

NOTICE OF PRIVACY PRACTICES COG OPERATING LLC

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.

COG Operating LLC is committed to protecting the privacy and security of all private health information created or received in relation to our employees and their families under our group health plans. This Notice covers the privacy practices of the following group health programs sponsored by COG Operating LLC that are part of the COG Operating LLC Welfare Benefit Plan:

- The COG Operating LLC Group Medical Plan;
- The COG Operating LLC On-Site Clinic/Wellness Program; and
- The COG Operating LLC Health FSA.

This revised Notice of Privacy Practices describes how protected health information may be used or disclosed by the group health programs listed above (the "Plans") to carry out treatment, payment and health care operations, and for other purposes that are permitted or required by law. This Notice also sets out our legal obligations concerning your protected health information, and describes your rights to access and control your protected health information.

This Notice of Privacy Practices has been drafted to be consistent with what is known as the "HIPAA Privacy Rule," and any of the terms not defined in this Notice should have the same meaning as they have in the HIPAA Privacy Rule.

If you have any questions or want additional information about the Notice or the policies and procedures described in the Notice, please contact: The HR Director, COG Operating LLC, 600 W. Illinois Ave, Midland, Texas 79701, 432-221-0321.

EFFECTIVE DATE

This Notice of Privacy Practices is revised from time to time. The effective date of this most current notice is September 23, 2013. This revised notice supersedes all previous notices.

OUR RESPONSIBILITIES

Under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), group health plans must take steps to protect the privacy of your "protected health information." Protected health information (or "PHI") is individually identifiable health information, including demographic information, collected from you or created or received by a health care provider, a health plan, your employer (when functioning on behalf of the group 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. 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 that we maintain. If we make a material change to our Notice, we will mail a revised Notice to your address that we have on record or provide you with a copy of the revised Notice at a designated location at your workplace or we may provide you with information about the change to the Notice with instructions for accessing the revised Notice.

Primary Uses and Disclosures of Protected Health Information

The following is a description of how we are most likely to use and/or disclose your PHI.

- ***Treatment, 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 "treatment," "payment" and "health care operations" as set out in 45 C.F.R. § 164.501 (this provision is a part of the HIPAA Privacy Rule).

- **Treatment**
We may use or disclose your Protected Health Information for purposes of providing, coordinating, or managing health care and its related services by one or more of your providers. For example, we may use information about your claims to refer you to a disease management program. We may also provide you with information about alternative medical treatments and programs or about health-related products and services that may be of interest to you, such as smoking cessation programs or weight-loss programs.
- **Payment**
We may use or disclose your PHI to pay claims for services provided to you or to otherwise fulfill our responsibilities for coverage and providing benefits. For example, we may use or disclose your PHI to determine whether reimbursement is appropriate under the Plans.
- **Health Care Operations**
We may use or disclose your PHI to support our business and administrative functions. These functions include, but are not limited to: quality assessment and improvement, business planning, and business development. For example, we may use or disclose your PHI: (1) to respond to an inquiry from you; or (2) in connection with fraud and abuse detection and compliance programs. Plan operation also includes disease management, case management, conducting or arranging for medical review, legal services and audits. For example, the Plans may use information about your claims to project future benefit costs or to audit the accuracy of claim processing functions.
- ***Business Associates***
We may contract with individuals and entities (called Business Associates) to perform various functions on our behalf or to provide certain types of services. To perform these functions or to provide the 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 or to provide service support, utilization management or subrogation functions. An example of a Business Associate would be our third party administrators, who handle many of the functions in connection with the operation of our self-insured group health plans.
- ***Other Covered Entities***
We may use or disclose your PHI to assist health care providers in connection with their treatment or payment activities, or to assist other covered entities in connection with payment activities and certain health care operations. For example, we may disclose your PHI to a health care provider when needed by the provider to render treatment to you, and we may disclose PHI to another covered entity to conduct health care operations in the areas of quality assurance and *improvement* activities, or accreditation, certification, licensing or credentialing.
- ***Plan Sponsor***
PHI may be disclosed to the plan sponsor of the Plans, COG Operating LLC, for purposes of plan administration or pursuant to an authorization request signed by you. The Plans may share enrollment information with the plan sponsor without your authorization.
- ***Security Breaches***
We may use or disclose your PHI when determining whether a security breach has occurred for purposes of the HIPAA Breach Notification Rules as set forth in 45 C.F.R. § 164, subpart D. We may also use or disclose your PHI in responding to a breach, as required under the HIPAA Breach Notification Rules. For example, if an individual hacks into our computer network, we would investigate the incident to determine the extent of the breach and if PHI had been accessed, used or disclosed in violation of the HIPAA Privacy Rule. If a breach for purposes of HIPAA has occurred, you have a legal right to be notified of the breach. Therefore, we would notify you of any HIPAA breach affecting your PHI. We may also be required to notify the media and the U.S. Department of Health and Human Services of the breach but your PHI will not be disclosed when such entities are notified of the breach.
- ***Genetic Information***
The Plans will not use or disclose PHI that is genetic information for underwriting purposes, as required by the Genetic Information Nondiscrimination Act of 2008.

Potential Impact of State Law

The HIPAA Privacy Regulations generally do 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 Regulations, might impose a more stringent privacy standard under which we will be required to operate. For example, where such laws have been enacted, we will follow more stringent state privacy laws that relate to uses and disclosures of PHI concerning HIV or AIDS, mental health, substance abuse/chemical dependency, genetic testing, reproductive rights, etc.

Other Possible Uses and Disclosures of Protected Health Information

The following 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. 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 for the purpose of preventing or controlling disease, injury, or disability, or we may disclose such information to a public health authority authorized to receive reports of child abuse or neglect. We also may disclose PHI, if directed by a public health authority, to a foreign government agency that is collaborating with the public health authority.

- ***Health Oversight Activities***

We may disclose your PHI to a health oversight agency for activities authorized by law, such as: audits; investigations; inspections; licensure or disciplinary actions; or civil, administrative, or criminal proceedings or actions. Oversight agencies seeking this information include government agencies that oversee: (1) the health care system; (2) government benefit programs; (3) other government regulatory programs; and (4) compliance with civil rights laws.

- ***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, we may disclose your PHI to a governmental entity authorized to receive such information if we believe that you have been a victim of abuse, neglect, or domestic violence.

- ***Legal Proceedings***

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 such disclosure is expressly authorized); and (3) in response to a subpoena, a discovery request, or other lawful process, once we have met all administrative requirements of the HIPAA Privacy Rule. For example, we may disclose your PHI in response to a court order for such information, but limited to the minimum amount of PHI necessary to comply with the terms of the order.

- ***Law Enforcement***

Under certain conditions, we also may disclose your PHI to law enforcement officials. For example, some of the reasons for such a disclosure may include: (1) it is required by law or some other legal process; (2) it is necessary to locate or identify a suspect, fugitive, material witness, or missing person; or (3) it is necessary to provide evidence of a crime that occurred on our premises.

- ***Coroners, Medical Examiners, Funeral Directors, and Organ Donation***

We may disclose PHI to a coroner or medical examiner for purposes of identifying a deceased person, determining a 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: (1) reviewed the research proposal and established protocols to ensure the privacy of the information; and (2) approved the research.

- **To Prevent a Serious Threat to Health or Safety**

Consistent with applicable federal and state 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, Armed Forces personnel for activities deemed necessary by appropriate military command 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 for conducting 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.

- **Others Involved in Your Health Care**

Using our best judgment, we may make your PHI known to a family member, other relative, close personal friend or other personal representative that you identify. Such a use will be based on how involved the person is in your care, or payment that relates to your care. We may release information to parents, guardians, and other personal representatives 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.

If you are not present or able to agree to disclosures of your PHI to a family member or close friend, then, using our professional judgment, we may determine whether the disclosure is in your best interest.

Required Disclosures of Your Protected Health Information

The following 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. Generally, a "designated record set" contains medical and billing records, as well as other records that are used to make decisions about your health care benefits. We also are required to provide, upon your request, an accounting of most disclosures of your PHI that are for reasons other than treatment, payment and health care operations and are not disclosed through a signed authorization.

We will disclose your PHI 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.

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 Protected Health Information

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

The HIPAA Privacy Rule requires an authorization for most uses and disclosures relating to (i) psychotherapy notes, (ii) marketing activities and (iii) the sale of PHI. In accordance with the HIPAA Privacy Rule requirements, we will not use or disclose your PHI for these purposes without obtaining your specific authorization.

YOUR RIGHTS

The following is a description of your rights with respect to your PHI.

- ***Right to Request a Restriction***

You have the right to request a restriction or limitation on a Plan's use or disclosure of your Protected Health Information for purposes of payment, treatment and health care operations. You also have the right to limit disclosures made to family members, friends or other individuals who are involved with your care or payment for your care. For example, you could request that a Plan not disclose information about a treatment you are receiving to a family member who is caring for you. *We are not required to agree to any restriction that you may request.* 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 completing a form entitled "Request for Restrictions on Uses and Disclosures of Protected Health Information." You may request a copy of this form from the COG Operating LLC HR Director.

- ***Right to Request Confidential Communications***

You may request that we communicate with you regarding your information in an alternative manner or at an alternative location. For example, you may ask that we only contact you at your work address or via your work e-mail.

You may request a confidential communication by completing a form entitled "Request for Confidential Communications." You may request a copy of this form from the COG Operating LLC HR Director.

The Plans will accommodate any request that the COG Operating LLC HR Director deems reasonable and which will not materially interfere with the operation of the Plans. Prior to receiving the information necessary for this request, or during the time it takes to process it, PHI may be disclosed. Therefore, it is extremely important that you contact us as soon as you determine that you need to restrict disclosures of your PHI.

If you terminate your request for confidential communications, the restriction will be removed for all of your PHI that we hold, including PHI that was previously protected.

- ***Right to Inspect and Copy***

You have the right to inspect and copy your PHI that is contained in a "designated record set." Generally, a "designated record set" contains medical and billing records, as well as other records that are used to make decisions about your health care benefits. However, you may not inspect or copy psychotherapy notes or certain other information that may be contained in a designated record set. You may specify whether you would like a hard copy or electronic copy of your PHI. We will provide you with the form and format of PHI that you specify, to the extent it is readily producible. If it is not readily producible in that form or format, we will work with you to come up with an acceptable alternative. You may also request that we transmit a copy of your PHI directly to another person as long as you make this request in writing, sign the request and clearly identify the designated person and where to send the copy of your PHI. We may charge a reasonable, cost-based fee for labor, supplies, postage and the preparation of any summary that your request in connection with providing you with the information.

To inspect and copy your PHI that is contained in a designated record set, you must complete the form entitled "Request for Health Information." You may request a copy of this form from the COG Operating LLC HR Director.

We may deny your request to inspect and copy your PHI in certain limited circumstances. If you are denied access to your information, you may request that the denial be reviewed. To request a review, you must contact us at the number/address provided in this Notice. 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. Under certain conditions, our denial will not be able to be reviewed. If this event occurs, we will inform you in our denial that the decision is not able to be reviewed.

- ***Right to Amend***

If you believe that your PHI is incorrect or incomplete, you may request that we amend our information. You may request that we amend your information by completing the form entitled "Health Record Correction/Amendment Form." You may request a copy of this form from the COG Operating LLC HR Director.

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 was not created by us, but by another entity. If we deny your request, you have the right to file a statement of disagreement with us. Your statement of disagreement will be linked with the disputed information and all future disclosures of the disputed information will include your statement.

- ***Right of an Accounting***

You have a right to an accounting of certain disclosures of your PHI that are for reasons other than treatment, payment, or health care operations. No accounting of disclosures is required for disclosures made pursuant to a signed authorization by you or your personal representative. You should know that most 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.

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 completing the form entitled "Request for Accounting of Protected Health Information Disclosures." You may request a copy of this form from the COG Operating LLC HR Director.

Your request may be for disclosures made up to six (6) years before the date of your request. The first list you request within a 12-month period will be free. For additional lists, we may charge you for the costs of providing the list. We will notify you of the cost involved and you may choose to withdraw or modify your request at the time before any costs are incurred.

- ***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. To receive a copy, write the COG Operating LLC HR Director at 600 W. Illinois Ave, Midland, Texas 79701.

COMPLAINTS

You may file a complaint in writing to us if you believe that we have violated your privacy rights. You may file a complaint with us by contacting:

The HIPAA Privacy Officer/HR Director
COG Operating LLC
600 W. Illinois Ave
Midland, Texas 79701
432-221-0321

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. Complaints to the Secretary of Health and Human Services should be filed in writing to:

U.S. Department of Health and Human Services
Office for Civil Rights
1301 Young Street, Suite 1169
Dallas, Texas 75202
214-767-4056

We will not penalize or in any other way retaliate against you for filing a complaint with the Secretary or with us.