

# ROCHESTER INSTITUTE OF TECHNOLOGY

## Notice of Privacy Practices For Certain Benefit Plans

---

*THE HUMAN RESOURCES DEPARTMENT IS SENDING YOU THIS NOTICE AS REQUIRED BY FEDERAL LAW. THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION.*

We understand that medical information about you and your health is personal and should be kept private. Moreover, effective April 14, 2003, there are new legal requirements imposed on several of the benefit plans offered by Rochester Institute of Technology to ensure the privacy of your personally identifiable health information. The plans covered by these regulations are RIT's Medical Care Plan, Dental Care Plan, Beneflex, Employee Assistance Program, and Long Term Care Insurance (the "Plan"). This Notice is intended to summarize these new rules and to inform you about:

- the Plan's uses and disclosures of Protected Health Information ("PHI") (as defined below);
- your privacy rights with respect to your PHI;
- the Plan's duties with respect to your PHI;
- your right to file a complaint with the Plan and the Secretary of the U.S. Department of Health and Human Services (the "Secretary"); and
- who to contact for further information about the Plan's privacy practices.

Protected Health Information (PHI) is any information created or received by a health care provider, health plan, employer or health care clearinghouse that relates to your past, present or future physical or mental health or condition, or provision of or payment for health care. PHI is information that identifies the individual or may reasonably be used to identify the individual.

Employees of the plan sponsor who administer and manage this Plan may use your PHI only for appropriate plan purposes (such as for payment or health care operations), but not for purposes of other benefits not provided by this plan, and not for employment-related purposes of the plan sponsor. These people must comply with the same requirements that apply to the Plan to protect the confidentiality of PHI.

PHI uses and disclosures by the Plan are regulated by a federal law called the Health Insurance Portability and Accountability Act of 1996 (referred to as "HIPAA") and the regulations which were put in place to enforce HIPAA. You may find these regulations at 45 *Code of Federal Regulations* Parts 160 and 164.

### **Section 1. Notice of PHI Uses and Disclosures**

#### **a. General Rule**

Generally, except for the purposes discussed below, the Plan cannot use or disclose your PHI without your written authorization. Moreover, if you provide authorization to use or disclose your PHI, you have the right to revoke your authorization at any time.

#### **b. Uses and Disclosures of PHI to Carry Out Treatment, Payment and Health Care Operations**

The Plan and individuals or entities who the Plan has engaged to assist in its administration (called "business associates") will use PHI to carry out "treatment," "payment" and "health care operations" (these terms are described below). Neither the Plan, nor the business associates, requires your consent or authorization to use or disclose your PHI to carry out these functions. The Plan may also

disclose PHI to employees of the Plan Sponsor if such employees assist in carrying out treatment, payment and health care operations, provided that the PHI is used for such purposes.

"Treatment" includes the provision, coordination or management of health care and related services. This includes consultations and referrals between one or more of your health care providers, and the coordination or management of health care by a health care provider with a third party. For example, the Plan can disclose and discuss with your doctor or pharmacist other medications you may be receiving to reduce the chances that your taking a particular medication will result in unintended side effects.

"Payment" includes actions to make coverage determinations and payment (including billing, claims processing, subrogation, plan reimbursement, reviews for medical necessity and appropriateness of care, utilization review, and preauthorizations). For example, the Plan can discuss your PHI with your doctor to make sure your claims are properly paid.

"Health care operations" include quality assessment and improvement, reviewing the competence or qualifications of health care professionals, underwriting, premium rating, and other insurance activities related 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 planning and development, business management, and general administrative activities.

c. Uses and Disclosures of PHI for which Consent, Authorization or Opportunity to Object Is Not Required

HIPAA sets forth a limited number of additional situations in which the Plan may use or disclose your PHI without your authorization, including:

- (1) When such uses or disclosures are required by law.
- (2) When uses or disclosures are permitted for purposes of public health activities, including preventing or controlling disease, injury or disability, and when necessary to report product defects in connection with FDA regulated products, to permit product recalls with respect to such products, and to conduct post-marketing surveillance. 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) When the Plan is authorized by law to allow reporting of information about abuse, neglect or domestic violence to public authorities, and there exists a reasonable belief that you may be a victim of abuse, neglect or domestic violence. In such cases, the Plan will promptly inform you that such a disclosure has been or will be made unless the notice would cause you a risk of serious harm. In instances of reports of 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) To a public health oversight agency 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 (for example, to investigate Medicare or Medicaid fraud).

- (5) When required by judicial or administrative order, or in response to a subpoena, discovery request or other lawful process which is not accompanied by an order, provided that certain conditions are met. One of those conditions is that satisfactory assurances must be given to the Plan that (a) the requesting party has made a good faith attempt to provide written notice to you, or (b) the party seeking the information has made reasonable efforts to secure a qualified protective order.
- (6) For law enforcement purposes, including for the purpose of identifying or locating a suspect, fugitive, material witness or missing person. Also, for disclosing information about you if you are suspected of being a victim of a crime, but only if you agree to the disclosure or the Plan is unable to obtain your agreement because of incapacity or emergency circumstances. Furthermore, the law enforcement official must represent that the information is not intended to be used against you, that the immediate law enforcement activity would be materially and adversely affected by waiting to obtain your agreement, and that disclosure is in your best interest as determined by the exercise of the Plan's best judgment.
- (7) When required to be given to a coroner or medical examiner for the purpose of identifying a deceased person, determining the cause of death, or other duties as authorized by law. Also, disclosure is permitted to funeral directors, consistent with applicable law, as necessary to carry out funeral directors' duties with respect to the decedent.
- (8) For cadaveric organ, eye or tissue donation purposes, to organ procurement or like entities.
- (9) For research, subject to conditions.
- (10) When consistent with applicable law and standards of ethical conduct, if the Plan, 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 believed to be able to prevent or lessen the threat, including the target of the threat.
- (11) When authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.
- (12) If you are not present or your consent cannot be obtained because of your incapacity or an emergency circumstance, the Plan may, in the exercise of its professional judgment, disclose to your family member, relative, or other person who is responsible for your care your PHI directly relevant to such care, if the Plan concludes that disclosure is in your best interests.
- (13) For those specialized government functions set forth in the regulations promulgated pursuant to HIPAA or such other purposes provided under HIPAA.

## **Section 2. Your Rights as Individuals**

### **a. Right to Request Restrictions on Uses and Disclosures of PHI**

If you wish, you may (i) request that the Plan restrict uses and disclosures of your PHI to carry out treatment, payment or health care operations, or (ii) request that the Plan restrict uses and disclosures of your PHI to family members, relatives, friends or other persons identified by you who are involved in your care or the payment for your care. Please note, however, that the Plan is not required to agree to your request.

You or your personal representative will be required to complete a form to request restrictions on uses and disclosures of your PHI.

The Plan will accommodate reasonable requests to receive communications of PHI by alternative means or at alternative locations to better ensure your privacy.

Requests for restrictions and to receive communications by alternative means or at alternative locations should be made to the following person: Associate Director, Human Resources for Compensation and Benefits; 8 Lomb Memorial Drive, Rochester, NY 14623-5604, (585) 475-2424/v and (585) 475-2420/TTY.

b. Right to Inspect and Copy PHI

You also have a right to inspect and obtain a copy of your PHI to the extent that it is contained in a "designated record set." This right extends for as long as the Plan maintains the PHI, but does not apply to: psychotherapy notes; information compiled in anticipation of, or for use in, a civil, criminal or administrative action or proceeding; or information subject to the Clinical Laboratory Improvement Amendments of 1988 (to the extent that providing access to that information would be prohibited by law), and information which is exempt from those Amendments.

A "designated record set" includes: medical records and billing records about individuals which are maintained by or for a covered health care provider; enrollment, payment, billing, claims adjudication and case or medical management record systems maintained by or for a health plan; and other information used by or for a covered entity to make decisions about individuals. Information used for quality control or peer review analyses and not used to make decisions about individuals is not considered part of a designated record set.

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 or your personal representative will be required to complete a form to request access to the PHI in your designated record set. Requests for access to PHI should be made to the following person: Associate Director, Human Resources for Compensation and Benefits; 8 Lomb Memorial Drive, Rochester, NY 14623-5604, (585) 475-2424/v and (585) 475-2420/TTY.

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 review rights with respect to the denial, and a description of how you may complain to the Secretary.

c. Right to Amend PHI

You have the right to request that the Plan 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.

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 the 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 or your personal representative may then submit a written statement disagreeing with the denial and have that statement included with any future disclosure of your PHI.

Requests for amendment of PHI in a designated record set should be made to the following person in written form, including a statement explaining the reason for the amendment. Send request to Associate Director, Human Resources for Compensation and Benefits; 8 Lomb Memorial Drive, Rochester, NY 14623-5604, (585) 475-2424/v and (585) 475-2420/TTY.

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

d. The Right to Receive an Accounting of PHI Disclosures

At your request, the Plan will also provide you with an accounting of disclosures of your PHI by the Plan during the period covered by your request (which may be a period of up to six years prior to the date of your request). However, such accounting need not, consistent with the HIPAA privacy regulations, include PHI disclosures made: (1) to carry out treatment, payment or health care operations; (2) to you about your own PHI; (3) incident to a use or disclosure otherwise permitted or required by law; (4) pursuant to your authorization; (5) for national security or intelligence purposes; (6) to correctional or law enforcement officials; (7) as part of a limited data set; or (8) prior to the date the Plan was required to comply with HIPAA privacy regulations.

If the accounting cannot be provided 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.

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

e. The Right to Receive a Paper Copy of This Notice Upon Request

To obtain a paper copy of this Notice of Privacy Practices, contact the following person: Associate Director, Human Resources for Compensation and Benefits; 8 Lomb Memorial Drive, Rochester, NY 14623-5604, (585) 475-2424/v and (585) 475-2420/TTY.

f. Personal Representatives

An individual may exercise his/her rights under this notice through a personal representative. If you have a personal representative, he/she will, unless otherwise allowed by law, be required to produce evidence of his/her authority to act on your behalf before he/she will be given access to your PHI 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 your conservator or guardian; or
- proof that the representative is your parent (if you are a minor child).

The Plan retains discretion to deny access to your PHI to a personal representative to provide protection to you if it is believed that you may be subject to abuse or neglect. This also applies to personal representatives of minors.

### **Section 3. The Plan's Duties**

Beginning April 14, 2003, the Plan is required by law to maintain the privacy of PHI in accordance with HIPAA and to provide individuals (participants and beneficiaries) with notice of the Plan's legal duties and privacy practices. The Plan reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by the Plan. If a privacy practice is materially changed, a revised version of this notice will be provided to all past and present participants and beneficiaries for whom the Plan still maintains PHI.

Any revised version of this notice will be distributed within 60 days of the effective date of any material change to the uses or disclosures, the individual's rights, the duties of the Plan or other privacy practices stated in this notice.

a. Minimum Necessary Standard

When using or disclosing PHI or when requesting PHI from another covered entity, the Plan 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 purposes;
- uses or disclosures made to you;
- uses or disclosures authorized by you;
- disclosures made to the Secretary;
- uses or disclosures that are required by law; and
- uses or disclosures that are required by the Plan's compliance with legal requirements.

b. De-Identified Information, Limited Data Sets, and Summary Information

This notice does not apply to health information that has been de-identified. De-identified information is information that does not identify an individual (i.e., you) and with respect to which there is no reasonable basis to believe that the information can be used to identify you.

In addition, the Plan may use or disclose information in a limited data set, provided that the Plan enters into a data use agreement with the limited data set recipient that complies with the federal privacy regulations. A limited data set is PHI which excludes certain direct identifiers relating to you and your relatives, employers and household members.

The Plan may disclose "summary health information" to the Plan Sponsor without your authorization if the Plan Sponsor requests the summary information for the purpose of obtaining premium bids from health plans for providing health insurance coverage under the Plan, or for modifying, amending or terminating the Plan. "Summary health information" means information that summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom the Plan Sponsor has provided health benefits under the Plan; and from which most identifying information has been deleted. The Plan may also disclose to the Plan Sponsor information on whether an individual is participating in the Plan and the coverage in which an individual has enrolled.

**Section 4. Your Right to File a Complaint with the Plan or the Secretary**

If you believe that your privacy rights have been violated, you may complain to the Plan by contacting the following person: Associate Director, Human Resources for Compensation and Benefits; 8 Lomb Memorial Drive, Rochester, NY 14623-5604, (585) 475-2424/v and (585) 475-2420/TTY.

You may also file a complaint with the Secretary of the U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201.

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

**Section 5. Who to Contact at the Plan for More Information**

If you have any questions regarding this notice or the subjects addressed in the notice, you may contact the following person: Associate Director, Human Resources for Compensation and Benefits; 8 Lomb Memorial Drive, Rochester, NY 14623-5604, (585) 475-2424/v and (585) 475-2420/TTY.

---

*This notice represents the Plan's effort to summarize the privacy regulations under HIPAA. In the event of a discrepancy between the terms or requirements of this notice and the privacy regulations themselves, the terms of the regulations shall prevail.*