

THE SCRIPPS RESEARCH INSTITUTE GROUP HEALTH AND WELFARE PLAN

NOTICE OF PRIVACY RIGHTS - HEALTH CARE RECORDS

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

This Notice is provided as required by the Federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”), and regulations issued at 45 CFR Parts 160 through 164 (“Privacy Regulations”). This Notice is provided to participants and beneficiaries in The Scripps Research Institute (TSRI) health plans designated as an organized health care arrangement and identified in Appendix C to The Scripps Research Institute Group Health and Welfare Plan (collectively referred to herein as the “Plan”).¹

As a participant or beneficiary of the Plan, you are entitled to receive a notice of the Plan’s privacy procedures with respect to your “Protected Health Information.” “Protected Health Information” is information about you, including demographic information, that can reasonably be used to identify you and that relates to your past, present or future physical or mental health or condition, the provision of health care to you or the payment for that care. This notice is intended to inform you about:

- the Plan’s use or disclosure of your Protected Health Information;
- your privacy rights with respect to the Plan’s use and disclosure of your Protected Health Information;
- the Plan’s duties with respect to your Protected Health Information;
- your right to file a complaint with the Plan’s Privacy and Complaint Officer or with the Office for Civil Rights of the U.S. Department of Health and Human Services about the Plan’s privacy practices; and

¹ The Plan includes the following component plans: TSRI Health Care Spending Account Plan; TSRI Medical Plans; TSRI Dental Plan; TSRI Vision Plan; TSRI Prescription Drug Plan; TSRI Long-Term Care Insurance Plan; TSRI Mental Health Plan; TSRI Employee Assistance Program;* or any other insured or self-insured major medical plan, group dental plan, or other health plan as may be sponsored by TSRI and designated as part of the TSRI Organized Health Care Arrangement.

*Discussions within the TSRI Counseling and Psychological Services Program will continue to be held in the strictest confidence in accordance with professional ethics and state/federal law. All records are maintained separately from medical and personnel/department files and are not released without your consent.

- the Plan's Privacy and Complaint Officer along with such Officer's contact information.

The Plan is required by law to provide you with this Notice about your rights and the Plan's legal duties and privacy practices with respect to your Protected Health Information. The Plan must follow the terms of this Notice currently in effect. Some of the uses and disclosures described in this Notice may be limited by applicable state laws that are more stringent than the federal standards.

You may also receive notices about the use and disclosure of health information from others, such as from other health care plans, insurers (including HMOs) and providers. As a result, you may, in addition to this Notice, receive other notices of your privacy rights.

HOW THE PLAN MAY USE AND DISCLOSE YOUR PROTECTED HEALTH INFORMATION

The Plan may use and disclose your Protected Health Information for different purposes. The examples below are provided to illustrate the types of uses and disclosures the Plan may make without your authorization for treatment, payment and health care operations.

- **Treatment.** The Plan may use and disclose your Protected Health Information to assist your health care providers (doctors, pharmacies, hospitals and others) in your diagnosis and treatment. For example, the Plan may disclose to one treating physician the name of another treating physician for records or other information needed for diagnosis or treatment.
- **Payment.** The Plan may use and disclose your Protected Health Information in order to pay for your covered health expenses. For example, the Plan may use your Protected Health Information to enroll you for coverage and the Plan may use or disclose such information to determine if a claim for benefits is covered under the Plan (e.g., is medically necessary, experimental, etc).
- **Health Care Operations.** The Plan may use and disclose your Protected Health Information in order to perform Plan activities, such as quality assessment and improvement activities, reviewing competence or qualifications of health care providers, underwriting, premium rating and other insurance activities relating to creating or renewing insurance contracts. Such activities also include disease management, case management, conducting or arranging for medical review, legal services and auditing functions including fraud and abuse compliance programs, business planning and development, business management and general administrative activities. For example, the Plan may use information about your claims to refer you to a disease management program. Notwithstanding the foregoing, the Plan is prohibited from using or disclosing Protected Health Information that is your genetic information for underwriting purposes.
- **Plan Sponsor.** The Plan discloses your medical information to The Scripps Research Institute, which sponsors the Plan, for Plan administration purposes that are described in the document that governs the specific Plan. The Scripps Research Institute will be

required to certify to the Plan that it will use your medical information in accordance with the Privacy Regulations.

- **Component Plans.** The Plan's component plans may share your Protected Health Information for payment and health care operations.
- **Enrolled Dependents and Family Members.** The Plan will mail explanation of benefits forms and other mailings containing Protected Health Information to the address the Plan has on record for the employee who is enrolled in the health plan.

OTHER PERMITTED OR REQUIRED DISCLOSURES

- **To Your Family Member, Other Relative or Close Personal Friend.** The Plan may disclose Protected Health Information to your family member, other relative, close personal friend, or other person you identify, provided such Information is directly relevant to such person's involvement in your health care or payment, or to notify them of your location, general condition or death. The Plan will not make any such disclosure unless you are given a reasonable opportunity under the circumstances to object and did not, in fact, object. If you are not present or able to agree to these disclosures of your Protected Health Information, then using professional judgment, the Plan may determine whether the disclosure is in your best interest.
- **As Required by Law.** The Plan must disclose Protected Health Information about you when required to do so by law.
- **Public Health Activities.** The Plan may disclose Protected Health Information to public health agencies for reasons such as preventing or controlling disease, injury or disability. This includes disclosures necessary to report product defects, to permit product recalls and to conduct post-marketing surveillance. Protected Health Information may also be used or disclosed if you have been exposed to a communicable disease or are at risk of spreading a disease or condition, if authorized by law.
- **Immunizations.** The Plan may disclose Protected Health Information limited to proof of immunization to a school if you are a student or prospective student of the school and the school is required by law to have such proof of immunization prior to admission. The Plan must obtain your agreement (or the agreement of a parent, guardian, or other person acting in the place of a parent if you are an unemancipated minor) before making any such disclosure to a school.
- **Victims of Abuse, Neglect or Domestic Violence.** The Plan may disclose Protected Health Information to government agencies about abuse, neglect or domestic violence if there exists a reasonable belief that you may be a victim of abuse, neglect or domestic violence. In such case, the Plan will promptly inform you that such a disclosure has been or will be made unless that notice would cause a risk of serious harm. For purposes of reporting child abuse or neglect, it is not necessary to inform the minor that such disclosure has been or will be made. Disclosure may generally be made to the minor's parents or other representatives although there may be circumstances under federal or

state law when the parents or other representatives may not be given access to the minor's Protected Health Information.

- **Health Oversight Activities.** The Plan may disclose Protected Health Information to government oversight agencies (e.g., U.S. Department of Labor) for oversight activities authorized by law. This includes uses or disclosures in civil, administrative or criminal investigations; inspections licensure or disciplinary actions (for example, to investigate complaints against providers); and other activities necessary for appropriate oversight of government benefit programs.
- **Judicial and Administrative Proceedings.** The Plan may disclose Protected Health Information in response to a court or administrative order. The Plan may also disclose Protected Health Information about you in certain cases in response to a subpoena, discovery request or other lawful process. In such case, the Plan will require satisfactory assurances that the requesting party has made a good faith attempt to provide written notice to you, and the notice provided sufficient information about the proceeding to permit you to raise an objection and no objections were raised or any raised were resolved in favor of disclosure by the court or tribunal.
- **Law Enforcement.** The Plan may disclose Protected Health Information under limited circumstances to a law enforcement official in response to a warrant or similar process; to identify or locate a suspect or witness; or to provide information about the victim of a crime. Such disclosures include disclosing information about an individual who is or is suspected to be a victim of a crime, but only if the individual agrees to the disclosure, or the Plan is unable to obtain the individual's agreement because of emergency circumstances. Furthermore, the law enforcement official must represent that the information is not intended to be used against the individual, the immediate law enforcement activity would be materially and adversely affected by waiting to obtain the individual's agreement, and disclosure is in the best interest of the individual as determined by the Plan in its sole discretion.
- **Coroners, Funeral Directors, Organ Donation.** The Plan may release Protected Health Information to coroners or funeral directors as necessary to allow them to carry out their duties. The Plan may also disclose Protected Health Information in connection with organ or tissue donation.
- **Plan Information and Programs.** The Plan may contact you to provide appointment reminders or information about alternative treatment programs or other health-related benefits and services that may be of interest to you.
- **Research.** Under certain circumstances, the Plan may disclose Protected Health Information about you for research purposes, provided certain measures have been taken to protect your privacy.
- **To Business Associates.** The Plan may disclose Protected Health Information to a "business associate", provided that such person or entity enters into an agreement as

described in the Privacy Regulations. A “business associate” is a vendor that provides certain services (typically Plan administration services) to or on behalf of the Plan.

- **To Limited Data Recipients.** The Plan may disclose Protected Health Information to a “limited data recipient”, provided that such person or entity enters into an agreement as described in the Privacy Regulations. A “limited data recipient” is a person or entity that receives Protected Health Information that is partially de-identified in accordance with the Privacy Regulations and used for purposes of research, public health or health care operations.
- **Marketing.** The Plan may use Protected Health Information for purposes of marketing where it is face-to-face or involves a promotional gift of nominal value.
- **To Avert a Serious Threat to Health or Safety.** The Plan may disclose Protected Health Information about you, with some limitations, when necessary to prevent a serious threat to your health and safety or the health and safety of the public or another person; provided, however, that any such disclosure is to a person reasonably able to prevent or lessen the threat, including the target of the threat.
- **Special Government Functions.** The Plan may disclose information as required by military authorities or to authorized federal officials for national security and intelligence activities.
- **Workers’ Compensation.** The Plan may disclose Protected Health Information to the extent necessary to comply with state law for workers’ compensation programs or similar programs established by law.
- **Incidental to Another Permitted Use.** The Plan may disclose Protected Health Information as permitted by the Privacy Regulations to be incidental to another permitted use.
- **Decedents.** The Plan may disclose to your family member, other relative, close personal friend, or other person you identify, who were involved in your care or payment for health care prior to your death, Protected Health Information that is relevant to their involvement, unless doing so is inconsistent with any prior expressed preference known to the Plan. Your individually identifiable health information remains Protected Health Information for a period of 50 years following your death.

OTHER USES OR DISCLOSURES REQUIRE AN AUTHORIZATION

Except as otherwise indicated by this Notice, other uses or disclosures of your Protected Health Information will be made only with your written authorization subject to your right to revoke any such authorization. The types of uses and disclosures of Protected Health Information that may not be made without your written authorization include the following:

- **Psychotherapy Notes.** The Plan must obtain an authorization to use or disclose psychotherapy notes subject to certain limited exceptions or as may be required by law.

- **Marketing.** The Plan must obtain an authorization to use or disclose Protected Health Information for marketing if the Plan receives financial remuneration in exchange for making such communication subject to certain limited exceptions. If the marketing involves financial remuneration to the Plan, the authorization must state that such remuneration is involved.
- **Sale of Protected Health Information.** The Plan must obtain an authorization for any disclosure of Protected Health Information in exchange for direct or indirect remuneration from or on behalf of the recipient of the Protected Health Information. Such authorization must state that the disclosure will result in remuneration to the Plan.

You may revoke an authorization at any time in writing, except to the extent that the Plan has already taken action on the information disclosed or your authorization was obtained as a condition for obtaining insurance coverage and any law provides the insurer with the right to contest a claim under the policy or the policy itself. Such revocation will be effective upon the Plan's receipt of your written notice of cancellation or modification of the authorization.

YOUR RIGHTS REGARDING YOUR PROTECTED HEALTH INFORMATION

You have certain rights regarding Protected Health Information that the Plan maintains about you.

- **Right To Notification In The Event Of A Breach Of Your Unsecured Protected Health Information.** You have the right to be notified of any impermissible acquisition, access, use or disclosure of your unsecured Protected Health Information that compromises the security or privacy of the Protected Health Information. Should such a breach of your unsecured Protected Health Information occur, the Plan or its authorized representative will notify you without unreasonable delay after the date the Plan discovers the breach.

Unsecured Protected Health Information is Protected Health Information that has not been rendered unusable, unreadable or indecipherable by means of encryption or destruction.

- **Right To Access Your Protected Health Information.** You have the right to review or obtain copies of your Protected Health Information contained in a "designated record set" with some limited exceptions. A designated record set includes the medical and billing records about individuals maintained by or for a covered health care provider. This includes enrollment, billing, claims payment and case or medical management records maintained by or for the Plan. Your request to review and/or obtain a copy of Protected Health Information contained in your designated record set must be made in writing. The Plan may charge a fee for the costs of producing, copying and mailing your requested information, but the Plan will tell you the cost in advance.

You also have the right to obtain a copy of any "electronic health record" maintained by the Plan with respect to your Protected Health Information in electronic format. An "electronic health record" is an electronic record of health-related information on an

individual that is created, gathered, managed and consulted by authorized health care clinicians and staff.

The Plan will provide the requested information 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. If access is denied, you or your personal representative will be provided with a written denial setting forth the basis for the denial, a description of how you may exercise those review rights and a description of how you may complain to the Secretary of the U.S. Department of Health and Human Services.

To access your Protected Health Information contained in a designated record set, you or your personal representative must complete the appropriate form and return it using the contact information identified at the end of this Notice.

- **Right To Amend Your Protected Health Information.** If you believe that Protected Health Information or a record about you in a designated record set maintained by the Plan is incorrect or incomplete, you may request that the Plan amend the information. Your request must be made in writing and must include the reason you are seeking a change. The Plan may deny your request if, for example, you ask the Plan to amend information that was not created by the Plan, as is often the case for health information in the Plan's records, or you ask to amend a record that is already accurate and complete.

The Plan has 60 days after the request is made to act on the request. A single 30-day extension is allowed if the Plan is unable to comply with such deadline. If the request is denied in whole or part, the Plan must provide you with a written denial that explains the basis for the denial. You may then submit a written statement of disagreement with the Plan's decision and have that statement included with any future disclosures of your Protected Health Information.

To amend your Protected Health Information contained in a designated record set, you or your personal representative must complete the appropriate form providing the reason for such request and return it using the contact information identified at the end of this Notice.

- **Right to an Accounting of Disclosures by the Plan.** You have the right to request an accounting of disclosures the Plan has made of your Protected Health Information. Such accounting will not include Plan disclosures related to your treatment, the Plan's payment or health care operations, or disclosures made to you or with your authorization. The list may also exclude certain other disclosures, such as disclosures incident to a use or disclosure otherwise permitted or required under the Privacy Regulations.

Your request for an accounting of disclosures must be made in writing and must state a time period for which you want an accounting. This time period may not be longer than six years.

You may obtain an accounting of any disclosures of Protected Health Information in the form of an electronic health record for purposes of treatment, payment or health care

operations within the three years immediately preceding your request for an accounting of disclosures.

Your request for an accounting should indicate in what form you want the list (for example, on paper or electronically). The first accounting that you request within a 12-month period will be free. For additional accountings within the same time period, the Plan may charge for providing the accounting, but the Plan will tell you the cost in advance.

If the Plan cannot provide the accounting within 60 days, an additional 30 days is allowed if the Plan gives you a written statement of the reasons for the delay and the date by which the accounting will be provided.

To request an accounting of disclosures the Plan has made of your Protected Health Information, you or your personal representative must complete the appropriate form and return it using the contact information identified at the end of this Notice.

- **Right To Request Restrictions on the Use and Disclosure of Your Protected Health Information.** You have the right to request that the Plan restrict or limit how the Plan uses or discloses your Protected Health Information for treatment, payment or health care operations. *The Plan may not agree to your request.* If the Plan does agree, the Plan will comply with your request unless the information is needed for an emergency. Your request for a restriction must be made in writing. In your request, you or your personal representative must tell the Plan (1) what information you want to limit; (2) whether you want to limit how the Plan uses or discloses your information, or both; and (3) to whom you want the restrictions to apply.

Notwithstanding any other provision of this Notice, and except as required by law, the Plan will comply with your request not to disclose your Protected Health Information to a health plan for payment or health care operations (but not carrying out treatment) if the Protected Health Information pertains solely to a healthcare item or service for which the health care provider involved has been paid in full by you or by someone other than the Plan on your behalf.

To request that the Plan restrict or limit how it uses or discloses your Protected Health Information, you or your personal representative must complete the appropriate form and return it using the contact information identified at the end of this Notice.

- **Right To Receive Confidential Communications.** You have the right to request that the Plan use a certain method to communicate with you about the Plan or that the Plan send Plan information to a certain location if the communication could endanger you. Your request to receive confidential communications must be made in writing. Your request must clearly state that all or part of the communication from the Plan could endanger you. The Plan will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

To request confidential communications, you or your personal representative must complete the appropriate form and return it using the contact information identified at the end of this Notice.

- **Right to a Paper Copy of This Notice.** You have a right at any time to request a paper copy of this Notice, even if you had previously agreed to receive an electronic copy. To request a paper copy of this Notice, you must use the contact information identified at the end of this Notice.
- **Contact Information for Exercising Your Rights.** You may exercise any of the rights described above by using the contact information identified at the end of this Notice.

➤ **PERSONAL REPRESENTATIVES**

Your personal representative may exercise your rights. Such representative must produce evidence of his/her authority to act on your behalf before that person will be given access to your Protected Health Information or allowed to take any action for you. Proof of such authority may take one of the following forms:

- a power of attorney for health care purposes, notarized by a notary public;
- a court order of appointment of the person as the conservator or guardian of the individual; or
- the parent of a minor child.

The Plan may deny access to your Protected Health Information to a personal representative in order to protect certain individuals who depend on others to exercise their rights under the Privacy Regulations and who may be subject to abuse or neglect including minors.

➤ **CHANGES TO THIS NOTICE**

The Plan reserves the right to change the terms of this Notice at any time, effective for Protected Health Information that the Plan already has about you as well as any information that the Plan receives in the future. Whenever the Plan makes a material change to the privacy practices described in this Notice, the Plan will promptly revise the Notice and post a copy of the new Notice on the Plan's intranet site and otherwise distribute the new Notice in accordance with the Privacy Regulations.

➤ **COMPLAINTS**

If you believe that your privacy rights have been violated, you may file a complaint with the Privacy and Complaint Officer identified at the end of this Notice and/or with the appropriate regional office of the Office for Civil Rights of the U.S. Department of Health and Human Services, based on the region where the alleged violation took place, or by email to OCRComplaint@hhs.gov. All complaints to the Plan must be made in writing and sent to the contact listed at the end of this Notice.

The Plan supports your right to protect the privacy of your Protected Health Information. ***The Plan will not retaliate against you or penalize you for filing a complaint.***

➤ **EFFECTIVE DATE OF THIS NOTICE**

This Notice as updated pursuant to the HITECH Act and final regulations issued thereunder is effective September 23, 2013.

The effective date of the Plan's first Notice of Privacy Practices was April 14, 2003. The Notice was previously revised in response to the enactment of the HITECH Act effective as of February 17, 2010.

➤ **CONTACT THE PLAN**

If you have any complaints or questions about this Notice or you want to submit a written request to the Plan as required in any of the previous sections of this Notice, please contact:

Privacy and Complaint Officer for The Scripps Research Institute:

TSRI Human Resources
Attention: Benefits Administration
10550 North Torrey Pines Road, TPC-1 1
La Jolla, California 92037
(858) 784-8487