

# OCU HEALTH AND WELFARE TRUST

Updated March 28, 2016

## NOTICE OF PRIVACY PRACTICES FOR PROTECTED HEALTH INFORMATION

**THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.**

This Notice is required by the Standards for the Privacy of Individually Identifiable Health Information (“Privacy Rule”), federal rule issued by the U.S. Department of Health and Human Services (“HHS”) pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). It describes how the OCU Health and Welfare Trust (“the Fund”) can use and disclose your Protected Health Information.

Protected Health Information (“PHI”) is information that is created, received, transmitted or stored by the Fund which relates to your past, present, or future physical or mental health, health care, or payment for health care, and either identifies you or provides a reasonable basis for identifying you. In general, the Fund may not use or disclose your PHI unless you consent to or authorize the use or disclosure, or if the Privacy Rule or other applicable law specifically allows the use or disclosure.

### Use or Disclosure of PHI

#### **1. The Fund may use or disclose your PHI for treatment, payment or health care operations without your written authorization:**

- “Payment” generally means the activities of a Fund to collect premiums, to fulfill its coverage responsibilities, and to provide benefits under the Plan, and to obtain or provide reimbursement for the provision of health care. Payment may include, but is not limited to, the following: (1) determining coverage and benefits under the Plan, (2) paying for or obtaining reimbursement for health care, (3) adjudicating subrogation of health care claims or coordination of benefits, (4) billing and collection (including collecting premiums where applicable), (5) making claims for stop-loss insurance, (6) determining medical necessity, (7) performing utilization review activities, (8) responding to complaints, claims, and appeals and otherwise managing and processing claims. For example, the Fund will disclose the minimum necessary PHI to medical service providers for the purposes of payment, or to determine whether a particular treatment is medically necessary. The Fund may also disclose your PHI to another health plan or a health care provider for its payment activities and for the coordination of benefits. The Fund also mails Explanation of Benefits forms and other information to the address we have on record for the subscriber (i.e., the primary insured).
- “Health Care Operations” are certain administrative, financial, legal, and quality improvement activities of a covered entity (such as the Fund) that are necessary to run

its business and to support the core functions of treatment and payment, such as quality assessment and improvement; performance measurement and outcomes assessment; and preventive health, disease management, case management and care coordination. The Fund may also use the PHI in the administration of detection and investigation of fraud; in evaluating provider performance and reviewing provider qualifications; premium rating and similar activities; in conducting data analyses for health improvement, cost-control, protocol development or planning-related purposes; in connection with the merger or consolidation of the Fund and/or its plans with another plan, and for other general administrative activities, including data and information systems management and participant services. The Fund may use summary or de-identified health information for Fund design activities. The Fund may use and disclose PHI about you for enrollment, underwriting and premium rating purposes and other activities related to the creation, renewal or replacement of a contract of health insurance or health benefits. However, the Fund will not use or disclose "genetic information for "underwriting purposes" (as such terms are defined by HIPAA). In addition, the Fund's employees and administrators may use information about your enrollment or disenrollment in the fund in order to collect contributions that pay for your participation in your plan. The Fund may also use your PHI to provide you with customer service; to submit claims for stop-loss (or excess loss) coverage; to conduct or arrange for medical review, legal services, audit services (including the disclosure of certain information to an employer regarding claims that should not have been paid because a person was not eligible or otherwise not entitled to coverage); to create limited data sets or de-identified health information in accordance with the requirements of HIPAA. For example, the Fund may disclose the minimum necessary PHI to the Fund's attorney, auditor, actuary, and consultant(s) when these professionals perform services for the Fund that requires them to use PHI. Persons who perform services for the Fund are called "business associates," and the Fund may disclose your PHI to such business associates without your written authorization. Federal law requires the Fund to have written contracts with its business associates before it shares PHI with them, and the Fund disclosures of your PHI must be consistent with the Fund's contract with them. Other examples of business associates are the Fund's stop-loss insurance carrier, claims repricing services, utilization review companies, prescription benefit managers, PPOs and HMOs.

- "Treatment" means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from health care provider to another. The Fund is not typically involved in treatment activities. However, the Fund may disclose PHI to doctors, dentists, pharmacies, hospitals and other health care providers who take care of you. For example, doctors may request PHI from the Fund to supplement their own records. The Fund may send certain information to doctors for patient safety or other treatment-related reasons. If your plan requires precertification for hospitalization or certain procedures or diagnostic services, the Fund may use or disclose PHI to health care providers to assist in determining an appropriate course of treatment. The Fund may

also use PHI to contact you or your health care provider regarding treatment alternatives or other health-related benefits and services that may be of interest to you, including health-related products or services (or payment for such product or service) that is provided by, or included in your Fund benefits, or other health-related products or services, only available to you, that add value to, but are not part of, your Fund benefits. For example, the fund may use your PHI to alert you to an available case or disease management program or care coordination if you are diagnosed with certain diseases or illnesses, such as diabetes.

**2. The Fund is permitted or required to use or disclose your PHI without your written authorization for the following purposes and in the following circumstances, as limited by law (note that these activities are not considered treatment, payment and health care operations):**

- The Fund will use or disclose your PHI to the extent it is required by law to do so.
- The Fund may disclose your PHI to a public health authority for certain public health activities, such as: (1) reporting of a disease or injury, or births and deaths, (2) conducting public health surveillance, investigations, or interventions; (3) reporting known or suspected child abuse or neglect; (4) ensuring the quality, safety or effectiveness of an FDA-regulated product or activity (including reporting reactions to medications or problems with FDA-regulated products, and notifying individuals of recalls of medication or products they may be using); (5) notifying a person who is at risk of contracting or spreading a disease; and (6) notifying an employer about a member of its workforce, for the purpose of workplace medical surveillance or the evaluation of work-related illness and injuries, but only to the extent the employer needs that information to comply with the Occupational Safety and Health Administration (OSHA), the Mine Safety and Health Administration (MSHA), or State law requirements having a similar purpose.
- The Fund may disclose your PHI to the appropriate government authority if the Fund reasonably believes that you are a victim of abuse, neglect or domestic violence.
- The Fund may disclose your PHI to a health oversight agency for oversight activities authorized by law, including (1) audits; (2) civil, administrative, or criminal investigations; inspections; (3) licensure or disciplinary actions; (4) civil, administrative, or criminal proceedings or actions; and (4) other activities, including as necessary for appropriate oversight of government benefit programs (for example, to the Department of Labor, state insurance departments, and the federal and state agencies which oversee the Medicare or Medicaid).
- The Fund may disclose your PHI in the course of any judicial or administrative proceeding in responses to an order by a court or administrative tribunal, or in response to a subpoena, discovery request, or other lawful process.

- The Fund may disclose your PHI for a law enforcement purpose to a law enforcement official. Such purposes include disclosures required by law (for example, to report certain types of wounds or other physical injuries), or in compliance with a court order or court-ordered warrant, a subpoena or summons issued by a judicial officer, a grand jury subpoena, or administrative request.
- When providing emergency health care not on Plan premises, we may disclose PHI if necessary to alert law enforcement to:
  - The commission and nature of the crime;
  - The location or victim(s) of the crime; or
  - The identity, description and location of the perpetrator of the crime
- The Fund may disclose your PHI in response to a law enforcement official's request, for the purpose of identifying or locating a suspect, fugitive, material witness or missing person.
- The Fund may disclose your PHI if you are the victim of a crime and you agree to the disclosure or, if the Fund is unable to obtain your consent because of incapacity or emergency, and law enforcement demonstrates a need for the disclosure and/or the Fund determines in its professional judgment that such disclosure is in your best interest.
- The Fund may disclose your PHI to a law enforcement official to inform them of your death, if the Fund believes your death may have resulted from criminal conduct.
- The Fund may disclose PHI to a law enforcement official that it believes is evidence that a crime occurred on the premises of the Fund.
- The Fund may disclose your PHI to a coroner or medical examiner for identification purposes. The Fund may disclose your PHI to a funeral director to carry out their duties upon your death or prior to and in reasonable anticipation of your death.
- The Fund may disclose your PHI to organ procurement organizations for cadaveric organ, eye, or tissue donation purposes.
- The Fund may use or disclose your PHI for research purposes, if the Fund obtains one of the following: (1) documented institutional review board or privacy board approval; (2) representations from the researcher that the use or disclosure is being used solely for preparatory research purposes; (3) representations from the researcher that the use or disclosure is solely for research on the PHI of decedents; or (4) an agreement to exclude specific information identifying the individual.
- The Fund may use or disclose your PHI to avoid a serious threat to the health or safety to you or others, or is necessary, under certain conditions, for law enforcement authorities to identify or apprehend an individual.

- The Fund may disclose your PHI if you are in the Armed Forces and your PHI is needed by military command authorities. The Fund may also disclose your PHI to federal officials for the conduct of national security and intelligence activities, and for the provision of protective services to the President, foreign heads of state or other persons authorized by federal law.
  - The Fund may disclose your PHI to a correctional institution where you are being held under certain circumstances (e.g., for the provision of your health care, for your health and safety or the health and safety of others (including other inmates or officers or employees of the correctional institution), for law enforcement on the premises of the correctional institution, or for the administration and maintenance of the safety, security, and good order of the correctional institution).
  - The Fund may disclose your PHI as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs.
  - The Fund may use and disclosure your PHI as otherwise permitted by HIPAA and other applicable law in certain limited circumstances.
- 3. The Fund may disclose your PHI to family members, friends or other persons involved in your health care without your written authorization in certain circumstances:**

Disclosure of your PHI to family members, other relatives, your close personal friends, and any other person you choose to identify is allowed under federal law if: (a) the information is directly relevant to the family members', other relatives', close personal friends' or other person's involvement with your care or payment for that care (including if you are deceased, subject to certain limitations with respect to your prior expressed preferences which are known to the Fund), or (b) the information is used or disclosed to notify, or assist in the notification of, a family member, Personal Representative, or another person responsible for your care, of your location, general condition, or death (the Fund may also disclose your PHI to disaster relief agencies or entities for the same purposes).

If you are present for, or otherwise available prior to a use or disclosure permitted above, and you have the capacity to make health care decisions, the Fund will not use or disclose your PHI to your family and friends unless (i) the Fund obtains your agreement, or provides you with an opportunity to object to the use and disclosure of your PHI and you express no objections to such use and disclosure, or (ii) the Fund can reasonably infer from the circumstances that you do not object to such use and disclosure. The Fund may also disclose PHI to the persons and entities and for the purposes set forth above in emergency circumstances or if you are incapacitated, and the Fund reasonably believes to be in your best interests and relevant to that person's involvement in your care.

**4. The Fund may also use or disclose your PHI to you, to your Personal Representative without your prior written authorization, to a third party (such as your spouse or a local union official) pursuant to an Authorization Form, and to the Board of Trustees of the Fund without your written authorization (but only for the purposes and to the extent specified in the Plan):**

- The Fund will provide you with access to your PHI. The Fund will first require you to complete and execute a “Request for Access to Patient’s Own Protected Health Information” form and will provide you with access to PHI consistent with the Request Form, or as otherwise required by law. *If you wish to obtain a “Request for Access” form, please contact the Privacy Officer whose name and address are shown on the last page of this notice.*
- Subject to applicable law, the Fund may provide your Personal Representative or Attorney with access to your PHI in the same manner as it would provide you with access (i.e. without your written authorization), but only upon receipt of documentation demonstrating that your Personal Representative or lawyer has authority under applicable law to act on your behalf. If the Fund has reasonable doubt about an individual’s status as Personal Representative, the matter shall be referred to Fund Counsel.
- The Fund may disclose your PHI to the Fund’s Board of Trustees without your written authorization only in accordance with the provisions of the Fund’s Privacy Policy and the provisions of the Plan.
- Except as described or provided for herein, the Fund will not use or disclose your PHI to someone other than you unless you sign and execute an “Authorization For Release of Health Information” form. You can revoke an Authorization Form at any time by submitting a “Cancellation of Authorization” form to the Fund. The Cancellation of Authorization form revokes the Authorization Form on the date it is received and logged by the Fund. *If you wish to obtain an “Authorization” form and a “Cancellation of Authorization” form, please contact the Privacy Officer whose name and address are shown on the last page of this notice.*
- It is not the Fund’s standard practice to access any psychotherapy notes kept by behavioral health providers. However, in the event the Fund needs access to these notes, such notes cannot be used or disclosed without your written authorization (except in certain limited situations permitted by HIPAA addressed below). If you elect not to provide written authorization, the notes will not be used or disclosed; provided the Fund may use or disclose psychotherapy notes as required by applicable law or as permitted by applicable law. For example, the Fund may use or disclose psychotherapy notes as necessary to defend itself in a legal action or other proceeding brought by you or on your behalf or as necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and the Fund may disclose psychotherapy notices to public health oversight agencies and coroners and medical examiners as permitted by HIPAA.

- Except in the limited circumstances permitted by HIPAA or other applicable law, the Fund may not (a) use or disclose your PHI to market services or products to you, (b) provide your PHI to anyone else for marketing purposes, or (c) sell your PHI, without your written authorization. Your authorization is not required for marketing communications in the form of a face-to-face communication made by a the Fund to you; or a promotional gift of nominal value provided by the Fund.
- In no event will the Fund use or disclose your PHI that is “genetic information” for “underwriting” purposes, as such terms are defined by HIPAA.

### **Individual Rights**

You have certain important rights with respect to your PHI. You should contact the Fund’s Privacy Officer, identified below, to exercise any of these rights. These rights include:

- You have a right to request that the Fund restrict use or disclosure of your PHI to carry out payment or health care operations. Except as set forth below, the Fund is not required to agree to a requested restriction, and it will notify you if the restriction is not accepted. Except as otherwise required by law (and excluding disclosures for treatment purposes), the Fund is obligated, upon your request, to refrain from sharing your PHI with another health plan for purposes of payment or carrying out health care operations if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full by you or by another person (other than the Fund) on your behalf.
- You have a right to receive confidential communications about your PHI from the Fund by alternative means or at alternative locations, if you submit a written request to the Fund in which you clearly state that the disclosure of all or part of that information could endanger you.
- You have a right to obtain a copy of your PHI that is maintained by the Fund in a “designated record set” if you submit a valid “Request for Protected Health Information Form” to the Fund. A “designated record set” consists of records or other information containing your PHI that is maintained, collected, used, or disseminated by or for the Fund in connection with: (1) enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for the Fund, or (2) decisions that the Fund makes about you. If the Fund uses or maintains a designated record set with respect to your PHI electronically, you may request such PHI in an electronic format, and direct that such PHI be sent to another person or entity. If you request copies of your PHI, the Fund may charge a reasonable fee for copying, assembling costs and postage, if applicable, associated with your request. The requested information will be provided within 30 days if the information is maintained on site or within 60 days if the information is maintained offsite. A single 30-day extension is allowed if the Plan is unable to comply with the deadline.

- You have a right to amend your PHI that was created by the Fund and that is maintained by the Fund in a designated record set, if you submit a written request to the Fund in which you provide reasons for the amendment.
- You have a right to receive an accounting of disclosures of your PHI, with certain exceptions, if you submit a written request to the Fund. The Fund need not account for disclosures that were made more than six years before the date on which you submit your request, nor any disclosures that were made for treatment, payment or health care operations.

**The Fund must notify you following the acquisition, use or disclosure of your unsecured PHI in a manner that is impermissible under the HIPAA privacy rules, unless there is a low probability that such PHI was compromised (or notification is not otherwise required under HIPAA)Duties of the Fund**

The Fund has the following obligations:

- The Fund is required by law to maintain the privacy of PHI and to provide individuals with notice of its legal duties and privacy practices with respect to PHI.
- The Fund is required to abide by the terms of the Notice that is currently in effect.
- The Fund will provide a paper copy of this Notice to you upon request.

### **Changes to Notice**

- The Fund reserves the right to change the terms of this Notice and to make the new Notice provisions effective for all PHI it maintains, regardless of whether the PHI was created or received by the Fund prior to issuing the revised Notice.
- Whenever there is a material change to the Fund’s uses and disclosures of PHI, individual rights, the duties of the Fund, or other privacy practices stated in this Notice, the Fund will we will inform you of such change as provided by HIPAA and provide you with information about how to get a copy of the revised Notice. To the extent the Fund maintains a website, the Fund will post a copy of the current Notice on the Fund’s website.

### **Contacts and Complaints**

If you believe your privacy rights have been violated, you may file a written complaint with the Fund’s Privacy Officer at the following address:

Privacy Officer  
 OCU Health and Welfare Trust  
 P.O. Box 5848  
 El Monte, California 91734

Telephone: (626) 434-2469 [Local]  
(626) 279-3094 [Fax]  
[privacyofficer@pswadmin.com](mailto:privacyofficer@pswadmin.com) [e-mail]

You may also file a complaint with the U. S. Secretary of Health and Human Services:

Region IX, Office for Civil Rights  
U.S. Department of Health and Human Services  
90 7<sup>th</sup> Street, Suite 4-100  
San Francisco, CA 94103  
Phone: (800) 368-1019  
FAX: (415) 437-8329  
TDD: (800) 537-7697

<http://www.hhs.gov/ocr/privacy/hipaa/complaints/index.html>

The Fund will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any person for filing a complaint.

#### **For More Information About Privacy**

If you want more information about the Fund's policies and procedures regarding privacy of PHI, contact the Fund's Privacy Officer at the address above.