

Northern Arizona Public Employees Benefit Trust (NAPEBT)

HIPAA Notice of Privacy Practice

Esta noticia es disponible en español si usted lo pide. Si usted debe ayudar la comprensión de esta nota, contacta por favor el Departamento de Beneficios.

Purpose of This Privacy Notice

**This Notice describes how medical information about you may be used and disclosed and how you may get access to this information.
Please review this information carefully.**

This Notice is required by law.

The NAPEBT self-funded group health plan including the self-funded Medical plan options that include outpatient prescription drug benefits and Health Savings Account Administration, Independent Review Organizations for External Reviews related to the self-funded medical plan options, the Wellness Program, the City of Flagstaff's Employee Assistance Program (EAP), the Health Flexible Spending Account (Health FSA), and the COBRA Administration (hereafter referred to as the "Plan"), is required by law to take reasonable steps to maintain the privacy of your personally identifiable health information (called **Protected Health Information or PHI**) and to inform you about the Plan's legal duties and privacy practices with respect to protected health information including:

1. Your rights to privacy with respect to your PHI,
2. The Plan's duties with respect to your PHI,
3. Your right to file a complaint with the Plan and with the Secretary of the U.S. Department of Health and Human Services (HHS),
4. The person or office you should contact for further information about the Plan's privacy practices,
5. To notify affected individuals following a breach of unsecured protected health information.

PHI use and disclosure by the Plan is regulated by the federal law, Health Insurance Portability and Accountability Act, commonly called HIPAA. You may find these rules in 45 *Code of Federal Regulations* Parts 160 and 164. This Notice attempts to summarize key points in the regulation. The regulations will supersede this Notice if there is any discrepancy between the information in this Notice and the regulations. The Plan will abide by the terms of the Notice currently in effect. The Plan reserves the right to change the terms of this Notice and to make the new Notice provisions effective for all PHI it maintains.

You may receive a Privacy Notice from a variety of the insured group health benefit plans such as the dental plans or vision plans. Each of these notices will describe your rights as it pertains to that plan and in compliance with the federal regulation, HIPAA. This Privacy Notice however, pertains to your protected health information held by NAPEBT's group health plan (the "Plan") and outside companies contracted to help administer Plan benefits, also called "business associates."

Effective Date

The effective date of this Notice is **January 11, 2016**.

Privacy Officer

The Plan has designated a Privacy Officer to oversee the administration of privacy by the Plan and to receive complaints. There is a NAPEBT Privacy Officer located in the Human Resource Department of each of the employers who participate in NAPEBT.

For the appropriate Privacy Officer, refer to the chart below:

Privacy Officer	Contact Information
Coconino County Privacy Officer	Coconino County 420 N. San Francisco Flagstaff, AZ 86001 Phone: 928-213-2090 Fax: 928-213-2089
City of Flagstaff Privacy Officer	City of Flagstaff 211 West Aspen Avenue Flagstaff, AZ 86001 Phone: 928-213-2090 Fax: 928-213-2089
Flagstaff Unified School District #1 (FUSD) Privacy Officer	Flagstaff Unified School District #1 (FUSD) 3285 E. Sparrow Ave. Flagstaff, AZ 86004 Phone: 928-527-6071 Fax: 928-527-6078
Coconino Community College Privacy Officer	Coconino Community College 2800 S. Lonetree Flagstaff, AZ 86001 Phone: 928-226-4268 Fax: 928-226-4114
Northern Arizona Intergovernmental Public Transportation Authority (NAIPTA) Privacy Officer	Northern Arizona Intergovernmental Public Transportation Authority (NAIPTA) 3773 N. Kaspar Drive Flagstaff, AZ 86004 Phone: 928-679-8908 Fax: 928-779-6868
Coconino County Regional Accommodation School District Privacy Officer	Coconino County Regional Accommodation School District 2384 N. Steves Blvd. Flagstaff, AZ 86004 Phone: 928-679-8075 Fax: 928-679-8077

Your Protected Health Information

The term “**Protected Health Information**” (PHI) includes all information related to your past, present or future health condition(s) that individually identifies you or could reasonably be used to identify you and is transferred to another entity or maintained by the Plan in oral, written, electronic or any other form.

PHI does not include health information contained in employment records held by your employer in its role as an employer, including but not limited to health information on disability, work-related illness/injury, sick leave, Family or Medical leave (FMLA), life insurance, dependent care flexible spending account, drug testing, etc.

When the Plan May Disclose Your PHI

Under the law, the Plan may disclose your PHI without your written authorization in the following cases:

- *At your request.* If you request it, the Plan is required to give you access to your PHI in order to inspect it and copy it.
- *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 Plan’s compliance with the privacy regulations.
- *For treatment, payment or health care operations.* The Plan and its business associates will use your PHI (except psychotherapy notes in certain instances as described below) without your consent, authorization or opportunity to agree or object in order to carry out treatment, payment, or health care operations.

The Plan does not need your consent or authorization to release your PHI when you request it, a government agency requires it, or the Plan uses it for treatment, payment, or health care operations.

The Plan Sponsor has **amended its Plan documents** to protect your PHI as required by federal law. The Plan may disclose PHI to the Plan Sponsor for purposes of treatment, payment, and health care operations in accordance with the Plan amendment. The Plan may disclose PHI to the Plan Sponsor for review of your appeal of a benefit or for other reasons related to the administration of the Plan.

Definitions and Examples of Treatment, Payment and Health Care Operations	
Treatment is health care.	<p>Treatment is the provision, coordination, or management of health care and related services. It also includes but is not limited to coordination of benefits with a third party and consultations and referrals between one or more of your health care providers.</p> <ul style="list-style-type: none"> <i>For example:</i> The Plan discloses to a treating specialist the name of your treating primary care physician so the two can confer regarding your treatment plan.
Payment is paying claims for health care and related activities.	<p>Payment includes but is not limited to making payment for the provision of health care, determination of eligibility, claims management, and utilization review activities such as the assessment of medical necessity and appropriateness of care.</p> <ul style="list-style-type: none"> <i>For example:</i> The Plan tells your doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Plan. If we contract with third parties to help us with payment, such as a claims payer, we will disclose pertinent information to them. These third parties are known as “business associates.”
Health Care Operations keep the Plan operating soundly.	<p>Health care operations includes but is not limited to quality assessment and improvement, patient safety activities, business planning and development, reviewing competence or qualifications of health care professionals, underwriting, enrollment, 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 and general administrative activities.</p> <ul style="list-style-type: none"> <i>For example:</i> The Plan uses information from your medical claims to refer you to a health care 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

Generally, the Plan will require that you sign a valid authorization form in order to use or disclosure your PHI **other than**:

- When you request your own PHI
- A government agency requires it, or
- The Plan uses it for treatment, payment, or health care operation.

You have the right to revoke an authorization.

Although the Plan does not routinely obtain psychotherapy notes, generally, an authorization will be required by the Plan before the Plan will use or disclose psychotherapy notes about 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. However, the Plan may use and disclose such notes when needed by the Plan to defend itself against litigation filed by you.

The Plan generally will require an authorization form for uses and disclosure of your PHI for marketing purposes (a communication that encourages you to purchase or use a product or service) if the Plan receives direct or indirect financial remuneration (payment) from the entity whose product or service is being marketed. The Plan generally will require an authorization form for the sale of protected health information if the Plan receives direct or indirect financial remuneration (payment) from the entity to whom the PHI is sold. The Plan does not intend to engage in fundraising activities.

Use or Disclosure of Your PHI Where You Will 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 without your written consent or authorization is allowed 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.

Note that PHI obtained by the Plan Sponsor's employees through Plan administration activities will NOT be used for employment related decisions.

Use or Disclosure of Your PHI Where Consent, Authorization or Opportunity to Object Is Not Required

In general, the Plan does not need your written authorization to release your PHI if required by law or for public health and safety purposes. The Plan and its business associates are allowed to use and disclose your PHI **without** your written authorization (in compliance with section 164.512) under the following circumstances:

1. When *required by law*.
2. When permitted for *purposes of public health activities*. This includes reporting product defects, permitting product recalls and conducting post-marketing surveillance. 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. To a school about an individual who is a student or prospective student of the school if the protected health information this is disclosed is limited to *proof of immunization*, the school is required by State or other law to have such proof of immunization prior to admitting the individual and the covered entity obtains and documents the agreements to this disclosure from either a parent, guardian or other person acting in loco parentis of the individual, if the individual is an unemancipated minor; or the individual, if the individual is an adult or emancipated.
4. 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 Plan will promptly inform you that such a disclosure has been or will be made unless that notice would cause a risk of serious harm. For the purpose of reporting child abuse or neglect, it is not necessary to inform the minor that such a disclosure has been or will be made. Disclosure may generally be made to the minor's parents or other representatives, although there may be circumstances under federal or state law when the parents or other representatives may not be given access to the minor's PHI.
5. 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 investigate Medicare or Medicaid fraud).
6. When required *for judicial or administrative proceedings*. For example, your PHI may be disclosed in response to a subpoena or discovery request, provided certain conditions are met, including that:
 - the requesting party must give the Plan satisfactory assurances that a good faith attempt has been made to provide you with a written Notice, and
 - the Notice provided sufficient information about the proceeding to permit you to raise an objection, and
 - no objections were raised or were resolved in favor of disclosure by the court or tribunal.
7. When required for *law enforcement health purposes* (for example, to report certain types of wounds).
8. For *law enforcement purposes* if the law enforcement official represents that the information is not intended to be used against the individual, the immediate law enforcement activity would be materially and adversely affected by waiting to obtain the individual's agreement and the Plan, in its best judgment, determines that disclosure is in the best interest of the individual. Law enforcement purposes include:

- identifying or locating a suspect, fugitive, material witness or missing person, and
 - disclosing information about an individual who is or is suspected to be a victim of a crime.
9. 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. When required to be given *to funeral directors* to carry out their duties with respect to the decedent; for use and disclosures for cadaveric *organ, eye or tissue donation* purposes.
 10. For *research*, subject to certain conditions.
 11. When, consistent with applicable law and standards of ethical conduct, the Plan 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. When authorized by and to the extent necessary to comply with *workers' compensation* or other similar programs established by law.
 13. When required, for *specialized government functions*, to military authorities under certain circumstances, or to authorized federal officials for lawful intelligence, counter intelligence and other national security activities.

Any other Plan uses and disclosures not described in this Notice will be made only if you provide the Plan with written authorization, subject to your right to revoke your authorization, and information used and disclosed will be made in compliance with the minimum necessary standards of the regulation.

Your Individual Privacy Rights

A. You May Request Restrictions on PHI Uses and Disclosures

You may request the Plan to restrict the uses and disclosures of your PHI:

- To carry out treatment, payment or health care operations, or
- To family members, relatives, friends or other persons identified by you who are involved in your care.

The Plan, however, is not required to agree to your request if the Plan Administrator or Privacy Officer determines it to be unreasonable, for example, if it would interfere with the Plan's ability to pay a claim.

The Plan 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 could endanger the individual. You or your personal representative will be required to complete a form to request restrictions on the uses and disclosures of your PHI. To make such a request contact the Privacy Officer at their address listed on the first page of this Notice.

B. You May Inspect and Copy Your PHI

You have the right to inspect and obtain a copy (in hard copy or electronic form) of your PHI (except psychotherapy notes and information compiled in reasonable contemplation of an administrative action or proceeding) contained in a "designated record set," for as long as the Plan maintains the PHI. You may request your hard copy or electronic information in a format that is convenient for you, and the Plan will honor that request to the extent possible. You may also request a summary of your PHI.

A **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 a health plan or other information used in whole or in part by or for the covered entity 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.

The Plan must provide the requested information within 30 days of its receipt of the request, if the information is maintained onsite or within 60 days if the information is maintained offsite. A single 30-day extension is allowed if the Plan is unable to comply with the deadline and notifies you in writing in advance of the reasons for the delay and the date by which the Plan will provide the requested information.

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 your PHI should be made to the Plan's Privacy Officer at their address listed on the

first page of this Notice. You may be charged a reasonable cost-based fee for creating or copying the PHI or preparing a summary of your PHI.

If access is denied, you or your personal representative will be provided with a written denial describing the basis for the denial, a description of how you may exercise those review rights and a description of how you may complain to the Plan's Privacy Officer or the Secretary of the U.S. Department of Health and Human Services.

C. You Have the Right to Amend Your PHI

You or your Personal Representative have the right to request that the Plan 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. The Plan has 60 days after receiving your request to act on it. The Plan is allowed a single 30-day extension if the Plan is unable to comply with the 60-day deadline (provided that the Plan notifies you in writing in advance of the reasons for the delay and the date by which the Plan will provide the requested information).

If the Plan denied your request in whole or part, the Plan 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 your PHI. You should make your request to amend PHI to the Privacy Officer at their address listed on the first page of this Notice.

You or your personal representative may be required to complete a form to request amendment of your PHI. Forms are available from the Privacy Officer at their address listed on the first page of this Notice.

D. You Have the Right to Receive an Accounting of the Plan's PHI Disclosures

At your request, the Plan will also provide you with an accounting of disclosures by the Plan of your PHI during the six years (or shorter period if requested) before the date of your request. The Plan will not 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.

The Plan has 60 days after its receipt of your request to provide the accounting. The Plan is allowed an additional 30 days if the Plan 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 Plan may charge a reasonable, cost-based fee for each subsequent accounting.

E. You have the Right to Request that PHI be Transmitted to You Confidentially

The Plan will permit and accommodate your reasonable request to have PHI sent to you by alternative means or to an alternative location (such as mailing PHI to a different address or allowing you to personally pick up the PHI that would otherwise be mailed), if you provide a written request to the Plan that the disclosure of PHI to your usual location could endanger you. If you believe you have this situation, you should contact the Plan's Privacy Officer to discuss your request for confidential PHI transmission.

F. You Have the Right to Receive a Paper or Electronic Copy of This Notice Upon Request

To obtain a paper or electronic copy of this Notice, contact the Plan's Privacy Officer at their address listed on the first page of this Notice. This right applies even if you have agreed to receive the Notice electronically.

G. Breach Notification

If a breach of your unsecured protected health information occurs, the Plan will notify you.

Your Personal Representative

You may exercise your rights to your PHI by designating a personal representative. Your personal representative will be required to produce evidence of the 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. Under this Plan, proof of such authority will include (1) a completed, signed and approved "Appoint a Personal Representative" form; (2) a notarized power of attorney for health care purposes; (3) or a court-appointed conservator or guardian. You may obtain this "Appoint a Personal Representative" form by contacting the Privacy Officer at their address listed on the first page of this Notice or visit the NAPEBT website to download a copy.

The Plan 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.

- Because this law gives adults certain rights (and generally children age 18 and older are adults), if you have **dependent children age 18 and older** (e.g. students) covered under the Plan, and the child wants you, as the parent(s), to be able to access their protected health information, that child will need to complete a Personal Representative form to designate you and/or your spouse as their personal representative.

This Plan will recognize certain individuals (spouses) as Personal Representatives **without** you having to complete an "Appoint a Personal Representative" form. This means that **the Plan will automatically consider a Spouse to be the personal representative of an employee/retiree and vice versa**. The recognition of your Spouse as your personal representative (and vice versa) is for the use and disclosure of PHI related to treatment, payment and health care operations purposes under this Plan and is not intended to expand such designation beyond what is necessary for this Plan to comply with HIPAA privacy regulations.

You may however request that the Plan **not automatically** honor the spouse as your Personal Representative by completing a form to "**Revoke a Personal Representative**" available from the Privacy Officer or on the NAPEBT benefits website. For ease, attached to this Notice is a form to Revoke a Personal Representative that you may complete and return to the appropriate Privacy Officer listed at the beginning of this Notice.

- The Plan will consider a parent, guardian, or other person acting *in loco parentis* as the personal representative of an unemancipated minor (a child generally under age 18) unless the applicable law requires otherwise. **In loco parentis** may be further defined by state law, but in general it refers to a person who has been treated as a parent by the child and who has formed a meaningful parental relationship with the child for a substantial period of time.
- Spouses and unemancipated minors may, however, request that the Plan restrict PHI that goes to family members as described above under the section titled "Your Individual Privacy Rights."

The Plan's Duties

The Plan 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. The Plan is required to comply with the terms of this Notice. However, the Plan reserves the right to change its privacy practices and the terms of this Notice and to apply the changes to any PHI maintained by the Plan. In addition, the Plan may not (and does not) use your genetic information that is PHI for underwriting purposes.

Notice Distribution: The Notice will be provided to each person when they initially enroll for benefits in the Plan. The Notice is also available on the Plan's website at: www.NAPEBT.com. The Notice will also be provided upon request. Once every three years the Plan will notify the individuals then covered by the Plan where to obtain a copy of the Notice. This Plan will satisfy the requirements of the HIPAA regulation by providing the Notice to the named insured (covered employee) of the Plan; however, employees are encouraged to share this Notice with other family members covered under the Plan.

Notice Revisions: If a privacy practice of this Plan is changed affecting this Notice, a revised version of this Notice will be provided to you and all participants covered by the Plan at the time of the change. Any revised version of the Notice will be distributed within 60 days of the effective date of a material change to the uses and disclosures of PHI, your individual rights, the duties of the Plan or other privacy practices stated in this Notice. Material changes are changes to the uses and disclosures of PHI, an individual's rights, the duties of the Plan or other privacy practices stated in the Privacy Notice. Because our health plan posts its Notice on its web site, we will prominently post the revised Notice on that web site by the effective date of the material change to the Notice. We will also provide the revised notice, or information about the material change and how to obtain the revised Notice, in our next annual mailing to individuals covered by the Plan.

Disclosing Only the Minimum Necessary Protected Health Information

When using or disclosing PHI or when requesting PHI from another covered entity, the Plan 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. However, the minimum necessary standard will not apply in the following situations:

- Disclosures to or requests by a health care provider for treatment,
- Uses or disclosures made to you,

- Disclosures made to the Secretary of the U.S. Department of Health and Human Services in accordance with their enforcement activities under HIPAA,
- Uses of disclosures required by law, and
- Uses of disclosures required for the Plan's compliance with the HIPAA privacy regulations.

This Notice does not apply to information that has been de-identified. **De-identified information** is information that does not identify you and there is no reasonable basis to believe that the information can be used to identify you.

As described in the amended Plan document, the Plan may share PHI with the Plan Sponsor for limited administrative purposes, such as determining claims and appeals, performing quality assurance functions and auditing and monitoring the Plan. The Plan shares the minimum information necessary to accomplish these purposes.

In addition, the Plan may use or disclose "summary health information" to the Plan Sponsor for obtaining premium bids or modifying, amending or terminating the group health Plan. **Summary health information** means information that summarizes claims history, claims expenses or type of claims experienced by individuals for whom the Plan Sponsor has provided health benefits under a group health plan. Identifying information will be deleted from summary health information, in accordance with HIPAA.

Your Right to File a Complaint

If you believe that your privacy rights have been violated, you may file a complaint with the Plan in care of the Plan's Privacy Officer, at the address listed on the first page of this Notice. Neither your employer nor the Plan will retaliate against you for filing a complaint.

You may also file a complaint (within 180 days of the date you know or should have known about an act or omission) with the Secretary of the U.S. Department of Health and Human Services by contacting the Office for Civil Rights, U.S. Department of Health & Human Services 90 Seventh St., Suite 4-100 San Francisco, CA 94103 phone: (415) 437-8310 or (415) 437-8311 (TDD) or fax: (415) 437-8329 or this website: <http://www.hhs.gov/ocr/privacy/hipaa/complaints/index.html> or contact the Plan's Privacy Officer for more information about how to file a complaint.

If You Need More Information

If you have any questions regarding this Notice or the subjects addressed in it, you may contact the Plan's Privacy Officer at the address listed on the first page of this Notice.

Attachment.