

# Local 1298 Welfare Fund Privacy Notice

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## Section 1: Purpose of This Notice and Effective Date

**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.**

***Effective date.*** The effective date of this Notice is **September 23, 2013**.

***This Notice is required by law.*** The Local 1298 Welfare Fund (the “Fund”) is required by law to take reasonable steps to ensure the privacy of your personally identifiable health information and to inform you about:

1. The Fund’s uses and disclosures of Protected Health Information (PHI),
2. Your rights to privacy with respect to your PHI,
3. The Fund’s duties with respect to your PHI,
4. Your right to file a complaint with the Fund and with the Secretary of the United States Department of Health and Human Services (HHS), and
5. The person or office you should contact for further information about the Fund’s privacy practices is the Fund Administrator.

## Section 2: Your Protected Health Information

### ***Protected Health Information (PHI) Defined***

The term “Protected Health Information” (PHI) includes all individually identifiable health information related to your past, present or future physical or mental health condition or to payment for health care. PHI includes information maintained by the Fund in oral, written, or electronic form.

### ***When the Fund May Disclose Your PHI***

Under the law, the Fund may disclose your PHI without your consent or authorization, or the opportunity to agree or object, in the following cases:

- At your request. If you request it, the Fund is required to give you access to certain PHI in order to allow you to inspect and/or copy it.
- As required by HHS. The Secretary of the United States Department of Health and Human Services may require the disclosure of your PHI to investigate or determine the Fund’s compliance with the privacy regulations.
- For treatment, payment or health care operations. The Fund and its business associates will use PHI in order to carry out:

- Treatment,
- Payment, or
- Health care operations.

**Treatment** is the provision, coordination, or management of health care and related services. It also includes but is not limited to consultations and referrals between one or more of your providers.

**For example:** The Fund may disclose to a treating orthodontist the name of your treating dentist so that the orthodontist may ask for your dental x-rays from the treating dentist.

**Payment** includes but is not limited to actions to make coverage determinations and payment (including billing, claims management, subrogation, Fund reimbursement, reviews for medical necessity and appropriateness of care and utilization review and pre-authorizations).

**For example:** The Fund may tell a doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Fund. If we contract with third parties to help us with payment operations, such as a physician that reviews medical claims, we will also disclose information to them. These third parties are known as “business associates.”

**Health Care Operations** includes but is not limited to quality assessment and improvement, reviewing competence or qualifications of health care professionals, underwriting, premium rating and other insurance activities relating to creating or renewing insurance contracts. It also includes disease management, case management, conducting or arranging for medical review, legal services, and auditing functions including fraud and abuse compliance programs, business Funding and development, business management and general administrative activities.

**For example:** The Fund may use information about your claims to refer into a disease management program, project future benefit costs or audit the accuracy of its claims processing functions.

**Disclosure to the Fund’s Trustees.** The Fund will also disclose PHI to the Plan Sponsor the Board of Trustees of the Local 1298 Welfare Fund, for purposes related to treatment, payment, and health care operations, and has amended the Fund Documents to permit this use and disclosure as required by federal law. For example, we may disclose information to the Board of Trustees to allow them to decide an appeal or review a subrogation claim.

### **When the Disclosure of Your PHI Requires Your Written Authorization**

The Fund must generally obtain your written authorization before each of the following. Each of these include defined exceptions under which the Fund use or disclose your PHI for these purposes without your authorization.

1. Using or disclosing psychotherapy notes about you from your psychotherapist.

*Psychotherapy Notes* are separately filed notes about your conversations with your mental health professional during a counseling session. They do not include summary information about your mental health treatment.

2. Using or disclosing your PHI for marketing purposes (a communication that encourages you to purchase or use a product or service) if the Fund receives direct or indirect financial remuneration (payment) from the entity whose product or service is being marketed; and
3. Receiving direct or indirect remuneration (payment or other benefit) in exchange for receipt of your PHI.

Uses and disclosures not described in this Notice of Privacy Practices (NPP) will be made only with authorization, subject to your right to revoke your authorization.

### **Use or Disclosure of Your PHI That Requires You Be Given an Opportunity to Agree or Disagree Before the Use or Release**

Disclosure of your PHI to family members, other relatives, your close personal friends, and any other person you choose without your written consent or authorization is allowed under federal law if:

- The information is directly relevant to the family or friend's involvement with your care or payment for that care, and
- You have either agreed to the disclosure or have been given an opportunity to object and have not objected.

Individuals can restrict disclosures to their health plan for services for which they pay "out of pocket. Please contact the Fund Office if you wish to object to such a disclosure.

### **Use or Disclosure of Your PHI For Which Consent, Authorization or Opportunity to Object Is Not Required**

The Fund is allowed under federal law to use and disclose your PHI without your consent or authorization under the following circumstances:

1. ***When required by applicable law.***
2. ***Public Health Purposes.*** To an authorized public health authority if required by law or for public health and safety purposes. PHI 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.
3. ***Domestic Violence or Abuse Situations.*** When authorized by law to report information about abuse, neglect or domestic violence to public authorities if a reasonable belief exists that you may be a victim of abuse, neglect or domestic violence. In such case, the Fund 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 the purpose of reporting child abuse or neglect, it is not necessary to inform the minor that such a 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 PHI.

4. **Health Oversight Activities.** To a health oversight agency for oversight activities authorized by law. These activities include civil, administrative or criminal investigations, inspections, licensure or disciplinary actions (for example, to investigate complaints against health care providers) and other activities necessary for appropriate oversight of government benefit programs (for example, to investigate Medicare or Medicaid fraud).
5. **Legal Proceedings.** When required for judicial or administrative proceedings. For example, your PHI may be disclosed in response to a subpoena or discovery request that is accompanied by a court order, provided that certain conditions are met, including that:
  - a. the requesting party must give the Fund satisfactory assurances a good faith attempt has been made to provide you with written notice, and
  - b. the notice provided sufficient information about the proceeding to permit you to raise an objection, and
  - c. no objections were raised or were resolved in favor of disclosure by the court or tribunal.
6. **Law Enforcement Health Purposes.** When required for law enforcement purposes (for example, to report certain types of wounds).
7. **Law Enforcement Emergency Purposes.** For law enforcement purposes, if the law enforcement official represents 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 the Fund in its best judgment determines that disclosure is in the best interest of the individual, including:
  - a. identifying or locating a suspect, fugitive, material witness or missing person, and
  - b. 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 covered entity is unable to obtain the individual's agreement because of emergency circumstances.
8. **Determining Cause of Death and Organ Donation.** When required to be given to a coroner or medical examiner to identify a deceased person, determine a cause of death or other authorized duties. We may also disclose PHI for cadaveric organ, eye or tissue donation purposes.
9. **Funeral Purposes.** When required to be given to funeral directors to carry out their duties with respect to the decedent.
10. **Research.** For research, subject to certain conditions.
11. **Health or Safety Threats.** When, consistent with applicable law and standards of ethical conduct, the Fund in good faith believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or

the public and the disclosure is to a person reasonably able to prevent or lessen the threat, including the target of the threat.

12. **Workers' Compensation Programs.** When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.
13. **Immunization Records.** If the school is required by law to obtain such records prior to admission and the Fund obtains and documents the agreement to the disclosure from the parent or individual as applicable.

Any other Fund uses and disclosures not described in this Notice will be made only with your written authorization, subject to your right to revoke your authorization.

### **Other Uses or Disclosures**

The Fund may contact you to provide you information about treatment alternatives or other health-related benefits and services that may be of interest to you.

### **Disclosures to the Fund Sponsor (Board of Trustees)**

The "Fund Sponsor" of this Fund is the Local 1298 Welfare Fund Board of Trustees. As described in the Plan document, the Fund may disclose protected health information to the sponsor of the Fund for limited administrative purposes such as reviewing your appeal of a benefit claim, or for other reasons regarding the administration of this Fund, such as performing quality assurance functions and auditing and monitoring the Fund. The Fund shares the minimum information necessary to accomplish these administrative functions. .

In addition, the Fund may use or disclose "summary health information" to the Fund Sponsor for obtaining premium bids or modifying, amending or terminating the group health plan. Summary information summarizes the claims history, claims expenses or type of claims experienced by individuals for whom the Fund Sponsor has provided health benefits under a group health plan. Identifying information will be deleted from summary health information, in accordance with HIPAA.

## **Section 3: Your Individual Privacy Rights**

### **You May Request Restrictions on PHI Uses and Disclosures**

You may request the Fund to:

1. Restrict the uses and disclosures of your PHI to carry out treatment, payment or health care operations, or
2. Restrict uses and disclosures to family members, relatives, friends or other persons identified by you who are involved in your care.
3. If you or someone on your behalf pays in full and out of pocket for services or items, the individual may request that the health care provider not share the PHI related to that service or item with the group health plan and the disclosure is not otherwise required by law.

The Fund, however, is not required to agree to your request if the Fund Administrator or Privacy Officer determines it to be unreasonable.

Make such requests to:

**Annalisa DeFalco, Esq., Fund Administrator**  
P.O. Box 309  
681 Fulton Avenue  
Hempstead, NY 11551-0309  
(516) 489-3644

### **You May Request Confidential Communications**

The Fund will accommodate an individual's reasonable request to receive communications of PHI **by alternative means or at alternative locations** where the request includes a statement that disclosure could endanger the individual.

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI. Make such requests to Annalisa DeFalco, Esq., Fund Administrator at the address and phone number noted above.

### **You May Inspect and Copy PHI**

You have a right to inspect and obtain a copy of your PHI (in hardcopy or electronic form) contained in a "designated record set," for as long as the Fund maintains the PHI. The Fund has to provide access to PHI in electronic format upon request if they maintain information in electronic form. You may request your hardcopy or electronic information in a format that is convenient for you, and the Fund will honor that request to the extent possible. You may also request a summary of your PHI.

The Fund must provide the requested information within 30 days. The Fund is allowed an additional 30 days if the Fund is unable to comply with the deadline and if the Fund provides you with a notice of the reason for the delay and the expected date by which the requested information will be provided.

You or your personal representative will be required to complete a form to request access to the PHI in your designated record set.

A family member who was involved in the care of a deceased patient may request PHI so long as the request is not contrary to any prior expressed preference of the individual that is known to the fund.

You may be charged a reasonable, cost based fee for copies of your PHI or for preparing a summary of your PHI.

Requests for access to PHI should be made to Annalisa DeFalco, Esq., Fund Administrator at the address and telephone number noted in Section 3.

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 your review rights and a description of how you may complain to Fund and HHS.

**Designated Record Set:** includes your medical records and billing records that are maintained by or for a covered health care provider. Records include enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health Fund or other information used in whole or in part by or for the covered entity to make decisions about you. Information used for quality control or peer review analyses and not used to make decisions about you is not included.

### **You Have the Right to Amend Your PHI**

You have the right to request that the Fund amend your PHI or a record about you in a designated record set for as long as the PHI is maintained in the designated record set subject to certain exceptions. See the Fund's Right to Amend Policy for a list of exceptions.

The Fund has 60 days after receiving your request to act on it. The Fund is allowed a single 30-day extension if the Fund is unable to comply with the 60-day deadline. If the Fund denied your request in whole or part, the Fund must provide you with a written denial that explains the basis for the decision. You or your personal representative may then submit a written statement disagreeing with the denial and have that statement included with any future disclosures of that PHI.

You should make your request to amend PHI to Annalisa Defalco, Esq., Fund Administrator at the address and telephone number noted in Section 3.

You or your personal representative will be required to complete a form to request amendment of the PHI.

### **You Have the Right to Receive an Accounting of the Fund's PHI Disclosures**

At your request, the Fund will also provide you with an accounting of certain disclosures by the Fund of your PHI during the six years before the date of your request. We do not have to provide you with an accounting of disclosures related to treatment, payment, or health care operations, or disclosures made to you about your own PHI or authorized by you in writing. .

The Fund has 60 days to provide the accounting. The Fund is allowed an additional 30 days if you provide the Fund with a 30 day extension and the Fund gives you a written statement of the reasons for the delay and the date by which the accounting will be provided.

You may be charged a reasonable, cost based fee for copies of PHI.

If you request more than one accounting within a 12-month period, the Fund will charge a reasonable, cost-based fee for each subsequent accounting.

### **Breach Notification**

The Fund must notify affected individuals of breaches of their unsecured PHI.<sup>1</sup>

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<sup>1</sup> Risk-of-harm assessment is the standard. Risk assessment reviews the following 3 factors: 1. The nature and extent of the PHI involved; 2. The unauthorized person who used the PHI or to whom the PHI was disclosed, whether the PHI was actually acquired or viewed and 3. The extent to which the risk to the PHI has been mitigated.

## **You Have the Right to Receive a Paper Copy of This Notice Upon Request**

To obtain a paper copy of this Notice, contact AnnaLisa DeFalco, Esq., Fund Administrator at the address and telephone number noted in Section 3.

This right applies even if you have agreed to receive the notice electronically.

## **Your Personal Representative**

You may exercise your rights through a personal representative. Your personal representative will be required to produce evidence of authority to act on your behalf before the personal representative will be given access to your PHI or be allowed to take any action for you. Proof of such authority will be a completed, signed and approved Appointment of Personal Representative form. You may obtain this form by calling the Fund Office.

The Fund retains discretion to deny access to your PHI to a personal representative to provide protection to those vulnerable people who depend on others to exercise their rights under these rules and who may be subject to abuse or neglect.

The Fund will recognize certain individuals as personal representatives without you having to complete an Appointment of Personal Representative form. For example, the Fund will automatically consider a spouse to be the personal representative of an individual covered by the Fund. In addition, the Fund will consider a parent or guardian as the personal representative of an un-emancipated minor unless applicable law requires otherwise. A spouse or a parent may act on an individual's behalf, including requesting access to their PHI. Spouses and un-emancipated minors may, however, request that the Fund restrict information that goes to family members as described above at the beginning of Section 3 of this Notice. Contact the Fund Office if you would like to restrict the recognition of your spouse as your personal representative.

You should also review the Fund's Policy and Procedure for the Recognition of Personal Representatives for a more complete description of the circumstances where the Fund will automatically consider an individual to be a personal representative.

## **Section 4: The Fund's Duties**

### ***Maintaining Your Privacy***

The Fund is required by law to maintain the privacy of your PHI and to provide you and your eligible dependents with notice of its legal duties and privacy practices. There is a 50 year limit on the obligation to protect the PHI of deceased individuals. In addition, the Fund may not (and does not) use your genetic information that is PHI for underwriting purposes.

This notice is effective beginning on September 23, 2013 and the Fund is required to comply with the terms of this notice. However, the Fund reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by the Fund prior to that date. If a privacy practice is changed, a revised version of this notice will be mailed to you and to all past and present participants and beneficiaries for whom the Fund still maintains PHI.

If material changes are made to this Notice, it will be posted on the Fund's website no later than the effective date of the revision and thereafter sent in the Fund's next annual mailing.



Material changes are changes to:

- The uses or disclosures of PHI,
- Your individual rights,
- The duties of the Fund, or
- Other privacy practices stated in this notice.

### **Disclosing Only the Minimum Necessary Protected Health Information**

When using or disclosing PHI or when requesting PHI from another covered entity, the Fund will make reasonable efforts not to use, disclose or request more than the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request, taking into consideration practical and technological limitations.

However, the minimum necessary standard will not apply in the following situations:

- Disclosures to or requests by a health care provider for treatment,
- Uses or disclosures made to you,
- Disclosures made to the Secretary of the United States Department of Health and Human Services pursuant to its enforcement activities under HIPAA,
- Uses or disclosures required by law, and
- Uses or disclosures required for the Fund's compliance with the HIPAA privacy regulations.

This notice does not apply to information that has been de-identified. De-identified information is information that:

- Does not identify you, and
- With respect to which there is no reasonable basis to believe that the information can be used to identify you.

Note 1: The Fund does not underwrite but as a disclosure: health plans that underwrite (excluding certain long-term care plans) cannot use or disclose genetic information for underwriting purposes.

Note 2: The Fund does not intend to contact individuals for fundraising but if they did so you have a right to opt out of receiving fundraising communications.

### **Section 5: Your Right to File a Complaint with the Fund or the HHS Secretary**

If you believe that your privacy rights have been violated, you may file a complaint with the Fund in care of Annalisa DeFalco, Esq., Fund Administrator at the address and telephone number noted in Section 3.

You may also file a complaint with the Secretary of the U.S. Department of Health and Human Service. Filing instructions are available at:

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

The Fund will not retaliate against you for filing a complaint.

#### **Section 6: If You Need More Information**

If you have any questions regarding this notice or the subjects addressed in it, you may contact Annalisa DeFalco, Esq., Fund Administrator at the address and telephone number of the Fund Office noted at Section 3.

#### **Section 7: Conclusion**

PHI use and disclosure by the Fund is regulated by the federal Health Insurance Portability and Accountability Act, known as HIPAA. You may find these rules at 45 Code of Federal Regulations Parts 160 and 164. This notice attempts to summarize the regulations. The regulations will supersede this notice if there is any discrepancy between the information in this notice and the regulations.