student if the PHI is limited to proof of immunization, the school is required by State or other law to have such proof of immunization prior to admitting the Individual, and the Plan obtains and documents the agreement to the Disclosure from either a parent, guardian or other person acting *in loco parentis* of the Individual if the Individual is an unemancipated minor or the Individual if the Individual is an adult or an emancipated minor.

iii. Victims of Abuse, Neglect or Domestic Violence. The Plan may Disclose PHI about an Individual whom the Plan reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence. Disclosure will be made only:

I. After Authorization by the Individual;

II. To the extent required by law and to the extent that the Disclosure complies with and is limited to the relevant requirements of such law; or

III. To the extent the Disclosure is expressly authorized by statute or regulation and:

A. The Plan believes, in the exercise of professional judgment of the Privacy Official or his or her delegate, that the Disclosure is necessary to prevent serious harm to the Individual or other potential victims; or

B. If the Individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the PHI for which Disclosure is sought is not intended to be used against the Individual and that an immediate enforcement activities that depends upon the Disclosure would be materially and adversely affected by waiting until the Individual is able to agree to the Disclosure.

The Plan must inform the Individual of any Disclosure that has been or will be made under this Section 3.c.iii.III. unless the Plan believes, in the exercise of professional judgment the Privacy Official or his or her delegate, informing the Individual would place the Individual at risk of serious harm, or the Plan would be informing a personal representative who the Plan reasonably believes is responsible for the abuse, neglect or other injury and that informing the representative would not be in the best interests of the Individual as determined by the Plan in the exercise of professional judgment the Privacy Official or his or her delegate.

This Section does not apply to reports of child abuse or neglect, which are addressed in Section 3.c.ii.

iv. Health Oversight Activities. The Plan may Disclose PHI to a federal or state health oversight agency for oversight activities authorized by law, such as audits; civil, administrative or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:

I. The health care system;

II. Government benefit programs for which health information is relevant to beneficiary eligibility;

III. Entities subject to government regulation for which health information is necessary for determining compliance with program standards; or

IV. Entities subject to civil rights laws for which health information is necessary for determining compliance.

The Plan will not disclose PHI for an investigation or other activity in which the Individual is the subject of the investigation or activity and the investigation or other activity does not arise out of and is not directly related to the receipt of healthcare, a claim for public benefits related to health, or qualification for or receipt of public benefits or services when a patient’s health is integral to the public benefits or services.

Notwithstanding the above, if a health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health, the joint activity or investigation is considered a health oversight activity for purposes of this Section.

Health oversight agencies are an agency or authority of the United States, including the Department of Labor, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (both public and private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.

v. Use and Disclosure in Response to a Court Order. The Plan may disclose PHI in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal. The Plan will disclose only the PHI expressly authorized by such order. The Plan may also Use and Disclose PHI in its defense of a legal action or proceeding brought by the Individual who is the subject to the PHI.

vi. Disclosure in the Course of Judicial or Administrative Proceeding Without Court Order. The Plan will not disclose PHI in response to a subpoena, discovery request or other lawful process that is not accompanied by an order of a court or administrative tribunal unless the Plan verifies that the Individual is aware of the request and has not made a valid objection to it, in accordance with the rules set forth in this Section and HIPAA.

I. Legal counsel will be consulted when a subpoena, discovery request, or other lawful process is received.

II. The Plan may disclose PHI in response to a subpoena, discovery request, or other lawful process, not accompanied by an order of a court or administrative tribunal, if the Plan receives “written documentation” from the party seeking the PHI that reasonable efforts have been made to ensure that the Individual who is the subject of the PHI has been given notice of the request and either that Individual did not object or any objections filed have been resolved. “Written documentation” means a statement by the requestor and accompanying documentation demonstrating that:

A. The party requesting the PHI has made a good faith attempt to provide written notice to the Individual whose PHI is being sought, or if the individual’s location is unknown, has mailed a notice to the Individual’s last known address;

B. The notice included sufficient information to allow the Individual to raise an objection to the court or administrative tribunal; and

C. The time for the Individual to raise objections to the court or administrative tribunal has elapsed and no objections were filed or all objections filed by the Individual have been resolved by the court or the administrative tribunal and the Disclosures being sought are consistent with such resolution.

III. The Plan may also disclose PHI in response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if the Plan receives satisfactory assurances from the party seeking the PHI that reasonable efforts have been made by such party to secure a qualified protective order. The Plan receives “satisfactory assurances” from the party seeking PHI if the Plan receives from such party a written statement and accompanying documentation demonstrating that:

A. The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or

B. The party seeking the PHI has requested a qualified protective order from such court or administrative tribunal. A “qualified protective order”means, with respect to the requested PHI, an order of a court or an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that prohibits the parties from Using or Disclosing the PHI for any purpose other than the litigation or proceeding for which the PHI was requested. It must also require the return to the Plan or destruction of the PHI (including all copies made) at the end of the litigation or proceeding.

IV. The Plan may Disclose PHI in response to a subpoena, discovery request, or other lawful process that is not accompanied by an order of a court of administrative tribunal without receiving written documentation or satisfactory assurances if the Plan makes reasonable efforts to provide notice to the Individual described in II and III, above, or to seek a qualified protective order.

V. This Section does not supersede other Sections that otherwise permit or restrict Uses and Disclosures of PHI.

vii. Law Enforcement Purposes. The Plan may Disclose PHI for a law enforcement purpose to a law enforcement official if the following conditions are satisfied, as applicable:

I. The Plan may Disclose PHI as required by law including laws that require the reporting of certain types of wounds or other physical injuries.

II. The Plan may Disclose PHI in compliance with and as limited to the relevant requirements of:

A. A court order, court-ordered warrant or subpoena, or summons issued by a judicial officer;

B. A grand jury subpoena; or

C. An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process under law, IF the PHI sought is relevant and material to a legitimate law enforcement inquiry, the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought, and certification is made that de-identified information could not be used.

III. The Plan may Disclose PHI about an Individual in response to a law enforcement official’s request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, but will Disclose only the following information:

A. Name and address;

B. Date and place of birth;

C. Social security number;

D. ABO blood type and Rh factor;

E. Type of injury;

F. Date and time of treatment;

G. Date and time of death, if applicable; and

H. A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

Except as permitted above, the Plan will not disclose for the purposes of identification or location, any PHI related to the individual’s DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.

IV. PHI of Victims. The Plan may disclose PHI in response to a law enforcement official’s request about an Individual who is or is suspected to be a victim of a crime if:

A. If the Individual agrees to such Disclosure, or

B. If the Individual is unable to agree due to incapacity or other emergency circumstance, the law enforcement official must represent that the PHI is needed to determine whether a violation of law by someone other than the victim has occurred, that such information is not intended to be used against the victim, and that immediate law enforcement activity which depends upon the Disclosure would be materially and adversely affected by waiting until the Individual is able to agree to the Disclosure, and the Plan determines, in the exercise of professional judgment, that the Disclosure is in the best interests of the Individual.

V. Deceased Individuals. The Plan may Disclose PHI about a deceased Individual to a law enforcement official for the purpose of alerting law enforcement of the death of the Individual if the Plan suspects the Individual’s death may have resulted from criminal conduct.

VI. Crime on Premises. The Plan may disclose to a law enforcement official PHI that the Plan believes in good faith is evidence of a crime that occurred on the Plan’s premises.

VII. Uses and Disclosures about Decedents.

A. Coroners and Medical Examiners. The Plan may Disclose PHI to a coroner or medical examiner for the purpose of identification of a deceased person, determination of cause of death, or the coroner’s other duties as authorized by law.

B. Funeral Directors. The Plan may disclose PHI to funeral directors, consistent with applicable law, as necessary for fulfillment of their duties with respect to the decedent. If necessary, the Plan may Disclose PHI prior to, and in reasonable anticipation of, the Individual’s death.

With respect to the Disclosures in this Section, the Privacy Official will be responsible for the Disclosure and the Privacy Official or his or her delegate must take reasonable steps to verify that an individual to whom PHI will be Disclosed is a member of a law enforcement entity.

viii. Cadaveric Organ, Eye or Tissue Donation. The Plan may Use or Disclose PHI to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue for the purpose of facilitating organ, eye, or tissue donation and transplantation.

ix. Research Purposes. The Plan may Use or Disclose PHI for research purposes in accordance with 45 CFR § 164.512(i).

x. To Avert a Serious Threat to Health or Safety. The Plan may, consistent with applicable law and standards of ethical conduct, Disclose PHI, based on a good faith belief that it is necessary to prevent or lessen a serious or imminent threat to the health or safety of a person or the public and the Disclosure is to a person(s) reasonably able to prevent or lessen the threat, including to the target of the threat, or is necessary for law enforcement authorities to identify or apprehend an individual under the circumstances specified in 45 CFR § 164.512(j).

xi. Uses and Disclosures for Specialized Government Functions.

I. The Plan may Use and Disclose the PHI of Individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure execution of the military mission, if the appropriate military authority has published by notice in the Federal Register the following information:

A. Appropriate military command authorities; and

B. The purposes for which the PHI may be Used or Disclosed.

II. The Plan may Use and Disclose PHI of Individuals who are foreign military personnel to their appropriate foreign military authority for the same purposes for which Uses and Disclosures are permitted for Armed Forces personnel under the notice published in the Federal Register pursuant to Section 3.xi.I.

III. The Plan may Disclose PHI to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act (50 U.S.C. § 401, *et seq.)* and implementing authority (e.g., Executive Order 12333).

III. The Plan may also Disclose PHI to authorized Federal officials for the provision of protective services to the President or other persons authorized by 18 U.S.C. § 3056 or to foreign heads of state or other persons authorized by 22 U.S.C. § 2709(a)(3), or for the conduct of investigations authorized by 18 U.S.C. §§ 71 and 879.

IV. The Plan may Disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other Individual PHI about such inmate or Individual if the correctional institution or law enforcement official represents that the PHI is necessary for the provision of health care to the Individual, the health and safety of the Individual or others at the correctional institution or other persons responsible for the transportation of inmates and maintenance of safety, security, and order of the correctional institution. An Individual is no longer an inmate when released on parole, probation, or supervised release, or otherwise is no longer in lawful custody.

xiii. Workers’ Compensation. The Plan may Disclose PHI as authorized by and to the extent necessary to comply with laws relating to workers’ compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.

xiv. Compliance with HIPAA. The Plan must permit HHS access during normal business hours to Plan facilities and information, including PHI, that is pertinent to ascertaining compliance with the applicable requirements of HIPAA. If HHS determines that exigent circumstances exist, such as the destruction of documents, the Plan must permit access at any time without notice.

If any information required of the Plan under this Section is in the exclusive possession of any other agency or person and the other agency or person fails or refuses to furnish the information, the Plan must set forth what efforts have been made to obtain the information.

xv. Incidental Use and Disclosure. Uses or Disclosures that are incidental to an otherwise permitted Use or Disclosure are permissible provided that the Plan has met the standards for reasonable safeguards and minimum necessary requirements (as described in Human Resources Operating Procedure No. 140, Minimum Necessary Use or Disclosure of Protected Health Information).

1. ***Use or Disclosure Requiring Authorization***

a. The Plan’s Privacy Official, with assistance from the colleagues in the Total Rewards Benefits & Well-Being department, will educate the Plan’s Workforce Member regarding instances where member Authorization is required to Use or Disclose PHI.

b. Where an Authorization is required to Disclose an Individual’s PHI the Plan will ensure that it receives a signed HIPAA-compliant Authorization from the Individual before Disclosing the PHI and the Disclosure will not exceed the scope of the Authorization and will comply with the terms of the Authorization.

c. An Individual’s valid Authorization for the Use and Disclosure of his or her PHI is required whenever the Use or Disclosure is not otherwise permitted by the HIPAA or this Procedure. An Individual may want to have his or her PHI disclosed by the Plan for a number of reasons, including applications for life or disability insurance, or for purposes of a lawsuit or collection activities. While most requests for such information may be made to the Individual’s healthcare provider, the Plan may occasionally receive a request to Disclose PHI. When the Plan obtains or receives a valid Authorization for its Use or Disclosure of PHI, such Use or Disclosure must be consistent with such Authorization.

c.In addition, the Plan may request an Individual’s Authorization to Use and Disclose his or her PHI for a purpose other than Treatment, Payment or Healthcare Operations, or the Plan may request an Authorization that would allow another Covered Entity to Disclose information to the Plan. The Plan must obtain an Authorization for any Use or Disclosure of psychotherapy notes except to defend itself in a legal action or proceeding brought by the Individual who is the subject of the notes, when required by the Secretary of HHS to investigate or determine the Plan’s compliance with HIPAA, when required by law, when needed by a coroner or medical examiner or when needed to avert a serious and imminent threat to health or safety of a person or the public. In addition, if the Plan wishes to Use or Disclose PHI for Marketing purposes, the Plan will obtain the Individual’s Authorization, and, if the Marketing involves financial remuneration to the Plan from a third-party, the Authorization must state the Use or Disclosure will result in remuneration to the Plan; provided, however, that an Authorization is not required for Marketing if the communication is in the form of a face-to-face communication made by the Plan to an Individual or a promotional gift of nominal value provided by the Plan. In general, the Plan does not engage in any Marketing activities. Finally, the Plan must obtain an Authorization for any Disclosure of PHI that is a sale of PHI, as defined by HIPAA. Such an Authorization must state that the Disclosure will result in remuneration to the Plan.

d. An Authorization to Use and Disclose PHI must be specific to the requested reason for the Authorization and generally cannot be combined with any other type of document. Authorizations must be written in plain language and contain the following:

i. A description of the information to be Used or Disclosed – The description must be specific and meaningful, such as “lab results from August 2012,” “all x-rays” or “results from Cat-scan performed in June 2011.” An Individual may also authorize the Disclosure of his or her entire medical record, if appropriate.

ii. The identification of the person(s) authorized to Use or Disclose the PHI – The name or other specific identification of the person(s) or class of persons permitted to make the requested Use or Disclosure of the Individual’s PHI such as “Dr. Smith” or “Claims Supervisor.”

iii. The identification of the person(s) authorized to receive the PHI – The name or other specific identification of the person(s) or class of persons to whom the Plan may make the requested Use or Disclosure of PHI.

iv. The purpose of the requested Use or Disclosure – A description of the purpose of the requested Use or Disclosure. If the Individual initiates the request, “at the request of the Individual” is acceptable.

v. Expiration date or event – An expiration date or event related to the Individual or the purpose of the Use or Disclosure of PHI, such as “December 31, 2013,” “one year from the date the Authorization is signed” or “upon acceptance or rejection of my life insurance application.”

vi. Required statements – The Authorization must include the following statements:

I. A statement that information Used or Disclosed pursuant to the Authorization may be subject to re-disclosure by the recipient and no longer protected by HIPAA.

II. A statement regarding the Individual’s right to revoke the Authorization in writing, the exceptions to the right to revoke the and how to revoke the Authorization;

III. A statement that the Plan cannot condition Treatment, Payment, enrollment in the Plan or eligibility for benefits under the Plan on the Individual’s Authorization (unless the Authorization is requested in order to determine eligibility for coverage and certain underwriting or risk rating purposes);

IV. If the Use or Disclosure of PHI is for Marketing, and such Use or Disclosure involves remuneration to the Plan, the Authorization must state that remuneration is involved; and

V. If the Authorization for a Disclosure of PHI is for the sale of PHI the Authorization must state that the Disclosure will result in remuneration to the Plan.

xi. Signature and date – The Authorization must be signed and dated by each Individual whose information will be disclosed. If a personal representative signs for an Individual, the Authorization must also include a description of the representative’s authority. Electronic signatures are acceptable as long as certain standards are met.

e. The Plan will provide an Individual who signs and Authorization with a copy of the signed Authorization form.

f.An Individual must revoke his or her Authorization in writing. A revocation is valid except the extent the Plan has taken action in reliance on such Authorization. All requests for revocation must be immediately delivered to the Plan. The Plan is responsible for taking the following actions:

i. Including the revocation document in the Individual’s records;

ii. Determining the Uses or Disclosures that the Plan may continue to make of the Individual’s PHI based on the Plan’s reliance on the original signed Authorization language;

iii. Documenting such determination; and

iv. Taking all necessary steps to ensure that future Uses or Disclosures of the Individual’s PHI are limited to those described in the determination.

g. The Plan will have a process regarding tracking and complying with revoked or expired Authorizations.

h. Disclosures made pursuant to Authorizations are exempt from the minimum necessarystandard.

***5. Miscellaneous/Additional Requirements for Uses or Disclosures of PHI***

a. The Plan may disclose summary health information to the Plan Sponsor if the Plan Sponsor requests the summary health information for the purposes of:

i. Obtaining premium bids, including underwriting; or

ii. Modifying, amending or terminating the Plan.

b. The Plan Sponsor will ensure that the Plan does not Use or Disclose PHI for employment-related actions or decisions, or in connection with any other benefit or employee benefit plan of the Plan Sponsor.

c.The Plan Sponsor will ensure that requests by an Organization and Talent Effectiveness (OTE) Department or any other department of the Plan Sponsor for Disclosures of PHI from the Plan for any purpose including OTE purposes must be accompanied by an Authorization or limited to summary health information.

d. The Plan Sponsor will ensure that persons performing both OTE functions and Plan administrative functions recognize and separate the duties of each role.

# 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.

**Authorization means** the written permission from an Individual that permits the Plan to Use or Disclose PHI for purposes beyond the scope of Treatment, Payment or Healthcare Operations.

**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.

**Healthcare Operations means** any of the following activities of the Covered Entity to the extent that the activities are related to covered functions:

1. Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; patient safety activities (as defined in 42 CFR § 3.20), population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;

2. Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of non-health care professionals, accreditation, certification, licensing or credentialing activities;

3. Except as prohibited under 45 CFR §164.502(a)(5)(i) (prohibited use of genetic information for underwriting), underwriting, enrollment, premium rating and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits, and ceding, securing or placing a contract for reinsurance of risk relating to claims for health care (including stop-loss insurance and excess of loss insurance);

4. Conducting or arranging for medical review, legal services and auditing functions, including fraud and abuse detection and compliance programs;

5. Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the entity, including formulary development and administration, development or improvement of methods of payment or coverage policies; and

6. Business management and general administrative activities of the entity, including, but not limited to:

a. Management activities relating to implementation of and compliance with the requirements of HIPAA;

b. Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that PHI is not disclosed to such policy holder, plan sponsor, or customer;

c. Resolution of internal grievances;

d. The sale, transfer, merger or consolidation of all or part of the Covered Entity with another Covered Entity, or an entity that, following such activity, will become a Covered Entity, and due diligence related to such activity; and

e. Consistent with the applicable requirements of HIPAA, creating de-identified health information or a limited data set, and fund raising for the benefit of the Covered Entity.

**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.

**Marketing** **means** a communication about a product or service that encourages recipients of the communication to purchase or use the product or service. Marketing does not include communications made:

1. To provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the Individual, only if any financial remuneration received by the Covered Entity in exchange for making the communication is reasonably related to the Covered Entity’s cost of making the communication;

2. For the following Treatment and Healthcare Operations purposes, except where the Covered Entity receives financial remuneration in exchange for making the communication:

a. For Treatment of an Individual by a health care provider, including case management or care coordination for the Individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual;

b. To describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of, the Covered Entity making the communication, including communications about: the entities participating in a health care provider network or health plan network; replacement of, or enhancements to, a health plan; and health-related products or services available only to a health plan enrollee that add value to, but are not part of, a plan of benefits; or

c. For case management or care coordination, contacting of Individuals with information about treatment alternatives, and related functions to the extent these activities do not fall within the definition of Treatment.

3. Financial remunerationmeans direct or indirect payment from or on behalf of a third party whose product or service is being described. Direct or indirect payment does not include any Payment for Treatment of an Individual.

**Organized Healthcare Arrangement** **means** a group health plan and a health insurance issuer or HMO with respect to such group health plan, but only with respect to PHI created or received by such health insurance issuer or HMO that relates to Individuals who are or who have been participants or beneficiaries in such group health plan.

**Payment** **means**:

1. The activities undertaken by:

a. Except as prohibited under 45 CFR §164.502(a)(5)(i) (prohibited use of genetic information for underwriting), a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan; or

b. A health care provider or health plan to obtain or provide reimbursement for the provision of health care; and

2. The activities in paragraph 1. of this definition relate to the Individual to whom health care is provided and include, but are not limited to:

a. Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts) and adjudication or subrogation of health benefit claims;

b. Risk adjusting amounts due based on enrollee health status and demographic characteristics;

c. Billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess of loss insurance) and related healthcare data processing;

d. Review of healthcare services with respect to medical necessity, coverage under a health plan, appropriateness of care or justification of charges;

e. Utilization review activities, including precertification and preauthorization of services, concurrent and retrospective review of services; and

f. Disclosure to consumer reporting agencies of any of the following PHI relating to collection of premiums or reimbursement:

i. Name and address;

ii. Date of birth;

iii. Social security number;

iv. Payment history;

v. Account number; and

vi. Name and address of the healthcare provider and/or health plan.

**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, 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.

**Treatment means** the provision, coordination, or management of healthcare and related services by one or more healthcare providers, including the coordination or management of healthcare by a healthcare provider with a third party; consultation between healthcare providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

**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. 122 (Minimum Necessary Use or Disclosure of Protected Health Information)
* Human Resources Operating Procedure No. 124 (Limited Data Sets and De-Identified Data)
* Human Resources Operating Procedure No. 125 (Restrictions on the Use or Disclosure of Protected Health Information for Marketing)
* Human Resources Operating Procedure No. 126 (Prohibition on the Sale of Electronic Health Records or Protected Health Information)
* Human Resources Operating Procedure No. 127 (Verification of Individuals Requesting Access to or Disclosure of Protected Health Information)
* Human Resources Operating Procedure No. 128 (Personal Representatives)
* Human Resources Operating Procedure No. 129 (Individual Rights Regarding Restrictions and Confidential Communications With Respect To Protected Health Information)
* Human Resources Operating Procedure No. 130 (Individual Rights Regarding Access to Protected Health Information)
* Human Resources Operating Procedure No. 121 (Individual Rights Regarding Accounting of Disclosures of Protected Health Information)
* Enterprise Information Security Procedures
* Authorization for Use and Disclosure of Protected Health Information

**APPROVALS**

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

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

**AUTHORIZATION FOR USE AND DISCLOSURE  
OF PROTECTED HEALTH INFORMATION**

**[Trinity Health Corporation Welfare Benefit Plan]**

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

This authorization is prepared pursuant to the requirements of the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (collectively referred to as “HIPAA”).

**This authorization affects your rights in the privacy of your protected health information (“PHI”). Please read it carefully before signing.**

The [Trinity Health Corporation Welfare Benefit Plan] [Trinity Health Corporation Retiree Benefit Plan (Grandfathered] (the “Plan”) will not condition eligibility or enrollment in the Plan or payment or reimbursement for health care services on your providing authorization for the requested use or disclosure. YOU MAY REFUSE TO SIGN THIS AUTHORIZATION.

By signing this authorization you acknowledge and agree that [*name or specific identification of person(s) or class of person(s), including business associates, authorized to make the requested use or disclosure*] may use or disclose the following information [*identify the specific information to be used or disclosed*] for the purpose(s) of [*include a description of each intended use or disclosure. If the individual to whom the information pertains initiates the authorization, “at the request of the individual” may be used*].

By signing this authorization you agree that [*name of authorized person or entity*] may disclose your PHI to [*name or other specific identification of person(s) or entity to receive the requested use or disclosure*].

Further, by signing this authorization you acknowledge that you have been provided a copy of and have read and understand the Plan’s HIPAA Notice of Privacy Practices containing a complete description of your rights with respect to your protected health information and the permitted uses and disclosures of your protected health information under HIPAA. While the Plan has reserved the right to change the terms of its Notice of Privacy Practices, copies of the Notice of Privacy Practices, as amended, are available from the Plan at any of its offices or by sending a written request with return address to [*address of contact person*].

You have the right to revoke this authorization, in writing, at any time, except to the extent that the Plan has taken action in reliance on it or, if the authorization was obtained as a condition of obtaining insurance coverage, other law provides the insurer with the right to contest a claim under the policy. A revocation is effective upon receipt by the Plan of a written request to revoke and a copy of the executed authorization form to be revoked at the following address:

[Trinity Health Corporation Welfare Benefit Plan]

[Trinity Health Corporation Retiree Benefit Plan (Grandfathered]

Attn: Privacy Official

c/o Trinity Health Corporation

Mail Stop E1C

20555 Victor Parkway

Livonia, MI 48152

Fax: (248) 347-5437

Email: [weinerjz@trinity-health.org](mailto:weinerjz@trinity-health.org)

This authorization shall expire upon the earlier occurrence of: (a) revocation of the authorization, (b) a finding by the Secretary of the U.S. Department of Health and Human Services, Office for Civil Rights, that this authorization is not in compliance with requirements of HIPAA, (c) complete satisfaction of the purpose(s) for which this authorization was originally obtained, to be determined in the reasonable discretion ofthe Plan, or (d) six years from the date this authorization is executed.

By signing this authorization you acknowledge and agree that any information used or disclosed pursuant to this authorization could be at risk for redisclosure by the recipient and no longer protected under HIPAA.

**The Plan will provide you with a copy of this signed authorization.**

Acknowledged and agreed to by:

Participant's Name Date

[OR]

On behalf of

(*Participant*)

By:

Name of Participant's Representative Date

As:

Capacity as Representative

You should return this completed form to:

[Trinity Health Corporation Welfare Benefit Plan]

[Trinity Health Corporation Retiree Benefit Plan (Grandfathered]

Attn: Privacy Official

c/o Trinity Health Corporation

Mail Stop E1C

20555 Victor Parkway

Livonia, MI 48152

Fax: (248) 347-5437

Email: [weinerjz@trinity-health.org](mailto:weinerjz@trinity-health.org)