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**Human Resources Operating Procedure No. 138**

**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:

***Complaints for Violation***

***of the Privacy Rule***

***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 procedure for the Plan to address complaints received from Individuals concerning the processing and protection of their PHI. If the regulations under HIPAA are changed by HHS the Plan will follow the revised regulations.

**PROCEDURES**

***1. Form of Complaints.***

***a.*** Complaints must be in writing. They may be on the Plan’s Complaint Form or they may be in another written form. Complaints must contain:

i. The date of the complaint;

ii.The date of the alleged violation or other action that is the subject of the complaint;

iii. The name or position of the party against whom the complaint is made;

iv. The substance of the complaint; and

v. The name and signature of the complainant.

b. The Workforce Members will accept written complaints from covered Individuals and Plan Sponsor employees. When a Workforce Member receives an oral complaint from a covered Individual or Plan Sponsor employee, the Workforce Members will inform the individual that complaints must be in writing, and they will send the individual a Complaint Form to complete and return to the Workforce Members. Plan Sponsor employees may also submit complaints in writing to the Privacy Official.

c. The Workforce Members will date-stamp the complaint when it is received.

d. The Workforce Members will promptly forward written complaints to the Privacy Official for review.

***2. Disposition of Complaint.***

a. The Privacy Official will:

i. Investigate the complaint;

ii. Question the covered Individual or employee making the complaint, if necessary;

iii. Question the party alleged to have violated the privacy policies and procedures, if applicable;

iv. Consider any documents, evidence or testimony offered on behalf of the party alleged to have violated the Plan’s privacy policies and procedures, if applicable;

v. Determine whether the Plan’s privacy policies and procedures comply with HIPAA or whether there has been a violation of the Plan’s privacy policies and procedures, as applicable;

vi. Determine whether any corrective action is necessary as a result of the complaint;

vii. Implement any corrective measures necessary as a result of the complaint;

viii. Document any corrective measures taken;

ix. When appropriate, inform the employee or covered Individual of the determinations made with regard to the complaint;

x. Make and keep a record of the complaint investigation, including the complaint and the Plan’s findings, to ensure consistency of determinations and corrective measures for similar violations; and

xi. Retain written records for six (6) years beginning on the date on which there is a disposition of the complaint.

b. The Privacy Official will make a disposition of the complaint within 60 days of the date that the complaint is date-stamped in the Plan office unless notice is provided to the individuals involved prior to the expiration of the 60 days indicating the reason for a necessary delay.

# 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.

**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.

**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)
* HIPAA Privacy Complaint Form
* Enterprise Information Security Procedures

**APPROVALS**

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

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

HIPAA PRIVACY

COMPLAINT FORM

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

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

This is a complaint regarding the actions, policies and procedures, or Notice of Privacy Practices of the Plan and/or regarding actions of the Plan with respect to the individually identifiable health information of [*Name of Participant or Beneficiary*]. Filing this Complaint Form will not affect the services you receive from the Plan, nor will the Plan retaliate against you in any manner in response to your complaint.

Please complete the following form, sign and date it, and return it to Trinity Health Corporation, Attn: Total Rewards Benefits & Well-Being, THWBP Privacy Official, Mail Stop E1C, 20555 Victor Parkway, Livonia, MI 48152. If you have any questions or concerns regarding this form or where to send it, please contact the Privacy Official at the address in the prior sentence. You may also file a copy of this complaint in writing with the U. S. Department of Health and Human Services, Office of Civil Rights, or via e-mail using the information at <http://www.hhs.gov/ocr/privacy/hipaa/complaints/>. For filing information for the Office of Civil Rights please contact the Plan at the number, address, or e-mail listed above.

Complainant:

Name

Address

Telephone: E-mail address:

SSN#:

Complaint

Please provide a short description of your complaint and how you would like the Plan to address or resolve your complaint:

[ ]  additional pages attached.

I certify that the statements made in this complaint are true and correct to the best of my knowledge and belief.

 OR

Signature Date Representative/Relationship Date

PLEASE DIRECT COMPLAINTS 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

COMPLAINING PARTY: PLEASE RETAIN A COPY FOR YOUR RECORDS