

Kyrene Employees Benefit Trust Privacy Notice

Purpose of This Notice and Effective Date

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

This Notice is required by law. Esta noticia es disponible en español si usted lo solicita. Por favor contacte 480-783-4017.

The Kyrene School District's self-funded Medical Plan, Dental (PPO) Plan, Vision Plan, Third Party Claims Administrator (TPA), Utilization Review/Case Management, Prescription Benefit Management (PBM), Executive Medical Plan, Flexible Spending Account (Medical Reimbursement/Health FSA Account), COBRA Administrator, and Benefits Plan Administrator, (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:

1. The Plan's uses and disclosures of PHI,
2. Your rights to privacy with respect to your PHI,
3. The Plan's duties with respect to your PHI,
4. Your right to file a complaint with the Plan and with the Secretary of the U.S. Department of Health and Human Services, and
5. The person or office you should contact for further information about the Plan's privacy practices.

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 offered by Kyrene School District. 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 the Kyrene Employee Benefit Trust benefit 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 **April 14, 2003**. Updated October 2007.

Privacy Officer / Contact Person

The Plan has designated a Privacy Officer to oversee the administration of privacy by the Plan and a person to receive complaints, the Contact Person. The Privacy Officer may be contacted at:

Privacy Officer/designee	Contact Person / designee
Kyrene School District's Chief Financial Officer 8700 S. Kyrene Road Tempe, AZ 85284 Phone: 480-783-4057 Fax: 480-783-4002	Employee Benefits Asst. Director – Human Resources 8700 S. Kyrene Road Tempe, AZ 85284 Phone: 480-783-4017 Fax: 480-783-7318

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 Kyrene School District in its role as your

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 FSA, drug testing, etc.

When the Plan May Disclose Your PHI

The Plan Sponsor has amended its Plan Documents to protect your PHI as required by federal law. 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 certain of 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.	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. <ul style="list-style-type: none"> • For example: The Plan discloses to a treating specialist the name of your treating primary care physician so that the specialist may ask for your x-ray results.
Payment is paying claims for health care and related activities.	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. <ul style="list-style-type: none"> • For example: The Plan tells your doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Plan. You ask the Privacy Officer for assistance in a claims issue such as payment or utilization activities.
Health Care Operations keep the Plan operating soundly.	Health care operations includes but is not limited to quality assessment and improvement, business planning and development, reviewing competence or qualifications of health care professionals, underwriting, 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. <ul style="list-style-type: none"> • For example: The Plan uses information about your medical claims to refer you to a disease 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.

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.

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 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.

Under this Plan your PHI will automatically be disclosed to internal Plan departments as outlined below, in order to facilitate processing of appropriate paperwork. If you disagree with this automatic disclosure by the Plan you may contact the Privacy Officer to request that such disclosure not occur without your written authorization:

- In the event of your death while you are covered by this Plan, when the Plan is notified it will automatically communicate this information to the appropriate internal departments such as payroll, life insurance, and third party administrators (TPA), medical, FMLA, Disability, Workers Compensation, Sick Leave Bank representatives.
- In the event the Plan is notified of a work-related illness or injury, the Plan will automatically communicate this information to the Industrial Commission and/or its designee, the Site Administrator, the Payroll Department, and the Human Resources department to allow the processing of appropriate paperwork.
- In the event the Plan is notified of a condition that may initiate a short term disability benefit, the Plan will automatically communicate this information to site administrator, Human Resource Supervisor, Employment Specialist or Technician and Payroll to allow the processing of appropriate paperwork.
- In the event the Plan is notified of a situation where it may be possible to initiate a medical leave under the Family and Medical Leave Act (FMLA) benefit, the Plan will automatically communicate this information to Human Resource Supervisor, Employment Specialist or Technician and Payroll to allow the processing of appropriate paperwork.
- Additionally, when the Plan is notified of any changes in an employee's coverage, the Plan will automatically communicate this information to Payroll to allow the processing of appropriate paperwork.

Note that PHI obtained by the plan sponsor's employees through Plan administration 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 is 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. 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.

4. 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).
5. 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 a good faith attempt has been made to provide you with 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.
6. When required for ***law enforcement purposes*** (for example, to report certain types of wounds).
7. 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, but only if the individual agrees to the disclosure or the covered entity is unable to obtain the individual's agreement because of emergency circumstances.
8. 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.
9. 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.

Except as otherwise indicated in this Notice, uses and disclosures will be made only with your written authorization subject to your right to revoke your authorization.

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 or Contact Person 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 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.

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 or Contact Person at their address listed on the first page of this Notice.

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 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 will be required to complete a form to request amendment of your PHI. Forms are available from the Privacy Officer or Contact Person at the address listed on the first page of this Notice. The covered entity will require individuals to make requests for amendment in writing and to provide a reason to support the requested amendment.

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 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 will 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.

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 be a completed, signed and approved Personal Representative form. You may obtain this form by contacting the Privacy Officer at their address listed on the first page of this Notice.

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.

The Plan will not recognize any individual as personal representative **unless** a Personal Representative form is completed. For example, **the Plan will NOT automatically consider a spouse to be the personal representative of an employee and vice versa.** You should also review the Plan's Policy and Procedure regarding Personal Representatives (available from the Privacy Officer or Contact Person) for a more complete description of the circumstances where the Plan will automatically consider an individual to be a personal representative.

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.

Notice Distribution: The Notice will be provided to each person when then initially enroll for benefits in the Plan (the Notice is provided in the Plan's Initial Enrollment packets). Within 60 days of a material change in the Notice, it will be provided to all individuals then covered under the Plan. The Notice is also available on the Plan's website: www.kyrene.org. The Notice will also be provided upon request. At least 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, you 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.

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.

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 with the Plan or the HHS Secretary

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 or Contact Person, at the address listed on the first page of this Notice. The Plan will not 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 their nearest office as listed in your telephone directory or contact the 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 or Contact Person at the address listed on the first page of this Notice.

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