

TO: All Employees

FROM: Human Resources

**SUBJECT: PRIVACY NOTICE
EFFECTIVE APRIL 14, 2003
REVISED MARCH 19, 2004,
2nd REVISION OCTOBER 1, 2008
3rd REVISION SEPTEMBER 23, 2013**

DATE: September 23, 2013

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.

The City of San José (City) sponsors the following self-insured plans and programs (“Plans”) that provide group health benefits:

- Delta Dental PPO Plan
- Flexible Spending Accounts
- Employee Assistance Program

The Plans are required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to maintain the privacy of your Protected Health Information (PHI), to provide you with this notice of its privacy practices and legal duties with respect to PHI, and to notify you following a breach of your unsecured PHI. The Plans are required to abide by the terms of this notice. The Plans reserve the right to change the terms of this notice and to make any new provisions effective for all PHI that it maintains about you. Revised notices will be provided to you by mail within sixty (60) days. This notice does not address the health information policies or practices of your health care providers.

The Plans use administrative, technical and physical safeguards to ensure your PHI is treated in accordance with its privacy policy. The Plans also restrict access to this information to those employees who need the information in order to administer the Plans.

PROTECTED HEALTH INFORMATION

PHI is any individually identifiable health information related to the Plans that is created, transmitted, received or maintained by the Plans as necessary to administer these Plans and provide you with health care benefits. PHI includes hard copy information or information contained in electronic media format (e-PHI) whether in a storage device or in transit. Information is considered individually identifiable if an individual can be identified using the information alone or in combination. Examples of PHI include, but are not limited to:

- Your name
- Social Security number / member ID

- Demographic information (such as gender and date of birth)
- Genetic Information

PERMISSIBLE USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

The Plans are permitted to release or use your PHI for (1) specific administrative functions, (2) disclosures that you authorize in writing, (3) disclosures to you in accordance with your HIPAA rights, and/or (4) disclosures made for legal or public policy reasons. The Plans may only disclose the minimum PHI that is necessary to achieve the purpose of the use or disclosure. The following information outlines each of these permissible disclosures:

- (1) Specific Administrative Functions – There are three specific administrative functions where disclosure of your PHI may be necessary for business reasons:

Health Care Operations – The Plans may use or disclose PHI to administer benefits and as necessary to provide coverage and services to you. Health Care Operations include such activities as:

- Customer service and resolution of complaints;
- Activities relating to creating or renewing insurance contracts; and
- Enrollment information

PHI may be disclosed to designated City personnel solely to carry out Plans-related administrative functions. These individuals will protect the privacy of your health information and ensure it is used only as described in this notice or as permitted by law.

Health Care Payment - The Plans may use or disclose PHI in order to pay for your covered health expenses such as making payments to other parties, including a health plan or provider.

Treatment – The Plans may use or disclose your PHI to determine eligibility for services or to provide you with information regarding health-related benefits and services.

- (2) Self-Authorized Disclosures – You may authorize the Plans to disclose PHI information for a variety of reasons. For example, the Plans must obtain authorization to use or disclose psychotherapy notes in most circumstances, to use PHI for marketing purposes in most circumstances, to sell PHI, or to use or disclose PHI for any purpose not described in this notice. Such disclosure must be in writing and signed. You may revoke any self-disclosure authorization, in writing, at any time.
- (3) HIPAA Rights Disclosures – HIPAA requires certain disclosures of PHI, as afforded under individual rights. Information regarding your HIPAA rights is outlined later in this notice.
- (4) Legal or Public Policy Disclosures – The Plans may be required to disclose PHI to others when:
- Required by federal, state or local law
 - Soliciting premium bids from other plans
 - Required by court actions or law enforcement purposes, or
 - Complying with laws related to workers’ compensation

YOUR HIPAA RIGHTS REGARDING PHI

HIPAA privacy rules provide employees, retirees, and dependents with specific rights relating to PHI. The following information outlines these individual rights:

- Right to request to receive confidential communications by alternative means or at alternative locations if disclosure of PHI could endanger the individual.
- Right to review and obtain a hard copy of your PHI, or an electronic copy of PHI contained in electronic health records. A fee may be charged for producing and mailing your requested information, if applicable.
- Right to request that another person receive a copy of your PHI.
- Right to request an amendment to your PHI if you believe that information is incomplete or inaccurate. If your request is denied, the Plans will notify you in writing. Afterwards, you have the right to submit a written statement of disagreement and the Plans may then prepare a rebuttal to your statement and will provide you with a copy of such rebuttal.
- Right to request restrictions on certain uses and disclosures of PHI. However, the Plans are not required to agree to a requested restriction unless disclosure is for payment or health care operations purposes and the PHI pertains to a health care item or service that has been paid in full by the individual.
- Right to request an accounting of certain disclosures of your PHI over the past six years.
- Right to request to receive communications in a certain way or at a certain location (e.g. a designated mail or e-mail address or phone number).
- Right to PHI use and disclosure protections after death. If an authorization for disclosure is required after your death, it must be obtained from a personal representative.
- Although authorization is not needed to disclose proof of immunization to a school when legally required for admission, authorization must be received from the adult student, parent or guardian of a child or other person acting on the student's behalf.

Copy of Privacy Notice – You have the right to get a copy of this notice by e-mail. A copy of this Privacy Notice is also posted on the City's Intranet site under HR Connection, then Employee Benefits, and then Resources.

Complaints – Any acquisition, access, use or disclosure of PHI in an impermissible manner that compromises the security or privacy of the PHI is presumed to be a breach of HIPAA. Notice of a breach to affected individuals must be provided no later than 60 days after discovery of the breach.

If you believe that your privacy rights have been violated, you may submit a written complaint (using the Health Information Privacy Complaint form posted on the City's Intranet site under HR Connection, then Employee Benefits, and then Resources) to: Privacy Officer, City of San José, Human Resources, 200 E. Santa Clara St., 2nd Floor Wing, San Jose, CA 95113.

You may also file a written complaint to the Office for Civil Rights, DHHS, 90 7th St, Suite 4-100, San Francisco, CA 94103 or file an electronic complaint at www.hhs.gov/ocr/privacy/hipaa/complaints/index.html. You may also call them at (800) 368-1019; (800) 537-7697 (TDD), or send a FAX at (415) 437-8329. You will not be retaliated against for filing a complaint.

Contact us – If you have questions about this notice or your PHI, contact Human Resources by e-mail at HRbenefits@sanjoseca.gov or by calling (408) 535-1285.