

# 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 Medical plan options, the Health Flexible Spending Account (Health FSA), the Health Savings Account Administration, the COBRA Administration and the Employee Assistance Program (EAP) under contract with certain employers participating in NAPEBT, (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 (HHS), 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 NAPEBT 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 the NAPEBT 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 January 1, 2010.

### 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
<b>Coconino County Privacy Officer</b>	<b>Coconino County</b> 420 N. San Francisco Flagstaff, AZ 86001 Phone: 928-679-7100 Fax: 928-679-7123

Privacy Officer	Contact Information
<b>City of Flagstaff Privacy Officer</b>	<b>City of Flagstaff</b> 211 West Aspen Avenue Flagstaff, AZ 86001 Phone: 928-779-7698 Fax: 928-779-7693
<b>Flagstaff Unified School District #1 (FUSD) Privacy Officer</b>	<b>Flagstaff Unified School District #1 (FUSD)</b> 3285 E. Sparrow Ave. Flagstaff, AZ 86004 Phone: 928-527-6071 Fax: 928-527-6078
<b>Flagstaff Housing Authority Privacy Officer</b>	<b>Flagstaff Housing Authority</b> 3481 N. Fanning Dr. Flagstaff, AZ 86004 Phone: 928-526-0002 Fax: 928-526-3734
<b>Coconino Community College Privacy Officer</b>	<b>Coconino Community College</b> 2800 S. Lonetree Flagstaff, AZ 86001 Phone: 928-226-4268 Fax: 928-226-4114
<b>Northern Arizona Intergovernmental Public Transportation Authority (NAIPTA) Privacy Officer</b>	<b>Northern Arizona Intergovernmental Public Transportation Authority (NAIPTA)</b> 3773 N. Kaspar Drive Flagstaff, AZ 86004 Phone: 928-679-8920 Fax: 928-779-6868
<b>Coconino County Regional Accommodation School District Privacy Officer</b>	<b>Coconino County Regional Accommodation School District</b> 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.

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

## 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.

<b>Definitions and Examples of Treatment, Payment and Health Care Operations</b>	
<b>Treatment</b> 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"> <li>• <b>For example:</b> The Plan discloses to a treating specialist the name of your treating primary care physician so the two can confer regarding your treatment plan.</li> </ul>
<b>Payment</b> 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"> <li>• <b>For example:</b> 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 <b>“business associates.”</b></li> </ul>
<b>Health Care Operations</b> 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"> <li>• <b>For example:</b> 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.</li> </ul>

### **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. The Plan generally will require an authorization form for uses and disclosure of your PHI for **marketing** purposes.

## **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.

**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. 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 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.
6. When required for ***law enforcement health 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.
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. 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.
9. For ***research***, subject to certain conditions.

10. 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.
11. When authorized by and to the extent necessary to comply with *workers' compensation* or other similar programs established by law.
12. 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 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 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 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 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.

## **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 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.

**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](http://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.

## **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**

**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, 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.

5055643v3/00721.001

**Northern Arizona Public Employees Benefit Trust (NAPEBT)**

**Revoke a Personal Representative**

Complete the following chart to indicate the name of the Personal Representative to be revoked:

	<b>Plan Participant</b>	<b>Personal Representative</b>
<i>Name (print):</i>		
<i>Employer</i>		
<i>Address (City, State, Zip):</i>		
<i>Phone:</i>	(    )	(    )

I, \_\_\_\_\_ *Name of Participant or Beneficiary*  
hereby revoke \_\_\_\_\_ *(Personal Representative):*

- to act as a personal representative on my behalf,
- to act on as a personal representation on behalf of my dependent child(ren) named:

\_\_\_\_\_

\_\_\_\_\_

in receiving any protected health information (PHI) provided to a personal representative, including any individual rights regarding PHI under HIPAA, effective \_\_\_\_\_, 20\_\_\_\_.

I understand that PHI has or may already have been disclosed to the above named Personal Representative prior to the effective date of this form.

\_\_\_\_\_  
**Participant or Beneficiaries' Signature**

\_\_\_\_\_  
**Date**

*Once completed, please return this form to the appropriate Privacy Officer.*

5055643v3/00721.001