

NOTICE OF PRIVACY PRACTICES

FASHION INSTITUTE OF TECHNOLOGY HEALTH PLAN

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

EFFECTIVE DATE: April 14, 2003

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This Notice of Privacy Practices describes how protected health information ("PHI") may be used or disclosed by the Fashion Institute of Technology Health Plan (the "Health Plan") for treatment, payment, health care operations, or other purposes permitted or required by law. In this Notice, "Health Plan" includes the following employee benefit plans maintained by the Fashion Institute of Technology: (1) medical plan; and (2) health care flexible spending account plan. This Notice sets out the Health Plan's legal obligations concerning your PHI, and describes your rights to access and control your PHI.

PHI is individually identifiable health information, collected from you, that is created or received by a health care provider, a health plan, the Fashion Institute of Technology (when functioning on behalf of a health plan), or a health care clearinghouse and that relates to: (1) your past, present or future physical or mental health or condition; (2) the provision of health care to you; or (3) the past, present or future payment for the provision of health care to you.

This Notice of Privacy Practices has been drafted to be consistent with the privacy provisions under the Health Insurance Portability and Accountability Act of 1996, known as the "HIPAA Privacy Rule." Any of the terms not defined in this Notice have the meaning set forth in the HIPAA Privacy Rule.

OUR USES AND DISCLOSURES OF YOUR PHI

Primary Uses and Disclosures of PHI. Immediately below is a description of how we are most likely to use and/or disclose your PHI.

- ***Payment and Health Care Operations:*** We have the right to use and disclose your PHI for all activities that are included within the definitions of "payment" and "health care operations" as set out in the HIPAA Privacy Rule. In general, payment and health care operations include the following:
 - ☐ ***Payment:*** We have the right to use or disclose your PHI to obtain premiums, to pay claims, to obtain stop-loss reimbursements or to otherwise fulfill our responsibilities for coverage and providing benefits. For example, we may disclose your PHI when a provider requests information about your eligibility for coverage under the Health Plan or to determine if a treatment that you received was medically necessary.
 - ☐ ***Health Care Operations:*** We have the right to use or disclose your PHI to support our business functions. These functions include, but are not limited to, quality assessment and improvement, reviewing provider performance, licensing, stop-loss underwriting (if applicable) business planning, and business development. For example, we may use or disclose your PHI (1) to provide you with information about one of our disease management programs; (2) to respond to

an inquiry from you; or (3) in connection with fraud and abuse detection and compliance programs. We also may use your PHI for underwriting purposes, for example to obtain quotes for stop-loss insurance. Notwithstanding the foregoing, we are prohibited from using or disclosing your PHI that is genetic information for underwriting purposes.

- **Business Associates:** We contract with individuals and entities (known as "Business Associates") to perform various functions on behalf of the Health Plan or to provide certain types of services. To perform these functions or to provide these services, our Business Associates will receive, create, maintain, use or disclose PHI, but only after we require the Business Associates to agree in writing to contract terms designed to appropriately safeguard your information. For example, we may disclose your PHI to a Business Associate to administer claims under the Health Plan.
- **Other Covered Entities:** We may use or disclose your PHI to assist other entities covered by the HIPAA Privacy Rule in connection with their payment activities and certain health care operations. For example, we may disclose your PHI to other insurance carriers in order to coordinate benefits, if you or your family members have coverage through another carrier, or for purposes of their quality assurance and improvement activities.
- **Treatment:** We may use or disclose your PHI to assist health care providers (i.e., doctors and hospitals) in providing treatment to you.

Potential Impact of State Law

The HIPAA Privacy Rule generally does not "preempt" (or take precedence over) state privacy or other applicable laws that provide individuals greater privacy protections. As a result, to the extent state law applies, the privacy laws of a particular state, or other federal laws, rather than the HIPAA Privacy Rule, may impose a privacy standard under which we will be required to operate. For example, where such laws have been enacted in NYS, we will follow the more stringent NYS privacy laws that relate to uses and disclosures of PHI concerning HIV or AIDS, mental health, substance abuse/chemical dependency, genetic testing, or reproductive or gender-affirming care.

Substance Use Disorder Records

In addition to the protections under HIPAA, the Substance Use Disorder (SUD) Patient Records regulations at 42 CFR Part 2 ("Part 2") provide additional confidentiality protections for your SUD information, including any records reflecting the identity, diagnosis, prognosis, or treatment of a patient relating to substance abuse education, prevention, training, treatment, rehabilitation, or research. Specifically, Part 2 provides:

- ❖ A patient's SUD records may be used or disclosed at the request of the patient.
- ❖ A patient may provide a single consent for all future uses or disclosures for treatment, payment, and health care operations purposes.
- ❖ A patient has the right to revoke such written consent, in writing.
- ❖ Records, or testimony relaying the content of such records, shall not be used or disclosed in any civil, administrative, criminal, or legislative proceedings against the patient unless based on specific written consent or a court order.
- ❖ Records shall only be used or disclosed based on a court order after notice and an opportunity to be heard is provided to the patient or the holder of the record, where required by law.

A court order authorizing use or disclosure must be accompanied by a subpoena or other similar legal mandate compelling disclosure before the record is used or disclosed.

Other Possible Uses and Disclosures of PHI

Below is a description of other possible ways in which we may (and are permitted to) use and/or disclose your PHI.

- ***Required by Law:*** We may use or disclose your PHI to the extent that other laws require the use or disclosure. When used in this Notice, "required by law" is defined as it is in the HIPAA Privacy Rule. This generally means that the law compels us to make a use or disclosure and a court could require us to do so. For example, we may disclose your PHI when required by national security laws or public health disclosure laws.
- ***Public Health Activities:*** We may use or disclose your PHI for public health activities that are permitted or required by law. For example, we may use or disclose information to the appropriate public health authority for the purpose of preventing or controlling disease, injury, or disability or to report child abuse or neglect.
- ***Health Oversight Activities:*** We may disclose your PHI for certain oversight activities that are authorized by law and that are performed by the agencies that oversee the health care system, government benefit programs and compliance with civil rights laws. These activities include audits, investigations, inspections, licensure or disciplinary actions, or civil, administrative, or criminal proceedings or actions. For example, we may disclose your PHI to a person or organization required to receive information on FDA-regulated products.
- ***Treatment Alternatives:*** We may use and disclose your medical information to contact you about other health care treatment that is available to you. If you do not want to receive these communications, please notify our Privacy Official in writing.
- ***Health Related Benefits and Services:*** We may use and disclose your medical information to contact you about other health care benefits or services that may interest you. If you do not want to receive these communications, please notify our Privacy Official in writing.
- ***Abuse or Neglect:*** We may disclose your PHI to a government authority that is authorized by law to receive reports of abuse, neglect, or domestic violence. Additionally, as required by law, if we believe that you have been a victim of abuse, neglect, or domestic violence, we may disclose PHI to a government entity authorized to receive such information.
- ***Legal Proceedings:*** In accordance with applicable law, we may disclose your PHI (1) in the course of any judicial or administrative proceeding, (2) in response to an order of a court or administrative tribunal (to the extent the order authorizes the disclosure), and (3) in response to a subpoena, a discovery request, or other lawful process, if we meet all of the administrative requirements of the HIPAA Privacy Rule.
- ***Law Enforcement:*** Under certain conditions, we may disclose your PHI to law enforcement officials. For example, we may disclose your PHI (1) if it is required by law or some other legal process or (2) in

response to a law enforcement officer's request in order to locate or identify a suspect, fugitive, material witness, or missing person.

- **Coroners, Medical Examiners, Funeral Directors, and Organ Donation:** We may disclose PHI to a coroner or medical examiner to identify a deceased person or to determine cause of death, or for the coroner or medical examiner to perform other duties authorized by law. We also may disclose, as authorized by law, information to funeral directors so that they may carry out their duties. Further, we may disclose PHI to organizations that handle organ, eye, or tissue donation and transplantation.
- **Research:** We may disclose your PHI to researchers when an institutional review board or privacy board has reviewed the research proposal, established protocols to ensure the privacy of the information, and approved the research.
- **To Prevent a Serious Threat to Health or Safety:** Consistent with applicable laws, we may disclose your PHI if we believe that the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. We also may disclose PHI if it is necessary for law enforcement authorities to identify or apprehend an individual.
- **Military Activity and National Security, Protective Services:** Under certain conditions, we may disclose your PHI if you are, or were, a member of the Armed Forces for activities deemed necessary by appropriate military authorities. If you are a member of foreign military service, we may disclose, in certain circumstances, your information to the foreign military authority. We also may disclose your PHI to authorized federal officials to conduct national security and intelligence activities, and for the protection of the President, other authorized persons, or heads of state.
- **Workers' Compensation:** We may disclose your PHI to comply with workers' compensation laws and other similar programs that provide benefits for work-related injuries or illnesses.
- **Communicable Diseases:** We may disclose your PHI to notify a person that (s)he has been exposed to a communicable disease if we are legally authorized to do so to prevent or control the spread of the disease.

Uses or Disclosures of Your Medical Information For Which We Must Give You an Opportunity to Agree or Object

- **Disaster Relief:** We may use or disclose your medical information to an entity assisting in disaster relief efforts to your family members. This will be done to coordinate disaster relief efforts and to notify family members or others of your location, general condition or death in the event of a natural or man-made disaster.
- **Others Involved in Your Health Care:** If you are not present or able to agree to the disclosures of your PHI, using our best judgment as to whether disclosure is in your best interest, we may disclose your PHI to a family member, other relative, close personal friend or other personal representative that you identify, based on how involved the person is in your care or in the payment for your care. We may release information to parents or guardians, if allowed by law. We also may disclose your information to an entity assisting in a disaster relief effort so that your family can be notified about your condition, status, and location.

Required Disclosures of Your PHI

Below is a description of disclosures that we are required by law to make.

- ***Disclosures to the Secretary of the U.S. Department of Health and Human Services:*** We are required to disclose your PHI to the Secretary of the U.S. Department of Health and Human Services when the Secretary is investigating or determining our compliance with the HIPAA Privacy Rule.
- ***Disclosures to You:*** We are required to disclose to you most of your PHI in a "designated record set" when you request access to this information (see below under the heading "Right to Inspect and Copy"). We also are required to provide, upon your request, an accounting of most disclosures of your PHI (see below under the heading "Right to an Accounting").

We will disclose your PHI to an individual you designate in accordance with the Health Plan's policies or to an individual who has been designated by you as your personal representative and who has qualified for such designation in accordance with relevant state law. However, before we will disclose PHI to such a person, you must submit a written notice of his/her designation, along with the documentation that supports his/her qualification (such as a power of attorney). *Even if you designate a personal representative*, the HIPAA Privacy Rule permits us to elect not to treat the person as your personal representative if we have a reasonable belief that (1) you have been, or may be, subjected to domestic violence, abuse, or neglect by such person, (2) treating such person as your personal representative could endanger you, or (3) we determine, in the exercise of our professional judgment, that it is not in your best interest to treat the person as your personal representative.

Other Uses and Disclosures of Your PHI

Other uses and disclosures of your PHI that are not described above, including most uses and disclosures of psychotherapy notes and uses and disclosures of PHI for fundraising or marketing purposes, will be made only with your written authorization. If you provide us with an authorization, you may revoke the authorization in writing, and your revocation will be effective for future uses and disclosures of your PHI. However, the revocation will not be effective for information that we already have used or disclosed, relying on your authorization.

Notification of Breach

The Health Plan will notify you in the event that the Health Plan (or one of its business associates) discovers a breach of your unsecured PHI as defined in the HIPAA Privacy Rule.

YOUR RIGHTS

Below is a description of your rights with respect to your PHI.

- ***Right to Request a Restriction:*** You have the right to request that the PHI we use or disclose about you be restricted to carrying out treatment, payment or health care operations. You also have the right to request that disclosures be restricted to family members or others who are involved in your care or in the paying of your care. If we do agree to the restriction, we will comply with the restriction unless the

information is needed to provide emergency treatment to you. You may request a restriction by contacting us in the manner set forth below under the heading "Contacting the Plan."

- **Right to Request Confidential Communications:** You have the right to request that we communicate with you regarding your PHI in an alternative manner or at an alternative location, if your request clearly states that the disclosure of all or part of your PHI may endanger you. For example, you may ask that we only contact you at your work address or via your work e-mail. We will accommodate reasonable requests. Once we receive all of the information for your request (along with the instructions for handling future communications), your request will be processed as soon as reasonably practicable. You may request confidential communications by contacting us in the manner set forth below under the heading "Contacting the Plan."
- **Right to Inspect and Copy:** You have the right to request, in writing, access to inspect and copy your PHI that is contained in a "designated record set" that we maintain. Generally, a "designated record set" contains the enrollment, payment, claims adjudication, case or medical management record systems and any other records about you that may be used to make health care decisions about you. However, you may not inspect or copy psychotherapy notes or certain other information that may be contained in a designated record set.

To request access to inspect and copy your PHI, you should contact us in the manner set forth below under the heading "Contacting the Plan." If you request a copy of the information, we may charge a fee for the costs of copying, mailing, or other supplies associated with your request.

We may deny your request to inspect and copy your PHI in certain limited circumstances. Some of our grounds for denying your request are not reviewable. For example, we can deny your request without providing you with an opportunity for review if the information you seek contains psychotherapy notes or the information is compiled in reasonable anticipation of, or for use in, an administrative action or lawsuit. Other grounds for denying your request are reviewable. For example, if we deny your request to inspect or copy your information because a licensed health care professional has determined that such access is reasonably likely to endanger someone, you have the right to have your denial reviewed. To request a review, you must contact us in the manner set forth below under the heading "Contacting the Plan." A licensed health care professional chosen by us will review your request and the denial. The person performing this review will not be the same one who denied your initial request.

- **Right to Amend:** If you believe that your PHI in the designated record set that we maintain about you is incorrect or incomplete, you have the right to request, in writing, that we amend your information by contacting us in the manner set forth below under the heading "Contacting the Plan." You will be required to provide the reason the amendment is necessary.

In certain cases, we may deny your request for an amendment. For example, we may deny your request if the information you want to amend is not part of the designated record set we maintain. If we deny your request, you have the right to file a written statement of disagreement with us. Your statement of disagreement will be attached to the disputed information and all future disclosures of the disputed information will include your statement.

- **Right to an Accounting:** You have a right to request an accounting of certain disclosures of your PHI. Your request may be for disclosures made up to six years before the date of your request. We do not have to

account for disclosures made for purposes of treatment, payment, or health care operations or pursuant to a signed authorization by you or your personal representative. You should know that most of our disclosures of PHI will be for purposes of payment or health care operations, and, therefore, will not be subject to your right to an accounting. There also are other exceptions to this right to an accounting.

An accounting will include the date(s) of the disclosure, to whom we made the disclosure, a brief description of the information disclosed, and the purpose for the disclosure. You may request an accounting by contacting us in the manner set forth below under the heading "Contacting the Plan." The first accounting you request within a 12-month period will be free. We may charge you for providing additional accountings during the same 12-month period. We will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

- **Right to an electronic copy of electronic PHI:** If we maintain your medical information in electronic form, you have the right to receive an electronic copy of that medical information or have us transmit it to another individual or entity. We must provide it to you in the electronic form or format that you request if it is readily producible in such form or format. Otherwise it will be produced in a readable electronic form and format as agreed to by you and us.
- **Right to a Paper Copy of This Notice:** You have the right to a paper copy of this Notice, even if you have agreed to accept this Notice electronically.

COMPLAINTS

You may complain to us if you believe that we have violated your privacy rights. You may file a complaint with us by contacting us in the manner set forth below under the heading "Contacting the Plan." You also may file a complaint with the Secretary of the U.S. Department of Health and Human Services. Complaints filed directly with the Secretary must (1) be in writing, (2) contain the name of the entity against which the complaint is lodged, (3) describe the relevant problems, and (4) be filed within 180 days of the time you became or should have become aware of the problem. We will not penalize or any other way retaliate against you for filing a complaint with the Secretary or with us. You may file a complaint with the Secretary of the U.S. Department of Health and Human Services by writing to her or him as follows:

Office for Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201
(202) 619-0257

(877) 696-6775 (toll free),

or go to the web site for the HHS Office for Civil Rights
<http://www.hhs.gov/ocr/privacy/>

CONTACTING THE PLAN

If you have any questions about this Notice, you wish to exercise any of the rights explained in this Notice or you wish to file a complaint with us, you may contact us by mail at the Office of Human Resource Management and Labor Relations, Fashion Institute of Technology, Attention: Dr. Cynthia Glass, Privacy Official, 227 W. 27th Street, New York, NY 10001-5992 or by telephone at (212) 217-3655. We have developed forms for your use to

notify us in writing that you wish to exercise any of the rights explained in this Notice. We will furnish the appropriate form to you after you contact us.

OUR RESPONSIBILITIES

We are required by law to maintain the privacy of your PHI. We are obligated to provide you with a copy of this Notice of our legal duties and of our privacy practices with respect to PHI and we must abide by the terms of this Notice. We reserve the right to change the provisions of our Notice and make the new provisions effective for all PHI