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**Human Resources Operating Procedure No. 131**

**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:

***Individual Rights Regarding Accounting***

***of Disclosures 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 a process for an Individual’s request for an accounting of certain Disclosures of his or her PHI made by the Plan, including Disclosures to and by its Business Associates, that occurred during the six (6) years prior to the date on which the accounting is requested (or a shorter period, upon the Individual’s request). If the regulations under HIPAA are changed by HHS the Plan will follow the revised regulations.

**PROCEDURES**

1. ***Facilitating Requests for Accounting***

a. Requests for PHI.An Individual may request for an accounting of certain Disclosures of his or her PHI made by the Plan, including Disclosures to and by its Business Associates, that occurred during the six (6) years prior to the date on which the accounting is requested.

i. An Individual does not have the right to receive an accounting of the following types of Disclosures:

I. To carry out Treatment, Payment or Healthcare Operations;

II. To the Individual to whom the information pertains;

III. Incident to an otherwise permitted Use or Disclosure;

IV. Pursuant to an Authorization;

V. To persons involved in the Individual’s care or for other notification purposes as provided in 45 CFR § 164.510;

VI. For national security or intelligence purposes as provided in 45 CFR § 164.512(k)(2);

VII. To correctional institutions or law enforcement officials in custodial situations as provided in 45 CFR § 164.512(k)(5);

VIII. As part of a limited data set in accordance with 45 CFR § 164.514(e); or

IX. Prior to April 14, 2003.

ii. The Plan must suspend an Individual’s right to receive an accounting of Disclosures to a health oversight agency or law Enforcement official, for the time specified by such agency or official, if such agency or official provides a written statement that such accounting would be reasonably likely to impede their activities. The written statement must also specify the amount of time for which such a suspension of rights is required. If a health oversight agency or law enforcement official provides such request verbally, the Plan must:

I. Document the statement and the identity of the agency or official making the request;

II. Temporarily suspend the Individual’s right to an accounting; and

III. Limit the suspension to 30 days from the date of the oral statement, unless a written statement is submitted during that time.

iii. Only when required and effective under the HITECH Act and any guidance issued thereunder, the Plan will account for Disclosures of PHI to carry out Treatment, Payment or Healthcare Operations made through an electronic health record (“EHR”). Except as otherwise provided in any applicable guidance, an Individual shall have a right to receive an accounting of Disclosures of PHI made by the Plan to carry out Treatment, Payment or Healthcare Operations made through an EHR in the three (3) years prior to the date on which the accounting is requested.

b. Requests Directed to Privacy Official. Individuals requesting an accounting of Disclosures of their PHI shall be notified to direct those requests to the Plan’s Privacy Official or, if the PHI was Disclosed by a Business Associate, to the Business Associate. Individuals requesting an accounting of the Disclosures of their PHI shall provide the Plan (or Business Associate, if applicable) with a written request for the accounting on the form provided by the Privacy Official (or Business Associate, if applicable). Employees of the Plan Sponsor who receive a request from an Individual for an accounting of the Disclosures of his or her PHI shall direct the request to the attention of the Privacy Official.

***2. Content of an Accounting***

a. An accounting must include Disclosures of PHI made to or by Business Associates of the Plan, and for each Disclosure must include:

i. The date of the Disclosure, the name of the entity or person who received the PHI and, if known, the person’s address; and

ii. A brief description of the PHI Disclosed and a brief statement of the purpose of the Disclosure.

b. If, during the period covered by the accounting, multiple Disclosures of PHI are made to the same entity or person for a single purpose, then the accounting may include:

i. The information provided above for the first Disclosure during the accounting period; and

ii. The frequency, periodicity or number of Disclosures made during the accounting period and the date of the last such Disclosure during the accounting period.

c. If, during the period covered by the accounting, the Plan has made Disclosures of PHI for a particular research purpose in accordance with § 164.512(i) for 50 or more Individuals, the accounting may, with respect to such Disclosures for which the PHI bout the Individual may have been included, provide:

i. The name of the protocol or other research activity;

ii. A description, in plain language, of the research protocol or other research activity, including the purpose of the research and the criteria for selecting particular records;

iii. A brief description of the type of PHI that was Disclosed;

iv. The date or period of time during which such Disclosures occurred, or may have occurred, including the date of the last such Disclosure during the accounting period;

v. The name, address, and telephone number of the entity that sponsored the research and of the researcher to whom the information was Disclosed; and

vi. A statement that the PHI of the Individual may or may not have been Disclosed for a particular protocol or other research activity.

If the Plan provides an accounting for research Disclosures, in accordance with the above and, if it is reasonably likely that the PHI of the Individual was Disclosed for such research protocol or activity, the Plan shall, at the request of the Individual, assist in contacting the entity that sponsored the research and the researcher.

d. When required and effective under the HITECH Act and guidance issued thereunder, except as otherwise provided in applicable guidance, in the case of an accounting of Disclosures of PHI to carry out Treatment, Payment or Healthcare Operations made through an EHR the accounting must include either:

i. All Disclosures made by the Plan and its Business Associates; or

ii. All Disclosures made by the Plan and a list of all Business Associates acting on behalf of the Plan, including contact information for such Business Associates. In such a case, an Individual may then contact the Business Associate directly for an accounting of Disclosures with respect to that Individual made by the Business Associate.

***3. Timing and Cost of Accounting***

a. The Plan will provide the Individual with the accounting no later than 60 days after receipt of the request, or, if unable to do so, the Plan may extend the time to provide the accounting once by no more than 30 days, provided that the Plan notifies the Individual in writing, within 60 days of receipt of the request, of the reasons for the delay and the date by which the Plan will provide the accounting (which date must be in the additional 30-day period).

b. The first accounting to an Individual in any 12-month period will be provided to the Individual free of charge. The Plan may charge reasonable, cost-based fees for any subsequent accountings in the same 12-month period; provided that the Plan informs the Individual (before payment of the fee) that the Individual has the opportunity withdraw or modify his or her request in writing in order to avoid or reduce the fee. The Individual will pay for the accounting by check or money order made out to the Plan.

***4. Documentation***

The Plan will document information required to be included in an accounting, the written accounting provided to the Individual and titles of persons or officers responsible for receiving and processing requests for accounting, and will retain such documentation for the period of time described under Human Resources Operating Procedure No. 143 (Updates and Record Retention).

# 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.

**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.

**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.

**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, 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.

**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. 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. 143 (Updates and Record Retention)
* Enterprise Information Security Procedures
* Request for Accounting of Disclosures of Protected Health Information Form
* Response to Request for Accounting of Disclosures of Protected Health Information Form

**APPROVALS**

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

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

HIPAA PRIVACY REQUEST FOR

ACCOUNTING OF DISCLOSURES OF

PROTECTED HEALTH INFORMATION

**Trinity Health Corporation Welfare Benefit Plan (“Plan”)]**

[Trinity Health Corporation Retiree Benefit Plan (Grandfathered) (“Plan”)]

**REQUEST**

Effective \_\_\_\_\_\_\_\_\_\_ [*date*], I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*please print full name*], am requesting an accounting of all disclosures of my Protected Health Information (“PHI”) by the Plan, or any of its Business Associates, for the period beginning \_\_\_\_\_\_\_\_\_\_ and ending on \_\_\_\_\_\_\_\_\_\_ [*up to a maximum of six (6) years prior to the date of this request, but not before April 14, 2003*].

Specifically, I would like to limit this request for accounting to include disclosures only pertaining to the following [*identify the accounting or specific event or treatment as specifically as possible*]

Signature Date

[OR]

Representative/Relationship Date

**PLEASE DIRECT REQUESTS FOR ACCOUNTINGS
OR QUESTIONS REGARDING THIS 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

For Plan Use Only

Date Request Received: \_\_\_\_\_\_\_

Response Due Date: \_\_\_\_\_\_\_

Date Response (attached) sent: \_\_\_\_\_\_\_\_\_\_\_\_\_

HIPAA PRIVACY

RESPONSE TO REQUEST FOR ACCESS TO DESIGNATED RECORDS

**[Trinity Health Corporation Welfare Benefit Plan (“Plan”)]**

[Trinity Health Corporation Retiree Benefit Plan (Grandfathered) (“Plan”)]

**PLAN’S RESPONSE**

On [*date*], the Plan received your request for access to Protected Health Information (“PHI”). As of [*date no later than thirty (30) days following date of receipt*], the Plan takes the following action with respect to your request:

[ ]  Grants all or part of your request. Specifically, the Plan will take the following requested action(s) .

[ ]  Denies all or part of your request. Specifically, the Plan will not take the following requested action(s) , based on the following reason(s):

[ ]  The information is not part of your designated record set.

[ ]  Under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), you are restricted from accessing this information because it falls within one of the following categories:

[ ]  psychotherapy notes;

[ ]  information compiled for a civil, criminal, or administrative action or proceeding;

[ ]  it is subject to the Clinical Laboratory Improvements Amendments of 1988;

[ ]  it was created or obtained by a covered health care provider during the course of research and, as you previously agreed to, your rights to access the information have been temporarily suspended until [*date or event rights reinstated*];

[ ]  it is subject to the Federal Privacy Act (5 U.S.C. § 552a); or

[ ]  it was obtained from someone other than a health care provider under a seal of confidentiality.

You have no right to contest a denial of access by the Plan if based on any of the above-stated reasons.

[ ]  Access is denied in the discretion of the Plan in the health and safety interests of the individual to which the information pertains or another third party. You have the right to have this denial of access reviewed by a licensed health care professional designated by the Plan who did not participate in the original denial of your request by submitting a written statement to the Plan requesting a review of the denial. You also have the right to file a complaint about your denial to us or to the Office of Civil Rights, U. S. Department of Health and Human Services. Please contact the Plan’s Privacy Official at: Client Incorporated, 155 South Limerick Road, Limerick, PA   19468, 610-948-5100, to learn about the applicable complaint procedures.

[ ]  other

[ ]  additional pages attached.

[ ]  The Plan does not maintain the protected health information that is the subject of your request. The information is maintained by, and you should direct your request for access to:

[ ]  The Plan requires a 30-day extension of time within which to respond to your request for the following reason(s) . The Plan will act on your request by [*date no later than sixty (60) days following date of receipt*].

[Trinity Health Corporation Welfare Benefit Plan]

[Trinity Health Corporation Retiree Benefit Plan (Grandfathered]

By:

Its:

Date:

A COPY OF THIS DOCUMENT SHALL BE PROVIDED TO THE INDIVIDUAL TO WHOM THE INFORMATION IN THIS REQUEST PERTAINS.
Please direct questions regarding this form or the applicable complaint procedures 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