



## HEALTH & WELFARE FUND

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### NOTICE TO HEALTH & WELFARE FUND PARTICIPANTS RE: PRIVACY NOTICE

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

This Notice Describes:

1. How medical information about you may be used and disclosed; and
2. How you may obtain access to this information.

Please review this information carefully.

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

**This Notice is required by law.** The Local 705, I.B. of T. Health and 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 U.S. Department of Health and Human Services, and
5. The person or office you should contact for further information about the Fund’s privacy practices.

#### Section 2: Your Protected Health Information

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

The term “Protected Health Information” (PHI) includes all 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.

PHI refers to your health information held by the Fund.

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

Under the law, the Fund may disclose your PHI without your consent or authorization 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 it and/or copy it.

- **To the Plan's Trustees.** The Fund will disclose PHI to the Fund Sponsor. The Fund Sponsor is the Board of Trustees of Local 705, I. B. of T. Health & Welfare Fund for purposes related to treatment, payment and health care operations. The Fund Sponsor has amended its Fund Documents to protect your PHI as required by federal law.

For example, the Fund may disclose information to the Board of Trustees to allow them to decide an appeal or review a subrogation claim.

- **As required by an agency of the government.** The Secretary of the 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 without your consent, authorization or opportunity to agree or object in order to carry out:

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

The Fund does not need your consent or authorization to release your PHI when:

- You request it,
- A government agency requires it,
- Trustees are required to review it, or
- The Fund uses it for treatment, payment or health care operations.

<b>Definitions of Treatment, Payment or Health Care Operations</b>	
<b>Treatment</b> is health care.	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.  <i>For example:</i> The Fund discloses 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.
<b>Payment</b> is paying claims for health care and related activities.	Payment includes but is not limited to making coverage determinations and payment. These actions include billing, claims management, subrogation, Fund reimbursement, reviews for medical necessity and appropriateness of care, utilization review and preauthorization.  <i>For example:</i> The Fund tells your doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Fund.
<b>HealthCare Operations</b> keep the Fund operating soundly.	Health care operations include but are 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.  <i>For example:</i> The Fund uses information about your medical claims to refer you to a disease management program, to project future benefit costs or to audit the accuracy of its claims processing functions.

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

The Fund must generally obtain your written authorization before the Fund will use or disclose psychotherapy notes about you from your psychotherapist. However, the Fund may use and disclose such notes when needed by the Fund to defend itself against litigation filed by you.

*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.

## 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 and your close personal friends 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.

## 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, authorization or request under the following circumstances:

1. **When required by law.**
2. **Public health purposes.** To an authorized public health official 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.
4. **Oversight activities.** To a public 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 providers) and other activities necessary for appropriate oversight of government benefit programs (for example, to the Department of Labor).
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.
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 certain law enforcement purposes including:
  - a. Identifying or locating a suspect, fugitive, material witness or missing person, and

*In general*, the Fund does not need your consent to release your PHI if required by law or for public health and safety purposes.

- 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. The Plan 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.

Except as otherwise indicated in this notice, uses and disclosures 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.

The Fund may disclose protected health information to the sponsor of the fund for reviewing your appeal of a benefit claims or for other reasons regarding the administration of this Fund. The "fund sponsor" of this Fund is the Local 705, I.B. of T. Health and Welfare Fund Board of Trustees.

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

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

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.

The Fund, however, is not required to agree to your request if the Fund Administrator or Privacy Official determines it to be unreasonable or determines that it will adversely impact Fund operations.

In addition, 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 by normal means 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 or to receive communications of PHI by alternative means or at alternative locations. Make such requests to:

Administrator  
Local 705 International Brotherhood of Teamsters  
Health and Welfare Fund  
1645 West Jackson Boulevard, 7<sup>th</sup> Floor  
Chicago, Illinois 60612  
(312) 738-2811

***Protected Health Information (PHI):*** includes all individually identifiable health information transmitted or maintained by the Fund, regardless of the form of the PHI.

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

You have a right to inspect and obtain a copy of your PHI contained in a “designated record set,” for as long as the Fund maintains the PHI.

The Fund must 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 Fund 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 officer:

Administrator  
Local 705 International Brotherhood of Teamsters  
Health and Welfare Fund  
1645 West Jackson Boulevard, 7<sup>th</sup> Floor  
Chicago, Illinois 60612  
(312) 738-2811

***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 the Fund or other information used in whole or in part by or for the Fund or its agents 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 in the designated record set.

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 the Fund and the Secretary of the U.S. Department of Health and Human Services.

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

You have the right to make a written 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 written request to amend PHI to the following officer:

Administrator  
Local 705 International Brotherhood of Teamsters  
Health and Welfare Fund  
1645 West Jackson Boulevard, 7<sup>th</sup> Floor  
Chicago, Illinois 60612  
(312) 738-2811

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

If you disagree with the record of your PHI, you may amend it.

If the Fund denies your request to amend your PHI, you still have the right to have your written statement disagreeing with that denial included in your PHI.

Forms are available for these purposes.

### **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 disclosures by the Fund of your PHI. The Plan does not have to provide you with an accounting of disclosures related to treatment, payment or health care operations or disclosures made to you or authorized by you in writing. See the Fund's Accounting for Disclosure Policy for the complete list of disclosures for which an accounting is not required.

The Fund has 60 days to provide the accounting. The Fund is allowed an additional 30 days if the Fund 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 Fund will charge a reasonable, cost-based fee for each subsequent accounting.

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

To obtain a copy of this Notice, contact the following officer:

Administrator  
Local 705 International Brotherhood of Teamsters  
Health and Welfare Fund  
1645 West Jackson Boulevard, 7<sup>th</sup> Floor  
Chicago, Illinois 60612  
(312) 738-2811

## **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.

You may designate a personal representative by completing a form that is available from the Fund Office.

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 any dependent children 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 dependent children 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.

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.

This notice is written to inform you of the Fund's obligation to maintain the privacy of your PHI.

This notice is effective beginning on April 14, 2003 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.

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 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.

The Fund must limit its uses and disclosures of PHI or requests for PHI to the *minimum necessary* amount to accomplish its purposes.

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

- Disclosures to or requests by a health care provider related to treatment,
- Uses or disclosures made to you,
- Disclosures made to the Secretary of the U.S. Department of Health and Human Services,
- Uses or disclosures required by law, and
- Uses or disclosures required for the Fund's compliance with legal 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.

In addition, the Fund may use or disclose "summary health information" to the Local 705 International Brotherhood of Teamsters Health & Welfare Fund Board of Trustees for obtaining premium bids or modifying, amending or terminating the Fund. Summary information summarizes the claims history, claims expenses or type of claims experienced by individuals for whom the Fund has provided health benefits. Identifying information will be deleted from summary health information, in accordance with HIPAA.

## Section 5: Final HIPAA Rule

Final modifications to the HIPAA Privacy, Security, and Enforcement Rules mandated by the Health Information Technology for Economic and Clinical Health (HITECH) Act generally referred to as the HIPAA Final Rule, are as follows:

- You have the right to be notified of a data breach relating to your unsecured health information.
- You have the right to ask for a copy of your electronic medical record in an electronic form provided the information already exists in that form.
- To the extent the Plan performs any underwriting, the Plan cannot disclose or use any genetic information for such purposes.
- The Plan may not use your PHI for marketing purposes or sell such information without your written authorization.



## **Section 6: 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 the following officer:

Administrator  
Local 705 International Brotherhood of Teamsters  
Health and Welfare Fund  
1645 West Jackson Boulevard, 7<sup>th</sup> Floor  
Chicago, Illinois 60612  
(312) 738-2811

You have the right to file a complaint if you feel your privacy rights have been violated.

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

You may also file a complaint with:

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 Fund will not retaliate against you for filing a complaint.

## **Section 7: If You Need More Information**

If you have any questions regarding this notice or the subjects addressed in it, you may contact the following officer at the Fund Office:

Administrator  
Local 705 International Brotherhood of Teamsters  
Health and Welfare Fund  
1645 West Jackson Boulevard, 7<sup>th</sup> Floor  
Chicago, Illinois 60612  
(312) 738-2811

## **Section 8: 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.

