

**ARTICLE XIII  
HEALTH INSURANCE PORTABILITY  
AND ACCOUNTABILITY ACT OF 1996  
PRIVACY & SECURITY REQUIREMENTS**

***INTRODUCTION***

The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) imposes upon this Plan and certain other entities certain responsibilities to ensure that Protected Health Information (“PHI”) pertaining to Covered Persons remains confidential, subject to limited exceptions in which PHI may be disclosed. “Protected Health Information” means health information (including oral information) that:

- is created or received by health care providers, health plans or health care clearinghouses;
- relates to an individual’s past, present or future physical or mental health condition, 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
- identifies the individual or creates a reasonable basis to believe that the information, including demographic information, can be used to identify the individual.

HIPAA also imposes special requirements upon the Plan and the Employer with respect to *electronic* PHI (“ePHI”). Electronic PHI is PHI, as defined above, that is transmitted by or maintained in “electronic media”, as that term is defined in federal regulations, specifically 45 C.F.R. § 160.103.

***EFFECTIVE DATE***

The rules contained in this Article do not apply to the Plan or the Employer until such date as the HIPAA Privacy and Security regulations (45 C.F.R. § 160.101 et seq.) apply to the Plan.

***DISCLOSURES OF PHI/ePHI BY THE PLAN TO THE EMPLOYER***

The Plan (or the Employer on behalf of the Plan) provides to Covered Persons a HIPAA Privacy Notice that, among other things, states the Plan may disclose PHI/ePHI (relating to a Covered Person) to the Employer, as further described below, without the consent or authorization of the Covered Person. In no event may the Plan disclose PHI/ePHI to the Employer, without the consent or authorization of the Covered Person or his authorized representative, for purposes of employment-related actions or decisions or in connection with any other benefit or Employee benefit plan of the Employer (although the Plan may disclose summary ePHI or enrollment-related ePHI to the Employer, without authorization, as further described below).

The Plan may disclose PHI/ePHI to the Employer, without the consent or authorization of the Covered Person, subject to the Employer’s obligations described below (in the sections titled, *Employer Obligations with Respect to PHI Obtained from the Plan* and *Additional Employer Obligations with Respect to ePHI Obtained from the Plan*) for Plan administrative functions such as wellness initiatives under the Plan, quality assurance, claims processing, auditing and monitoring. However, only the minimum amount of PHI/ePHI necessary to accomplish a particular Plan administrative function may be disclosed to the person(s) performing such functions.

In addition to disclosing PHI/ePHI to the Employer to allow the Employer to perform Plan administrative functions, the Plan may disclose certain limited summary health information, including electronic summary health information, to the Employer, without the consent or authorization of the Covered Person, for purposes such as obtaining premium bids for health insurance or reinsurance, or for modifying, amending or terminating the Plan. “Summary health information” is health information that summarizes claims history, expenses or types of claims by individuals, but from which has been removed at least 18 specific identifiers, including names, dates (except year), telephone numbers, Social Security numbers, medical record numbers and other identifiers. In addition, the Plan may disclose enrollment and disenrollment information, including electronic enrollment and disenrollment information, to the Employer without the consent or authorization of the Covered Person.

***EMPLOYER OBLIGATIONS WITH RESPECT TO PHI OBTAINED FROM THE PLAN***

As a condition of receiving PHI from the Plan for Plan administrative functions the Employer specifically agrees to:

- not use or further disclose the PHI other than as permitted by this Plan or as required by law, or as permitted by the Covered Person to whom the PHI relates;
- ensure that any agents or subcontractors to whom it shares or provides the PHI received from the Plan agree to these same restrictions and conditions;

- not use the PHI for employment-related actions or in connection with any of its other benefit plans without the consent or authorization from the Covered Person to whom the PHI relates;
- report to the Plan any improper uses or disclosures of the PHI;
- provide Covered Persons access to PHI that relates to them, allow them to request amendments to the PHI, and upon request provide Covered Persons an accounting of all disclosures of their PHI by the Employer (except for those disclosures with respect to which no accounting is required);
- make available to appropriate federal authorities the Employer's internal practices, books and records relating to the use and disclosure of PHI received from the Plan; and
- return or destroy (to the extent feasible) all copies of the PHI received from the Plan once the Employer's need for which the PHI was requested no longer exists or, if this is not feasible, limit further uses and disclosures of the PHI.

***ADDITIONAL EMPLOYER OBLIGATIONS WITH RESPECT TO ePHI OBTAINED FROM THE PLAN***

As a condition of receiving ePHI from the Plan for Plan administrative functions the Employer specifically agrees to:

- implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the ePHI that it creates, receives, maintains or transmits on behalf of the Plan;
- ensure that the adequate separation (as required by 45 C.F.R. § 164.504(f)(2)(iii)), between the ePHI and persons who have no legitimate need to access such ePHI, is supported by reasonable and appropriate security measures;
- ensure that any agent, including a subcontractor, to whom it provides this information agrees to implement reasonable and appropriate security measures to protect the information; and
- report to the Plan any security incident of which it becomes aware.

***USE AND DISCLOSURE OF PHI BY THE EMPLOYER; DISPUTE RESOLUTION***

When the Employer obtains PHI from the Plan for Plan administrative functions, the PHI will be provided to the human resources or employee benefits department of the Employer, and may also be provided to the Employer's payroll department (for purposes of processing payroll deductions for payment of premium) and chief financial officer and his designees. The persons in these departments, except as otherwise provided in a specific authorization granted by the Covered Person or his authorized representative to the Employer, will have access to and may use the PHI solely to perform Plan administrative functions that the Employer performs for or with respect to the Plan.

The Employer may use PHI that it receives from the Plan to carry out Plan administrative functions and may use summary health information for the purposes described in the section above titled, *Disclosures of PHI by the Plan to the Employer*. The Employer may also disclose PHI relating to a Covered Person, without the consent or authorization of the Covered Person, as required or as otherwise permitted by law. For example, the law allows PHI to be disclosed, without the consent or authorization of the Covered Person, to law enforcement, public health and judicial agencies in certain circumstances. PHI pertaining to a minor Covered Person may, to the extent permitted by local law, be disclosed to the Covered Person's parent or guardian without the consent or authorization of the minor. There are other situations in which PHI may be disclosed without the Covered Person's consent. For more information please review the Plan's Privacy Notice or see the Plan's Privacy Official.

In the event a Covered Person or any other person believes that the Employer or any of its agents have misused PHI disclosed to it or to them by the Plan, such persons may notify the Employer's Privacy Official (contact the human resources or employee benefits department for more information regarding how to contact the Privacy Official), or may file a complaint as described in the Plan's Privacy Notice, a copy of which you should have already received (an additional copy is available from the human resources or employee benefits department). If the complaint is filed with the Privacy Official, the Privacy Official will investigate the complaint and the events and circumstances related to it, as provided in the Employer's Privacy Policy and Procedure.