

**Amended and Restated Effective July 1, 2014  
University of Colorado Health and Welfare Plan and Trust  
HIPAA Privacy Use and Disclosure Procedures**

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Exhibit A

## **Introduction**

The University of Colorado Health and Welfare Plan ("H&W Plan") is sponsored by The Regents of the University of Colorado, a body corporate and a state institution of higher education of the State of Colorado ("University") and contains the following component self-funded benefits which are funded through the University of Colorado Health and Welfare Trust ("Trust"):

1. CU Health Plan - Access Network (*Membership frozen. Only available to subscribers who were subscribers as of June 30, 2010 who have continuously subscribed.*);
2. CU Health Plan – High Deductible;
3. CU Health Plan - Exclusive;
4. Health Risk Assessment Program;
5. CU Health Plan - Kaiser;
6. CU Health Plan – Vision;
7. CU Health Plan - Medicare; and
8. CU Health Plan - Extended.

In addition, the Trust is the funding vehicle for the following plan:

9. Health Care Flexible Spending Account Component of The University of Colorado Flexible Benefits Plan ("University Flex Plan") which is sponsored by the University.

For purposes of this Privacy Use and Disclosure Procedures, the plans listed above are referred to collectively and singularly as the "Plan". The participating employers in the H&W Plan are the University, University of Colorado Hospital Authority ("UCH") and University Physicians, Incorporated ("UPI") (collectively, the "Employers"). The participating employers in the University Flex Plan are the University and UPI.

Members of the Plan Sponsor's workforce may have access to protected health information ("PHI") of Plan participants for administrative functions of the Plan. A list of the members of the workforce who may have access to PHI will be maintained and is listed in Exhibit A.

The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations restrict the Plan Sponsor's ability to use and disclose PHI. In addition, the Health Information Technology for Economic and Clinical Health Act ("HITECH Act") and

its implementing regulations impose additional requirements—with different effective dates for various provisions.

*PHI.* PHI means information that is created or received by the Plan and relates to the past, present, or future physical or mental health or condition of a participant; the provision of health care to a participant; or the past, present, or future payment for the provision of health care to a participant; and that identifies the participant or for which there is a reasonable basis to believe the information can be used to identify the participant. PHI includes information of persons living or deceased.

It is the Plan Sponsor's, Plan's and Trust's policy to comply fully with HIPAA's requirements. To that end, all members of the Plan Sponsor's workforce who have access to PHI must comply with these Use and Disclosure Procedures. For purposes of these Use and Disclosure Procedures and the University of Colorado Health and Welfare Plan Privacy Policy, the workforce of the Plan Sponsor includes individuals who would be considered part of the workforce under HIPAA such as employees, volunteers, trainees, and other persons whose work performance is under the direct control of the respective Plan Sponsor, whether or not they are paid by the Plan Sponsor. The term "employee" includes all of these types of workers.

No third-party rights (including but not limited to rights of Plan participants, beneficiaries, covered dependents, or business associates) are intended to be created by these Use and Disclosure Procedures. The Plan Sponsor, in conjunction with the Trust, reserves the right to amend or change these Use and Disclosure Procedures at any time (and even retroactively) without notice. To the extent these Use and Disclosure Procedures establish requirements and obligations above and beyond those required by HIPAA, these Use and Disclosure Procedures shall be aspirational and shall not be binding upon the Plan, the Plan Sponsor or Trust. These Use and Disclosure Procedures do not address requirements under other federal laws or under state laws. However, if state laws and/or other federal laws are stricter than the HIPAA privacy laws, the state laws and/or other federal laws must be followed.

## **1. Procedures for Use and Disclosure of PHI**

### **I. Use and Disclosure Defined**

The Plan Sponsor, Plan and Trust will use and disclose PHI only as permitted under HIPAA. The terms "use" and "disclosure" are defined as follows:

- *Use.* The sharing, employment, application, utilization, examination, or analysis of PHI by any person working for or within CU Health Plan Administration or by a Business Associate (defined below) of the Plan.
- *Disclosure.* For information that is PHI, disclosure means any release, transfer, provision of access to, or divulging in any other manner of PHI to persons not working for or within CU Health Plan Administration or to a person or entity that is not a Business Associate of the Plan.

## **II. Workforce Must Comply With Policy and Procedures**

All members of the workforce of the Plan Sponsor who have access to PHI (described at the beginning of these Use and Disclosure Procedures and referred to herein as “employees”) must comply with these Use and Disclosure Procedures and the University of Colorado Health and Welfare Plan and Trust Privacy Policy.

## **III. Access to PHI Is Limited to Certain Employees**

Access to PHI is limited to certain employees listed in Exhibit A (“employees with access”):

- who may perform functions directly on behalf of the Plan; and
- who have access to PHI on behalf of the Plan Sponsor, for its use in “plan administrative functions.”

These employees with access may use and disclose PHI for plan administrative functions, and they may disclose PHI to other employees with access for plan administrative functions (but the PHI disclosed must be limited to the minimum amount necessary to perform the plan administrative function). Employees with access may not disclose PHI to other employees (other than employees with access) except in accordance with these Use and Disclosure Procedures.

## **IV. Permitted Uses and Disclosures of PHI: Payment and Health Care Operations**

### **Definitions**

*Payment.* Payment includes activities undertaken to obtain Plan contributions or to determine or fulfill the Plan’s responsibility for provision of benefits under the Plan, or to obtain or provide reimbursement for health care. Payment also includes:

- eligibility and coverage determinations, including coordination of benefits and adjudication or subrogation of health benefit claims;
- risk adjusting based on enrollee status and demographic characteristics; and
- billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess loss insurance) and related health care data processing.

*Health Care Operations.* Health care operations means any of the following activities to the extent that they are related to Plan administration:

- conducting quality assessment and improvement activities;
- reviewing health plan performance;
- underwriting and premium rating;

- conducting or arranging for medical review, legal services and auditing functions;
- business planning and development; and
- business management and general administrative activities.

## Procedure

*Uses and Disclosures for Plan's Own Payment Activities or Health Care Operations.* An employee may use and disclose a Plan participant's PHI to perform the Plan's own payment activities or health care operations.

- Disclosures must comply with the "Minimum-Necessary Standard."
- Disclosures must be documented in accordance with the procedure for "Documentation Requirements."

*Disclosures for Another Entity's Payment Activities.* An employee may disclose a Plan participant's PHI to another covered entity or health care provider to perform the other entity's payment activities. Disclosures may be made under the following procedures:

- Disclosures must comply with the "Minimum-Necessary Standard."
- Disclosures must be documented in accordance with the procedure for "Documentation Requirements."

*Disclosures for Certain Health Care Operations of the Receiving Entity.* An employee may disclose PHI for purposes of the other covered entity's quality assessment and improvement, case management, or health care fraud and abuse detection programs, if the other covered entity has (or had) a relationship with the individual and the PHI requested pertains to that relationship. Such disclosures are subject to the following:

- The disclosure must be approved by the Privacy Official<sup>1</sup>.
- Disclosures must comply with the "Minimum-Necessary Standard."
- Disclosures must be documented in accordance with the procedure for "Documentation Requirements."

*Use or Disclosure for Purposes of Non-Health Benefits.* Unless an authorization from the individual (as discussed in "Disclosures Pursuant to an Authorization") has been received, an employee may not use a participant's PHI for the payment or operations of the Employers' "non-health" benefits (e.g., disability, worker's compensation, and life insurance). If an employee requires a participant's PHI for the payment or health care operations of non-Plan benefits, follow these steps:

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<sup>1</sup> All references to Privacy Official refer to the Privacy Official or his/her designee.

- Obtain an Authorization. First, contact the Privacy Official to determine whether an authorization for this type of use or disclosure is on file. If no form is on file, request an appropriate form from the Privacy Official. All authorizations for use or disclosure for non-Plan purposes must be on a form provided by (or approved by) the Privacy Official.
- The disclosure must be approved by the Privacy Official.
- Disclosures must comply with the “Minimum-Necessary Standard.”
- Disclosures must be documented in accordance with the procedure for “Documentation Requirements.”

*Questions.* Any employee who is unsure as to whether a task he or she is asked to perform qualifies as a payment activity or a health care operation of the Plan should contact the Privacy Official.

## V. Mandatory Disclosures of PHI: To Individuals and HHS

### Procedure

*Request From Individual.* Upon receiving a request from an individual (or an individual’s representative) for disclosure of the individual’s own PHI, the employee must follow the procedure for “Disclosures to Individuals Under Right to Access Own PHI.”

*Request From HHS.* Upon receiving a request from a HHS official for disclosure of PHI, the employee must take the following steps:

- Follow the procedures for verifying the identity of a public official set forth in “Verification of Identity of Those Requesting Protected Health Information.”
- Disclosures must be documented in accordance with the procedure for “Documentation Requirements.”

## VI. Permissive Disclosures of PHI: For Legal and Public Policy Purposes

### Procedure

*Disclosures for Legal or Public Policy Purposes.* An employee who receives a request for disclosure of an individual’s PHI that appears to fall within one of the categories described below under “Legal and Public Policy Disclosures Covered” must contact the Privacy Official. Disclosures may be made under the following procedures:

- The disclosure must be approved by the Privacy Official;
- Disclosures must comply with the “Minimum-Necessary Standard” unless otherwise required by law; and

- Disclosures must be documented in accordance with the procedure for “Documentation Requirements.”

### **Legal and Public Policy Disclosures Covered**

*Victims of Abuse, Neglect or Domestic Violence*, if the following conditions are met:

- The individual agrees with the disclosure; or
- The disclosure is expressly authorized by statute or regulation and the disclosure is necessary to prevent harm to the individual (or other potential victims) or the individual is incapacitated and unable to agree and information will not be used against the individual and is necessary for an immediate enforcement activity. In this case, the individual must be promptly informed of the disclosure unless this would place the individual at risk of serious harm or if informing would involve a personal representative who is believed to be responsible for the abuse, neglect, or violence and informing that person would not be in the best interests of the individual, as determined by the Privacy Official in the exercise of professional judgment.

*Judicial and Administrative Proceedings*, in response to:

- An order of a court or administrative tribunal (disclosure must be limited to PHI expressly authorized by the order); and
- A subpoena, discovery request or other lawful process, not accompanied by a court order or administrative tribunal, upon receipt of assurances that the individual has been given notice of the request, or that the party seeking the information has made reasonable efforts to obtain a qualified protective order.

*Law-Enforcement Official for Law-Enforcement Purposes*, under the following conditions:

- Pursuant to a legal process and as otherwise required by law, but only if the information sought is relevant and material to a legitimate law enforcement inquiry, the request is specific and limited to amounts reasonably necessary, and de-identified information could not reasonably be used.
- Information requested is limited information to identify or locate a suspect, fugitive, material witness or missing person.
- Information about an individual who is a victim or suspected victim of a crime (1) if the individual agrees to disclosure; or (2) without agreement from the individual, if the information is not to be used against the victim, is needed to determine if a violation of the law occurred, if need for information is urgent, and if disclosure is in the best interest of the individual as determined by the Privacy Official in the exercise of professional judgment.



- Information about a deceased individual upon suspicion that the individual's death resulted from criminal conduct.
- Information that constitutes evidence of criminal conduct that occurred on the Employers' premises.

*Appropriate Public Health Authorities for Public Health Activities.*

*Health Oversight Agency for Health Oversight Activities, as authorized by law.*

*Coroner or Medical Examiner About Decedents, for the purpose of identifying a deceased person, determining the cause of death or other duties as authorized by law.*

*Cadaveric Organ, Eye or Tissue Donation Purposes, to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of organs, eyes or tissue for the purpose of facilitating transplantation.*

*Certain Limited-Research Purposes, provided that a waiver of the authorization required by HIPAA has been approved by an appropriate privacy board.*

*Avert a Serious Threat to Health or Safety, upon a belief in good faith that the use or disclosure is necessary to prevent a serious and imminent threat to the health or safety of a person or the public, and the use or disclosure is to a person reasonably able to prevent or lessen the threat, including the target of the threat.*

*Specialized Government Functions, including disclosures of an inmate's PHI to correctional institutions and disclosures of an individual's PHI to authorized federal officials for the conduct of national security activities.*

*Workers' Compensation Programs, to the extent necessary to comply with laws relating to workers' compensation or other similar programs providing benefits in case of occupational illness or injury.*

## **VII. Disclosures of PHI Pursuant to an Authorization**

### **Procedure**

*Disclosure Pursuant to Individual Authorization.* Any requested disclosure to a third party (i.e., not the individual to whom the PHI pertains) that does not fall within one of the categories for which disclosure is permitted or required under these Use and Disclosure Procedures may be made pursuant to an individual authorization. If disclosure pursuant to an authorization is requested, the following procedures should be followed:

- Follow the procedures for verifying the identity of the individual (or individual's representative) set forth in "Verification of Identity of Those Requesting Protected Health Information."

- Verify that the authorization form is valid and has not been expired or revoked. Valid authorization forms are those that:
  - Contain a description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;
  - Identify the person (or class of persons) authorized to make the requested use or disclosure;
  - Identify the person (or class of persons) to whom the plan may make the use or disclosure;
  - Contain a description of each purpose of the use or disclosure (statement that the use or disclosure is made “at the request of the individual” is sufficient if the individual initiates the authorization and does not provide a specific purpose);
  - Contain an expiration date or an expiration event (e.g. when coverage ends) that relates to the individual or the purpose of the use or disclosure;
  - Contain a statement regarding the individual’s right to revoke the authorization, the procedures for revoking authorizations and any exceptions to the right to revoke;
  - Contain a statement regarding the possibility for a subsequent redisclosure of the information;
  - Contain a statement of the ability or inability of the plan to condition payment, enrollment or eligibility on submission of the authorization; and
  - Are properly signed and dated by the individual or the individual’s representative; if the authorization is signed by a personal representative of the individual, it must include a description of the representative’s authority to act for the individual.
- All uses and disclosures made pursuant to an authorization must be consistent with the terms and conditions of the authorization.
- Disclosures must be documented in accordance with the procedure for “Documentation Requirements.”

## **VIII. Disclosure of PHI to Business Associates**

### **Definition of Business Associate**

*Business Associate* is an entity or person who:

- creates, receives, maintains or transmits PHI on behalf of the Plan (including for claims processing or administration, data analysis, underwriting, etc.); or
- provides legal, accounting, actuarial, consulting, data aggregation, management, accreditation, information technology or financial services, where the performance of such services involves giving the service provider access to PHI.

## **Procedure**

*Use and Disclosure of PHI by Business Associate.* All uses and disclosures by a “business associate” must be made in accordance with applicable law and a valid business associate contract. Before allowing a business associate to create, receive, maintain or transmit PHI on behalf of the Plan, employees must contact the Privacy Official and verify that a business associate contract is in place. The following additional procedures must be satisfied:

- Disclosures must be consistent with applicable law and the terms of the business associate contract.
- Disclosures must comply with the “Minimum-Necessary Standard.”
- Disclosures must be documented in accordance with the procedure for “Documentation Requirements.”

## **IX. Requests for Disclosure of PHI From Spouses, Family Members, and Friends**

The Plan, Plan Sponsor and Trust will not disclose PHI to family and friends of an individual except as required or permitted by HIPAA. Generally, an authorization is required before another party, including spouse, family member or friend, will be able to access PHI.

- If an employee receives a request for disclosure of an individual’s PHI from a spouse, family member, or personal friend of an individual, and the spouse, family member, or personal friend is either (1) the parent of the individual and the individual is a minor child; or (2) the personal representative of the individual, then follow the procedure for “Verification of Identity of Those Requesting Protected Health Information.”
- Once the identity of a parent or personal representative is verified, then follow the procedure for “Request for Individual Access.”
- All other requests from spouses, family members, and friends must be authorized by the individual whose PHI is involved. See the procedures for “Disclosures Pursuant to Individual Authorization.”

## **X. Disclosures of De-Identified Information**

### **Definition of De-Identified Information**

*De-identified information* is health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual. There are two ways a covered entity can determine that information is de-identified: either by professional statistical analysis, or by removing 18 specific identifiers.

### **Procedure**

Obtain approval from Privacy Official for the disclosure. The Privacy Official will verify that the information is de-identified.

The Plan may freely use and disclose de-identified information. De-identified information is not PHI.

## **XI. Verification of Identity of Those Requesting Protected Health Information**

*Verifying Identity and Authority of Requesting Party.* Employees must take steps to verify the identity of individuals who request access to PHI. They must also verify the authority of any person to have access to PHI, if the identity or authority of such person is not known. Separate procedures are set forth below for verifying the identity and authority, depending on whether the request is made by the individual, a parent seeking access to the PHI of his or her minor child, a personal representative, or a public official seeking access.

- **Request Made by Individual.** When an individual requests access to his or her own PHI, the following steps should be followed:
  - Request a form of identification from the individual. Employees may rely on a valid driver's license, passport or other photo identification issued by a government agency.
  - Verify that the identification matches the identity of the individual requesting access to the PHI. If you have any doubts as to the validity or authenticity of the identification provided or the identity of the individual requesting access to the PHI, contact the Privacy Official.
  - Make a copy of the identification provided by the individual and file it with the individual's designated record set.
  - If the individual requests PHI over the telephone, request the last 4 digits of the individual's Social Security Number and date of birth.
  - Disclosures must be documented in accordance with the procedure for "Documentation Requirements."

- *Request Made by Parent Seeking PHI of Minor Child.* When a parent requests access to the PHI of the parent's minor child, the following steps should be followed:
  - Seek verification of the person's relationship with the child. Such verification may take the form of confirming enrollment of the child in the parent's plan as a dependent.
  - Disclosures must be documented in accordance with the procedure "Documentation Requirements."
  
- *Request Made by Personal Representative.* When a personal representative requests access to an individual's PHI, the following steps should be followed:
  - Require a copy of a valid power of attorney. If there are any questions about the validity of this document, seek review by the Privacy Official.
  - Make a copy of the documentation provided and file it with the individual's designated record set.
  - Disclosures must be documented in accordance with the procedure for "Documentation Requirements."
  
- *Request Made by Public Official.* If a public official requests access to PHI, and if the request is for one of the purposes set forth above in "Mandatory Disclosures of PHI" or "Permissive Disclosures of PHI," the following steps should be followed to verify the official's identity and authority:
  - If the request is made in person, request presentation of an agency identification badge, other official credentials, or other proof of government status. Make a copy of the identification provided and file it with the individual's designated record set.
  - If the request is in writing, verify that the request is on the appropriate government letterhead;
  - If the request is by a person purporting to act on behalf of a public official, request a written statement on appropriate government letterhead that the person is acting under the government's authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes that the person is acting on behalf of the public official.
  - Request a written statement of the legal authority under which the information is requested, or, if a written statement would be impracticable, an oral statement of such legal authority. If the individual's request is made pursuant to legal process, warrant, subpoena, order, or other legal

process issued by a grand jury or a judicial or administrative tribunal, contact the Privacy Official.

- Obtain approval for the disclosure from the Privacy Official.
- Disclosures must be documented in accordance with the procedure for “Documentation Requirements.”

## **XII. Complying With the “Minimum-Necessary” Standard**

### **Procedures for Disclosures**

Identify recurring disclosures. For each recurring disclosure, identify the types of PHI to be disclosed, the types of person who may receive the PHI, the conditions that would apply to such access, and the standards for disclosures to routinely hired types of business associates. Create a policy for each specific recurring disclosure that limits the amount disclosed to the minimum amount necessary to accomplish the purpose of the disclosure.

For all other requests for disclosures of PHI, contact the Privacy Official, who will ensure that the amount of information disclosed is the minimum necessary to accomplish the purpose of the disclosure.

### **Procedures for Requests**

Identify recurring requests. For each recurring request, identify the information that is necessary for the purpose of the requested disclosure and create a policy that limits each request to the minimum amount necessary to accomplish the purpose of the disclosure.

For all other requests for PHI, contact the Privacy Official, who will ensure that the amount of information requested is the minimum necessary to accomplish the purpose of the disclosure.

Exceptions. The “minimum-necessary” standard does not apply to any of the following:

- Use or disclosures made for treatment of the individual;
- Uses or disclosures made to the individual;
- Uses or disclosures made pursuant to an individual authorization;
- Disclosures made to HHS;
- Uses or disclosures required by law; and
- Uses or disclosures required to comply with HIPAA.

### **XIII. Documentation**

#### **Procedure**

*Documentation.* Employees shall maintain copies of all of the following items for a period of at least six years from the date the documents were created or were last in effect, whichever is later:

- “Notices of Privacy Practices” that are issued to participants;
- Copies of policies and procedures;
- Individual authorizations;
- When disclosure of certain PHI is made:
  - the date of the disclosure;
  - the name of the entity or person who received the PHI and, if known, the address of such entity or person;
  - a brief description of the PHI disclosed;
  - a brief statement of the purpose of the disclosure; and
  - any other documentation required under these Use and Disclosure Procedures.

### **XIV. Mitigation of Inadvertent Disclosures of PHI**

*Mitigation: Reporting Required.* HIPAA requires that a covered entity mitigate, to the extent possible, any harmful effects that become known to the Plan of a use or disclosure of an individual’s PHI in violation of the Plan’s policies and procedures.. As a result, anyone who becomes aware of a disclosure of PHI, either by an employee, a business associate or an outside consultant/contractor, that is not in compliance with the Plan’s policies and procedures, should immediately contact the Privacy Official so that the appropriate steps to mitigate the harm to the individual can be taken.

### **XV. Breach Notification Requirements**

*Compliance.* The Plan will comply with the final regulations at 45 CFR §164.400 et seq. for breaches of unsecured PHI that occur on or after September 23, 2013.

#### **2. Procedures for Complying With Individual Rights**

HIPAA gives individuals the right to access and obtain copies of their protected health information that the Plan (or its business associates) maintains in designated record sets. HIPAA

also provides that individuals may request to have their PHI amended, and that they are entitled to an accounting of certain types of disclosures.

## I. Individual's Request for Access

### “Designated Record Set” Defined

*Designated Record Set* is a group of records maintained by or for the Plan Sponsor that includes:

- the enrollment, payment, and claims adjudication record of an individual maintained by or for the Plan; or
- other protected health information used, in whole or in part, by or for the Plan to make coverage decisions about an individual.

### Procedure

*Request From Individual, Parent of Minor Child, or Personal Representative.* Upon receiving a written request from an individual (or from a minor's parent or an individual's personal representative) for disclosure of an individual's PHI, the employee must take the following steps:

- Follow the procedures for verifying the identity of the individual (or parent or personal representative) set forth in “Verification of Identity of Those Requesting Protected Health Information.”
- Review the disclosure request to determine whether the PHI requested is held in the individual's designated record set. See the Privacy Official if it appears that the requested information is not held in the individual's designated record set. ***No request for access may be denied without approval from the Privacy Official.***
- Review the disclosure request to determine whether an exception to the disclosure requirement might exist; for example, disclosure may be denied for requests to access psychotherapy notes, documents compiled for a legal proceeding, certain requests by inmates, information compiled during research when the individual has agreed to denial of access, information obtained under a promise of confidentiality, and other disclosures that are determined by a health care professional to be likely to cause harm. See the Privacy Official if there is any question about whether one of these exceptions applies. ***No request for access may be denied without approval from the Privacy Official.***
- Respond to the request by providing the information or denying the request within 30 days. (If the requested PHI cannot be accessed within the 30-day period, the deadline may be extended for 30 days by providing written notice to the individual within the original 30-day period of the reasons for the extension and the date by which the Plan Sponsor, or its designee will respond.



- A Denial Notice must contain (1) the basis for the denial; (2) a statement of the individual's right to request a review of the denial, if applicable; and (3) a statement of how the individual may file a complaint concerning the denial. All notices of denial must be prepared or approved by the Privacy Official.
- Provide the information requested in the form or format requested by the individual, if readily producible in such form. Otherwise, provide the information in a readable hard copy or such other form as is agreed to by the individual. Individuals (except for inmates) have the right to receive a copy by mail or by e-mail or can come in and pick up a copy. Individuals (including inmates) also have the right to come in and inspect the information.
- If the individual has requested a summary and explanation of the requested information in lieu of, or in addition to, the full information, prepare such summary and explanation of the information requested and make it available to the individual in the form or format requested by the individual.
- The plan is permitted (but not required) to charge a reasonable cost-based fee for copying, postage, and preparing a summary (but the fee for a summary must be agreed to in advance by the individual).
- Disclosures must be documented in accordance with the procedure "Documentation Requirements."

## II. Individual's Request for Amendment

### Procedure

*Request From Individual, Parent of Minor Child, or Personal Representative.* Upon receiving a request from an individual (or a minor's parent or an individual's personal representative) for amendment of an individual's PHI held in a designated record set, the employee must take the following steps:

- Follow the procedures for verifying the identity of the individual (or parent or personal representative) set forth in "Verification of Identity of Those Requesting Protected Health Information."
- Review the amendment request to determine whether the PHI at issue is held in the individual's designated record set. See the Privacy Official if it appears that the requested information is not held in the individual's designated record set. *No request for amendment may be denied without approval from the Privacy Official.*
- Review the request for amendment to determine whether the information would be accessible under HIPAA's right to access (see the access procedures above). See the Privacy Official if there is any question about whether one of these

exceptions applies. *No request for amendment may be denied without approval from the Privacy Official.*

- Review the request for amendment to determine whether the amendment is appropriate—that is, determine whether the information in the designated record set is accurate and complete without the amendment.
- Respond to the request within 60 days by informing the individual in writing that the amendment will be made or that the request is denied. If the determination cannot be made within the 60-day period, the deadline may be extended for 30 days by providing written notice to the individual within the original 60-day period of the reasons for the extension and the date by which the Plan Sponsor, or its designee, will respond.
- When an amendment is accepted, make the change in the designated record set, and provide appropriate notice to the individual and all persons or entities listed on the individual's amendment request form, if any, and also provide notice of the amendment to any persons/entities who are known to have the particular record and who may rely on the uncorrected information to the detriment of the individual.
- When an amendment request is denied, the following procedures apply:
  - All notices of denial must be prepared or approved by the Privacy Official. A Denial Notice must contain (1) the basis for the denial; (2) information about the individual's right to submit a written statement disagreeing with the denial and how to file such a statement; (3) an explanation that the individual may (if he or she does not file a statement of disagreement) request that the request for amendment and its denial be included in future disclosures of the information; and (4) a statement of how the individual may file a complaint concerning the denial.
  - If, following the denial, the individual files a statement of disagreement, include the individual's request for an amendment; the denial notice of the request; the individual's statement of disagreement, if any; and the Plan Sponsor's or its designee's rebuttal/response to such statement of disagreement, if any, with any subsequent disclosure of the record to which the request for amendment relates. If the individual has not submitted a written statement of disagreement, include the individual's request for amendment and its denial with any subsequent disclosure of the protected health information only if the individual has requested such action.

### **III. Processing Requests for an Accounting of Disclosures of Protected Health Information**

#### **Procedure**

*Request From Individual, Parent of Minor Child, or Personal Representative.* Upon receiving a request from an individual (or a minor's parent or an individual's personal representative) for an accounting of disclosures, the employee must take the following steps:

- Follow the procedures for verifying the identity of the individual (or parent or personal representative) set forth in "Verification of Identity of Those Requesting Protected Health Information."
- If the individual requesting the accounting has already received one accounting within the 12-month period immediately preceding the date of receipt of the current request, prepare a notice to the individual informing him or her that a fee for processing will be charged and providing the individual with a chance to withdraw or revise the request.
- Respond to the request within 60 days by providing the accounting (as described in more detail below), or informing the individual that there have been no disclosures that must be included in an accounting (see the list of exceptions to the accounting requirement below). If the accounting cannot be provided within the 60-day period, the deadline may be extended for 30 days by providing written notice to the individual within the original 60-day period of the reasons for the extension and the date by which the Plan Sponsor, or its designee, will respond.
- The accounting must include disclosures (but not uses) of the requesting individual's PHI made by the Plan and any of its business associates during the period requested by the individual up to six years prior to the request. The accounting does not have to include disclosures made:
  - to carry out treatment, payment and health care operations;
  - to the individual about his or her own PHI;
  - incident to an otherwise permitted use or disclosure;
  - pursuant to an individual authorization;
  - to persons involved in the individual's care or payment for the individual's care or for certain other notification purposes;
  - for specific national security or intelligence purposes;
  - to correctional institutions or law enforcement when the disclosure was permitted without an authorization; and

- as part of a limited data set.
- If any business associate of the Plan has the authority to disclose the individual’s PHI, then contact the business associate to obtain an accounting of the business associate’s disclosures.
- The accounting must include the following information for each disclosure of the individual’s PHI:
  - the date of disclosure;
  - the name (and if known, the address) of the entity or person to whom the information was disclosed;
  - a brief description of the PHI disclosed; and
  - a brief statement explaining the purpose for the disclosure. (The statement of purpose may be accomplished by providing a copy of the written request for disclosure, when applicable.)
- If the Plan has received a temporary suspension statement from a health oversight agency or a law enforcement official indicating that notice to the individual of disclosures of PHI would be reasonably likely to impede the agency’s activities, disclosure may not be required. If an employee receives such a statement, either orally or in writing, the employee must contact the Privacy Official for more guidance.
- Accountings must be documented in accordance with the procedure for “Documentation Requirements.”

#### **IV. Processing Requests for Confidential Communications**

##### **Procedure**

*Request From Individual, Parent of Minor Child, or Personal Representative.* Upon receiving a written request from an individual (or a minor’s parent or an individual’s personal representative) to receive communications of PHI by alternative means or at alternative locations, the employee must take the following steps:

- Follow the procedures for verifying the identity of the individual (or parent or personal representative) set forth in “Verification of Identity of Those Requesting Protected Health Information.”
- Determine whether the request contains a statement that disclosure of all or part of the information to which the request pertains could endanger the individual.
- The employee should take steps to honor requests that the Privacy Official determines to be reasonable.

- If a request will not be accommodated, the employee must contact the individual in person, in writing, or by telephone to explain why the request cannot be accommodated.
- All confidential communication requests that are approved must be tracked by the Privacy Official in a log. Requests and their dispositions must be documented in accordance with the procedure for “Documentation Requirements.”

**V. Processing Requests for Restrictions on Uses and Disclosures of Protected Health Information**

*Request From Individual, Parent of Minor Child, or Personal Representative.* Upon receiving a written request from an individual (or a minor’s parent or an individual’s personal representative) for a restriction on the use and/or disclosure of the individual’s PHI, the employee must take the following steps:

- Follow the procedures for verifying the identity of the individual (or parent or personal representative) set forth in “Verification of Identity of Those Requesting Protected Health Information.”
- The employee should take steps to honor requests that the Privacy Official determines to be reasonable.

The Plan will comply with a restriction request if (1) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for the purpose of treatment) and (2) the PHI pertains solely to a health care item or service for which the health care provider has been paid in full by the individual or another person, other than the plan.

- If a request will not be accommodated, the employee must contact the individual in person, in writing, or by telephone to explain why the request cannot be accommodated.
- All requests for limitations on use or disclosure of PHI that are approved must be tracked by the Privacy Official in a log.
- All business associates that may have access to the individual’s PHI must be notified of any agreed-to restrictions, as agreed to in the business associate agreement.
- Requests and their dispositions must be documented in accordance with the procedure for “Documentation Requirements.”

**Exhibit A**  
**to the University of Colorado Health and Welfare Plan and Trust**  
**HIPAA Privacy Use and Disclosure Procedures**

**List of the Members of the Workforce**  
**Who May Have Access to PHI**

Job Title/Classification

Any officer or employee of the Plan Administrator, including but not limited to personnel in CU Health Plan Administration, who performs functions on behalf or related to administration of the H&W Plan and/or Health Care FSA, such as benefit design and administration, audit, legal, accounting and systems support

Vice President of Budget and Finance for the University of Colorado, or his or her successor

Any other employee of the University of Colorado who needs access to PHI in order to perform Plan administration functions that the Plan Sponsor performs for the H&W Plan and/or the Health Care FSA (such as quality assurance, claims processing, auditing, monitoring, payroll, and appeals (if applicable))

The University of Colorado and the Trust agree to the Amended and Restated Use and Disclosure Procedures effective as of the effective date of such amendment and restatement.

This Amended and Restated Use and Disclosure Procedures may be executed in multiple counterparts and may be delivered by fax or other electronic means, each of which shall be deemed to be an original, and all of which together shall constitute one and the same document.


**APPROVED**

THE REGENTS OF THE UNIVERSITY  
OF COLORADO, a body corporate and a state institution of  
higher education of the State of Colorado

By  \_\_\_\_\_  
Bruce Benson  
President


Date 12/22/14

UNIVERSITY OF COLORADO HEALTH AND  
WELFARE TRUST

By  \_\_\_\_\_  
E. Jill Pollock  
Chairperson, Trust Committee

Date 1/7/15

APPROVED AS TO LEGAL SUFFICIENCY  
OFFICE OF UNIVERSITY COUNSEL

By  \_\_\_\_\_  
Melissa Martin  
Assistant University Counsel  
Special Assistant Attorney General

Date 11/11/14