

BAC Local #3 NY Buffalo Chapter Benefit Funds

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PRIVACY NOTICE

**THIS NOTICE DESCRIBES HOW YOUR MEDICAL INFORMATION
MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO
THAT INFORMATION.**

PLEASE REVIEW THIS NOTICE CAREFULLY.

POLICY/PRIVACY STATEMENT

The Plan is committed to maintaining the privacy of your protected health information ("PHI"), which includes electronic protected health information, and which includes information about your medical condition and the care and treatment you receive from the Plan and other health care providers, all in accordance with the provisions of the Health Insurance Portability and Accountability Act and the Health Information Technology for Economic and Clinical Health Act, and their regulations (collectively, the "HIPAA Rules"). Reference in this Notice to "you" refers also to your dependents and anyone covered by the Plan as a result of your employment or prior employment.

We understand that medical information about you and your health is personal. We are committed to protecting medical information about you. We create a record of the health care claims reimbursed under the Plan for Plan administration purposes. This Notice applies to all of the medical records that we maintain, or any records to which we may gain access. Your personal physician or other health care providers may have different policies or notices regarding the provider's use and disclosure of your medical information. This Notice will only apply to specific medical information that the Plan and its employees may encounter during the course of administering this Plan.

This Notice details how your PHI may be used and disclosed to third parties for purposes of your care, payment for your care, health care operations of the Plan, and for other purposes permitted or required by law and the HIPAA Rules. This Notice also details your rights regarding your PHI.

HOW WE MAY USE AND DISCLOSURE YOUR MEDICAL INFORMATION

The Plan may use and/or disclose your PHI, without a written authorization, for purposes related to your care, payment for your care, and health care operations of the Plan. The following are examples of the types of uses and/or disclosures of your PHI that may occur. These examples are not meant to include all possible types of uses and/or disclosures.

(a) **Care** – We may use or disclose medical information about you to facilitate medical treatment or services by health care providers, including physicians, nurses, technicians, and other medical personnel who are involved in taking care of you. For example, the Plan may have to provide your PHI relating to medications being used by you to certain of your health care providers in order to coordinate your care and reduce the risk of adverse effects from conflicting medications.

(b) **Payment** – We may use and disclose medical information about you to determine eligibility for Plan benefits, to facilitate payment for the treatment and services you received from health care providers, to determine benefit

responsibility under the Plan, or to coordinate Plan coverage. For example, the Plan may need to provide your PHI to an insurance carrier who insures the cost of your care when that cost exceeds a certain dollar amount.

(c) **Health Care Operations** – We may use and disclose medical information about you for other Plan operations. In order for the Plan to operate in accordance with applicable law and insurance requirements, it may be necessary for the Plan to compile, use and/or disclose your PHI. For example, the Plan may use your PHI in order to assess Plan management or secure a contract for reinsurance.

SPECIAL SITUATIONS WHERE NO AUTHORIZATION IS REQUIRED

The Plan may use and/or disclose your PHI, without a written Authorization from you, in the following special situations:

(a) **De-identified Information** - Your PHI is altered so that it does not identify you and, even without your name, cannot be used to identify you.

(b) **Business Associate** - To a business associate, which is someone who the Plan contracts with to provide a service necessary for the operations of the Plan (such as an outside computer service vendor). The Plan will obtain satisfactory written assurance, in accordance with applicable law and the HIPAA Rules, that the business associate will appropriately safeguard your PHI and that the business associate will ensure its subcontractors, if any, appropriately safeguard your PHI as well.

(c) **To You or a Personal Representative** - To you, or to a person who, under applicable law, has the authority to represent you in making decisions related to your health care.

(d) **Public Health Activities** - Such activities include, for example, information collected by a public health authority, as authorized by law, to prevent or control disease, injury or disability. This includes reports of child abuse or neglect, and the reporting of births and deaths.

(e) **Food and Drug Administration** - If required by the Food and Drug Administration to report adverse events, product defects or problems or biological product deviations, or to track products, or to enable product recalls, repairs or replacements, or to conduct post marketing surveillance.

(f) **Abuse, Neglect or Domestic Violence** - To a government authority if the Plan is required by law to make such disclosure. If the Plan is authorized by law to make such a disclosure, it will do so if it believes that the disclosure is necessary to prevent serious harm or if the Plan believes that you have been the victim of abuse, neglect or domestic violence. Any such disclosure will be made in accordance with the requirements of law, which may also involve notice to you of the disclosure.

(g) **Health Oversight Activities** - Such activities, which must be required by law, involve government agencies involved in oversight activities that relate to the health care system, government benefit programs, government regulatory programs and civil rights law. Those activities include, for example, criminal investigations, audits, disciplinary actions, or general oversight activities relating to the community's health care system.

(h) **Judicial and Administrative Proceeding** - For example, the Plan may be required to disclose your PHI in response to a court order or a lawfully issued subpoena.

(i) **Law Enforcement Purposes** - In certain instances, your PHI may have to be disclosed to a law enforcement official for law enforcement purposes. Law enforcement purposes include: (1) complying with a legal process (i.e., subpoena) or as required by law; (2) information for identification and location purposes (e.g., suspect or missing person); (3) information regarding a person who is or is suspected to be a crime victim; (4) in situations where the death of an individual may have resulted from criminal conduct; and (5) in the event of a crime occurring on the premises of the Plan.

(j) **Coroner or Medical Examiner** - The Plan may disclose your PHI to a coroner or medical examiner for the purpose of identifying you or determining your cause of death, or to a funeral director as permitted by law and as necessary to carry out its duties.

(k) **Organ, Eye or Tissue Donation** - If you are an organ donor, the Plan may disclose your PHI to the entity to whom you have agreed to donate your organs.

(l) **Research** - If the Plan is involved in research activities, your PHI may be used, but such use is subject to numerous governmental requirements intended to protect the privacy of your PHI such as approval of the research by an institutional review board and the requirement that protocols must be followed.

(m) **Avert a Threat to Health or Safety** - The Plan may disclose your PHI if it believes that such 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 an individual who is reasonably able to prevent or lessen the threat.

(n) **Specialized Government Functions** - When the appropriate conditions apply, the Plan may use PHI of individuals who are Armed Forces personnel: (1) for activities deemed necessary by appropriate military command authorities; (2) for the purpose of a determination by the Department of Veteran Affairs of eligibility for benefits; or (3) to a foreign military authority if you are a member of that foreign military service. The Plan may also disclose your PHI to authorized federal officials for conducting national security and intelligence activities including the provision of protective services to the President or others legally authorized.

(o) **Inmates** - The Plan may disclose your PHI to a correctional institution or a law enforcement official if you are an inmate of that correctional facility and your PHI is necessary to provide care and treatment to you or is necessary for the health and safety of other individuals or inmates.

(p) **Workers' Compensation** - If you are involved in a Workers' Compensation claim, the Plan may be required to disclose your PHI to an individual or entity that is part of the Workers' Compensation system.

(q) **Disaster Relief Efforts** - The Plan may use or disclose your PHI to a public or private entity authorized to assist in disaster relief efforts.

(r) **Required by Law** - If otherwise required by law, but such use or disclosure will be made in compliance with the law and limited to the requirements of the law.

AUTHORIZATIONS

As detailed in the HIPAA Rules, certain uses and disclosures of psychotherapy notes, uses and disclosures of PHI for marketing purposes (as described in the "Marketing" section of this Privacy Notice), and disclosures that constitute a sale of PHI require a written authorization from you, and other uses and disclosures not otherwise permitted as described in this Privacy Notice will only be made with your written authorization, which you may revoke at any time as detailed in the "Your Rights Regarding Medical Information About You" section of this Privacy Notice.

DISCLOSURES TO THE PLAN SPONSOR

The Plan will not disclose your PHI to the Plan's sponsor, the Board of Trustees, or allow a health insurance issuer or HMO to make a disclosure until the Plan sponsor complies with the Plan's requirements relating to the confidentiality and protection of your PHI.

TREATMENT ALTERNATIVE/BENEFITS

The Plan may, from time to time, contact you about treatment alternatives, or other health benefits or services that may be of interest to you.

MARKETING

The Plan may only use and/or disclose your PHI for marketing activities if we obtain from you a prior written Authorization. "Marketing" activities include communications to you that encourage you to purchase or use a product or service, and the communication is not made for your care or treatment. However, marketing does not include, for example, sending you a newsletter about this Plan. Marketing also includes the receipt by the Plan of financial remuneration, directly or indirectly, from a third party whose product or service is being marketed to you. The Plan will inform you if it engages in marketing and will obtain your prior Authorization.

FAMILY/FRIENDS

The Plan may disclose to your family member, other relative, a close personal friend, or any other person identified by you, your PHI directly relevant to such person's involvement with your care or the payment for your care. The Plan may also use or disclose your PHI to notify or assist in the notification (including identifying or locating) of a family member, a personal representative, or another person responsible for your care, of your location, general condition or death. However, in both cases, the following conditions will apply:

(a) The Plan may use or disclose your PHI if you agree, or if the Plan provides you with opportunity to object and you do not object, or if the Plan can reasonably infer from the circumstances, based on the exercise of its judgment, that you do not object to the use or disclosure.

(b) If you are not present, the Plan will, in the exercise of its judgment, determine whether the use or disclosure is in your best interests and, if so, disclose only the PHI that is directly relevant to the person's involvement with your care.

GOVERNMENT REGULATION

The Plan is subject to various rules and regulations of New York State and the federal government. As a result of those rules and regulations, periodically representatives from federal or state agencies will audit the operations of the Plan and, in the process of that audit, will review Plan records, some of which may contain your PHI. Access by a federal or state agency to your PHI for audit purposes does not require your prior authorization.

UNDERWRITING

If the Plan intends to use or disclose PHI for underwriting purposes the Plan is prohibited from using or disclosing PHI that is genetic information of a Plan Participant for such purposes (except this underwriting prohibition does not apply to issuers of long term care policies).

YOUR RIGHTS REGARDING MEDICAL INFORMATION ABOUT YOU

You have the following rights regarding medical information we maintain about you:

(a) **Right to revoke any Authorization, in writing, at any time.** To request a revocation, you must submit a written request to the Plan's Privacy Officer.

(b) **Right to request restrictions on certain uses and/or disclosures of your PHI as provided by law and the HIPAA Rules.** However, the Plan is not obligated to agree to a requested restriction, except to the extent required by the HIPAA Rules or by law. To request restrictions, you must submit a written request to the Plan's Privacy Officer. In your written request, you must inform the Plan of what information you want to limit, whether you want to limit the Plan's use or disclosure, or both, and to whom you want the limits to apply. If the Plan agrees to your request, the Plan will comply with your request unless the information is needed in order to provide you with emergency treatment.

(c) **Right to receive confidential communications of PHI by alternative means or at alternative locations.** You must make your request in writing to the Plan's Privacy Officer. The Plan will accommodate all reasonable requests.

(d) **Right to inspect and copy your PHI as provided by law.** To inspect and copy your PHI, you must submit a written request to the Plan's Privacy Officer. In certain situations that are defined by law, the Plan may deny your request, but you will have the right to have the denial reviewed. The Plan can charge you a fee for the cost of copying, mailing, or other supplies associated with your request, all in accordance with applicable law. To inspect and copy medical information that may be used to make decisions about you, you must submit your request in writing to:

Bricklayers and Allied Craftworkers Local #3 NY Health And Welfare Plan
1175 William Street
Buffalo, NY 14206
(716) 842-1318

(e) **Right to amend your PHI as provided by law.** To request an amendment, you must submit a written request to the Plan's Privacy Officer. You must provide a reason that supports your request. The Plan may deny your request if it is not in writing, if you do not provide a reason and support of your request, if the information to be amended was not created by the Plan (unless the individual or entity that created the information is no longer available), if the information is not part of your PHI maintained by the Plan, if the information is not part of the information you would be permitted to inspect and copy, and/or if the information is accurate and complete. If you disagree with the Plan's denial, you have the right to submit a written statement of disagreement.

(f) **Right to receive an accounting of disclosures of your PHI as provided by law.** To request an accounting, you must submit a written request to the Plan's Privacy Officer which must comply with the applicable HIPAA Rules. The request should indicate in what form you want the list (such as a paper or electronic copy). The first list you request within a 12 month period will be free, but the Plan may charge you for the cost of providing additional lists in that same 12 month period. The Plan will notify you of the costs involved and you can decide to withdraw or modify your request before any costs are incurred. The request must state a time period which may not be longer than six years.

(g) **Right to receive a paper copy of this Privacy Notice from the Plan upon request to the Plan's Privacy Officer.**

(h) **Right to be notified following a breach of your Unsecured PHI** (as such term is defined by the HIPAA Rules).

(i) **Right to complain to the Plan, or to the Region II--Office for Civil Rights, U.S. Department of Health and Human Services, Jacob Javits Federal Building, 26 Federal Plaza-Suite 3312, New York, New York 10278.** A list of the regional offices of the Office for Civil Rights can be found at www.hhs.gov/ocr/office/about/rgn-hqaddresses.html. To file a complaint with the Plan, you must contact the Plan's Privacy Officer. All complaints must be in writing.

(j) **Right to obtain more information on, or have your questions about your rights answered.** To obtain more information, you may contact the Plan's Privacy Officer, Carmen O'Neal at (716) 842-1318 or via e-mail at coneal@baclocal3ny.com.

PLAN'S REQUIREMENTS

The Plan:

- (a) Is required by law to maintain the privacy of your PHI and to provide you with this Privacy Notice of the Plan's legal duties and privacy practices with respect to your PHI.
- (b) Is required to abide by the terms of this Privacy Notice, which is currently in effect.
- (c) Reserves the right to change the terms of this Privacy Notice and to make the new Privacy Notice provisions effective for all of your PHI that it maintains.
- (d) Will not retaliate against you for making a complaint.
- (e) Will post this Privacy Notice on the Plan's web site, if the Plan maintains a web site.
- (f) Will provide this Privacy Notice to you by e-mail if you so request. However, you also have the right to obtain a paper copy of this Privacy Notice.

EFFECTIVE DATE

The Original Notice was originally in effect as of April 14, 2003. This Revised Notice is in effect as of September 23, 2013.

If you have any questions about this Notice, please contact the Fund Office at:

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