******

**Human Resources Operating Procedure No. 140**

**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:

***Sanctions***

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

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

**REVIEW BY: January 1, 2020**

# \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 ensure the Plan applies appropriate disciplinary action to Plan Sponsor Employees and other Workforce Members who have violated the Plan’s HIPAA Privacy Procedures and/or HIPAA. If the regulations under HIPAA are changed by HHS the Plan will follow the revised regulations.

**PROCEDURES**

1. If it has been determined that a Workforce Member has violated the Plan’s HIPAA Privacy Procedures and/or HIPAA, the Privacy Official will make recommendations regarding appropriate disciplinary actions to the applicable Plan Sponsor Talent and Effectiveness (OTE) department. The Privacy Official will document the violation and recommendations. In general, a Workforce Member will receive a verbal warning for the first material failure to comply with the Plan’s HIPAA Privacy Procedures and/or HIPAA. Further, in general, for any subsequent failure to comply with the Plan’s HIPAA Privacy Procedures and HIPAA, the Workforce Member will be subject to sanctions up to and include removal of access to PHI and termination of employment.
2. In those cases where the Privacy Official and the applicable Plan Sponsor Talent and Effectiveness (OTE) department disagree as to the appropriate disciplinary actions to be taken for a violation, both the Privacy Official’s recommendation and the applicable Plan Sponsor Talent and Effectiveness (OTE) department’s recommendation will be presented to the Vice President, Total Rewards or Workforce Member’s Chief Human Resource Officer for a decision.
3. In the event that the disciplinary action applied involves a corrective action on the part of the Workforce Member, the applicable Plan Sponsor Talent and Effectiveness (OTE) department will be responsible for monitoring performance and documenting outcomes.
4. Regular reporting of summary disciplinary actions applied to Workforce Member for violations of the Plan’s HIPAA Privacy Procedures and/or HIPAA, will be made by the Privacy Official to Plan Sponsor senior management at the corporate level.
5. In no event will a Workforce Member be subject to disciplinary actions by the Plan for filing a complaint with HHS based on the belief that the Plan failed to comply with HIPAA or for testifying, assisting or participating in a proceeding or investigation by HHS against the Plan related to HIPAA compliance. In no event will a Workforce Member be subject to disciplinary actions by the Plan for opposing any act or practice that the Workforce Member, in good faith, believes is unlawful under HIPAA, provided that the manner of opposition is reasonable and does not involve a Disclosure of PHI in violation of HIPAA.

# 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.

**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)
* Enterprise Information Security Procedures

**APPROVALS**

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

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