

MEMORANDUM
Mott Community College

To: All Mott Community College Employees and Dependents
From: Human Resources
Date: April 12, 2004
SUBJECT: Notice of College Privacy Practices

Mott Community College is required by applicable federal and state law to maintain the privacy of your and your dependents' health information. The College is also required to give you this notice about its privacy practices, legal duties, and your rights concerning your health information. The Privacy Notice below serves this purpose.

Some employees have asked if the law prevents an employer from obtaining *any* health information about an employee. The answer is no, there are several situations in which an employer may need to know certain health information about an employee. The attached HIPAA overview, after the Privacy Practices below, explains this.

Please review both documents carefully and feel free to contact Human Resources at 810-762-0566 should you have any questions or concerns.

MOTT COMMUNITY COLLEGE NOTICE OF PRIVACY PRACTICES

<p>This notice describes how medical information about you may be used and disclosed and how you can get access to this information. Please review it carefully.</p>
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Entities Covered by this Notice

THIS NOTICE APPLIES TO THE PRIVACY PRACTICES OF MOTT COMMUNITY COLLEGE HEALTH AND HEALTH-RELATED BENEFIT PLANS THAT MAY SHARE YOUR PROTECTED HEALTH INFORMATION AS NEEDED FOR TREATMENT, PAYMENT, AND HEALTH CARE OPERATIONS.

Our Commitment Regarding Your Protected Health Information

WE UNDERSTAND THE IMPORTANCE OF YOUR PROTECTED HEALTH INFORMATION (HEREINAFTER REFERRED TO AS “PHI”) AND FOLLOW STRICT POLICIES (IN ACCORDANCE WITH STATE AND FEDERAL PRIVACY LAWS) TO KEEP YOUR PHI PRIVATE. PHI IS INFORMATION ABOUT YOU, INCLUDING DEMOGRAPHIC DATA, THAT CAN REASONABLY BE USED TO IDENTIFY YOU AND THAT RELATES TO YOUR PAST, PRESENT, OR FUTURE PHYSICAL OR MENTAL HEALTH, THE PROVISION OF HEALTH CARE TO YOU, OR THE PAYMENT FOR THAT CARE.

In this notice, we explain how we protect the privacy of your PHI, and how we will allow it to be used and given out (“disclosed”). We must follow the privacy practices described in this notice while it is in effect. This notice takes effect on April 14, 2004 and will remain in effect until we replace or modify it.

We reserve the right to change our privacy practices and the terms of this notice at any time, providing that applicable law permits such changes. These revised practices will apply to your PHI regardless of when it was created or received. Before we make a material change to our privacy practices, we will mail a revised notice to our plan participants.

Where multiple state or federal laws protect the privacy of your PHI, we will follow the requirements that provide the greatest privacy protection.

Our Uses and Disclosures of Protected Health Information

We do not sell your PHI to anyone or disclose your PHI to other companies who may want to sell their products to you (*e.g.* catalog or telemarketing firms).

We must have your written authorization to use and disclose your PHI, except for the following uses and disclosures:

- **To You and Your Personal Representative:** We may disclose your PHI to you or your personal representative (someone who has the legal right to act for you).
- **For Treatment:** Mott Community College may use and disclose your PHI to health care providers (doctors, dentists, pharmacies, hospitals, and other care givers) who request it in connection with your treatment. For example, Mott Community College may disclose your PHI to health care providers in connection with disease management and case management programs or our Employee Assistance Program.
- **For Payment:** We may use and disclose your PHI for our plan's payment-related activities and those of health care providers and other health plans, including for example:
 - ❖ Obtaining premiums and determining eligibility for benefits.
 - ❖ Paying claims for health care services that are covered by your health plan.
 - ❖ Responding to claim-related inquiries or appeals.
 - ❖ Coordinating benefits with other insurance or health plans that you may have.
- **For Health Care Operations:** We may use and disclose your PHI for our plan's health care operations, including for example:
 - ❖ Conducting quality assessment and improvement activities, including peer review, credentialing of health care providers, and accreditation.
 - ❖ Performing outcome assessments and health claims analysis.
 - ❖ Preventing, detecting, and investigating fraud and abuse.
 - ❖ Underwriting, rating, and stop-loss activities.
 - ❖ Coordinating case and disease management activities.
 - ❖ Communicating with you about treatment alternatives or other health-related benefits and services.
 - ❖ Performing business management and other general administrative activities, including systems management.

Mott Community College may also disclose your PHI to other providers and health plans who have a relationship with you for certain of their health care operations. For example, we may disclose your PHI for their quality assessment and improvement activities or for health care fraud and abuse detection.

- **To Others Involved in Your Care:** We may under certain circumstances disclose to a member of your family, a relative, a close friend or any other person you identify, the PHI directly relevant to that person's involvement in your health care or payment for health care. For example, we may discuss a claim determination with you in the presence of a friend or relative, unless you object.
- **When Required by Law:** We will use and disclose your PHI if we are required to do so by law. For example, we will use and disclose your PHI in responding to court and administrative orders and subpoenas, and to comply with workers' compensation laws. We will disclose your PHI when required by the Secretary of the Department of Health and Human Services and state regulatory authorities.

- **For Matters in the Public Interest:** Mott Community College may use or disclose your PHI without your written permission for matters in the public interest, including for example:
 - ❖ Public health and safety activities, including disease and vital statistics reporting, child abuse reporting, and Food and Drug Administration oversight.
 - ❖ Reporting adult abuse, neglect, or domestic violence.
 - ❖ Reporting to organ procurement and tissue donation organizations.
 - ❖ Averting a serious threat to the health or safety of others.
- **For Research:** We may use your PHI to perform select research activities, provided that certain established measures to protect your privacy are in place.
- **To Our Business Associates:** From time to time we engage third parties to provide various plan services to us. Whenever an arrangement with such a third party involves the use or disclosure of your PHI, we will have a written contract with that third party designed to protect the privacy of your PHI. For example, we may share your information with business associates who process claims, analyze our plan's utilization, or conduct disease management programs on our behalf.

Disclosures You May Request

You may instruct us, and give your written authorization, to disclose your PHI to another party for any purpose. We require your authorization to be on our standard form. To obtain the form, contact Human Resources.

Individual Rights

You have the following rights. To exercise these rights, you must make a written request on our standard form. To obtain the form contact Human Resources.

- **Access:** With certain exceptions, you have the right to look at or receive a copy of your PHI contained in the group of records that are used by or for us to make decisions about you, including our enrollment, payment, claims adjudication, and case or medical management notes. We reserve the right to charge a reasonable cost-based fee for copying and postage. If you request an alternative format, such as a summary, we may charge a cost-based fee for preparing the summary. If we deny your request for access, we will tell you the basis for our decision and whether you have the right to further review.
- **Disclosure Accounting:** You have the right to an accounting of certain disclosures of your PHI, such as disclosures required by law. This accounting requirement applies to disclosures we make beginning on or after April 14, 2004. If you request this accounting more than once in a 12-month period, we may charge you a fee covering the cost of responding to these additional requests.
- **Restriction Requests:** You have the right to request that we place restrictions on the way we use or disclose your PHI for treatment, payment, or health care operations. We are not required to agree to these additional restrictions; but if we do, we will abide by them (except as needed for emergency treatment or as required by law) unless we notify you that we are terminating our agreement.
- **Amendment:** You have the right to request that we amend your PHI in the set of records we described above under Access. If we deny your request, we will provide you with a written explanation. If you disagree, you may have a statement of your disagreement placed in our records. If we accept your request to amend

the information, we will make reasonable efforts to inform others, including individuals you name, of the amendment.

- **Confidential Communications:** We communicate decisions related to payment and benefits, which may contain PHI, to our employee. Individual plan participants who believe this practice may endanger them may request that we communicate with them using a reasonable alternative means or location. For example, an individual participant may request that we send an Explanation of Benefits to a post office box instead of to the employee's address. To request confidential communications, please contact Human Resources.

Questions and Complaints:

If you want more information about our privacy practices, or a written copy of this notice, please contact us at:

Mott Community College
Human Resources, CM1024
1401 East Court Street
Flint, MI 48503
Telephone: (810) 762-0497
Fax: (810) 762-0595

If you are concerned that we may have violated your privacy rights, or you believe we may have inappropriately used or disclosed your PHI, call us at the telephone number above, or write to us at the above address.

You may also submit a written complaint to the U.S. Department of Health and Human Services. We will provide you with their address to file your complaint upon request. We support your right to protect the privacy of your PHI. We will not take action against you if you file a complaint with us or with the U.S. Department of Health and Human Services.

HIPAA

An Overview

In 1996, Congress passed the Health Insurance Portability and Accountability Act (HIPAA). HIPAA is a comprehensive health reform act which, for the first time, creates a national standard which gives individuals more control over their personal health information. Among other things, HIPAA regulations facilitate the electronic transmission of patient health, administrative and financial data. HIPAA also was enacted to enable individuals to find out how their medical information may be used. Furthermore, HIPAA establishes security standards designed to protect against the indiscriminate disclosure of an individual's personal health information.

The basic principle of HIPAA is fairly straightforward: organizations that possess personal information related to an individual's health care (or payment for health care) cannot disclose it, except in the following limited circumstances: (1) to the individual, pursuant to a signed, dated general consent form, in order to carry out treatment, payment or health care operations; (2) if not for treatment, payment or health care operations, then pursuant to a signed, dated and narrowly crafted authorization; or (3) to the government for purposes of public health, abuse/neglect investigation, fraud prevention, etc.

Without a doubt, one of the most important aspects of HIPAA is the protection of personal health information (PHI). PHI is defined as any information, in any form, created or received by a provider, health plan, insurer or employer, that relates to past, present or future health care or payments. Any such information, which can be personally identified by a person's name, social security number, employee number or other identifier, is considered PHI and falls under the domain of HIPAA.

Generally, HIPAA regulations apply only to "covered entities". These include group health plans, health care providers and health care clearinghouses. Specifically not covered under HIPAA regulations are employers. However, this does not mean that an employer should simply disregard HIPAA as there are many instances where an employer will fall within the regulations. For example, an employer, as plan sponsor of a group health plan, must take measures to ensure that the group health plan complies with HIPAA. An employer must also agree to comply with the rules if it helps administer a health plan and ensure that its health plans comply with the rules.

There are also many situations when an employer may receive PHI from a covered entity. Such disclosures are regulated by HIPAA. An employer may receive PHI from a covered entity only for any purpose consistent with an individual's signed written authorization or to advocate for an employee who has a benefit dispute or other claim with a health plan. Additionally, an employer may receive PHI in order to enroll an employee in a health plan, or to amend or terminate such a plan. An employer may also receive and use PHI to perform health plan administrative functions, but only pursuant to the restrictions in the HIPAA compliance plan governing the covered entity.

On the other hand, there are situations where the employer may request PHI from an employee outside of the domain of HIPAA. Nothing in the HIPAA regulations prohibits employers from conditioning employment on an individual signing the appropriate consent or authorization so that an employer may seek certain PHI. This may include drug test results, fitness-to-work assessments or other tests permitted by state or federal laws. Furthermore, employers may have to request PHI to carry out their obligations under the Family and Medical Leave Act (FMLA) or the Americans with Disabilities Act (ADA). For example, return-to-work exams or FMLA leave reviews which contain PHI. These employment functions are not HIPAA-covered activities.

The Health and Insurance Portability Act places many restrictions on the disclosure and use of an individual's health and medical information. Such restrictions are meant to further the Act's goal of keeping "private information private". But the restrictions were not created to entirely eliminate the disclosure of PHI. There remain various situations where such health and medical information can be disclosed and many of these situations fall within the employer/employee relationship.