



## Jaeger & Flynn Associates, Inc. and JFA Flex Plan Services Notice of Privacy Practices

**THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW THIS NOTICE CAREFULLY.**

This Notice describes the legal obligations of Jaeger & Flynn Associates, Inc. (“JFA”) and JFA’s Flex Plan Services (the “Plan”), and your legal rights regarding your protected health information held by JFA and the Plan under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Among other things, this Notice describes how your protected health information may be used or disclosed to carry out treatment, payment, or health care operations, or for any other purposes that are permitted or required by law.

We are required to provide this Notice of Privacy Practices (the “Notice”) to you pursuant to HIPAA.

The HIPAA Privacy Rule protects only certain medical information known as “protected health information” (PHI). Generally, protected health information is individually identifiable health information, including demographic information, collected from you or created or received by a health care provider, a health care clearinghouse, a health plan or your employer on behalf of a group health plan that relates to:

- (1) your past, present or future physical or mental health or condition;
- (2) the provision of health care to you; or
- (3) past, present or future payment for the provision of health care to you.

If you have any questions about this Notice or about JFA’s privacy practices, please contact JFA’s **Privacy Officer, Jaeger & Flynn Associates, Inc., 5 Wells Street, Saratoga Springs, NY 12866, Telephone 518-373-0069; Fax 518-373-0121.**

**Effective Date:** This Notice is effective through **September 30, 2021.**

### **JFA’s Responsibilities**

JFA and the Plan are required by law to maintain the privacy of PHI and to provide participants with notice of its legal duties and privacy practices.

### **State Law**

To the extent that State law is more restrictive with respect to our ability to use or disclose your PHI, or to the extent that it affords you greater rights with respect to the control of such information, JFA will follow applicable State law. This may arise if your PHI contains information relating to HIV/AIDS, mental health, substance abuse/chemical dependency and genetic testing, among others. We are required by law to:

- maintain the privacy of your PHI;
- provide you with certain rights with respect to your PHI;
- provide you with a copy of this Notice Privacy Practices; and
- follow the terms of the Notice that are currently in effect.

JFA reserves the right to change the terms of this Notice and to make new provisions regarding your PHI, as allowed or required by law. If we make any material change to this Notice, we will provide you with a copy of our revised Notice of Privacy Practices **by mail or email to your last-known address on file, or by posting, if applicable to a JFA-hosted Client site with follow-up email.**

### **How We May Use and Disclose Your Protected Health Information**

Under the law, we may use or disclose your protected health information under certain circumstances without your permission. HIPAA's "Minimum Necessary Standard" will be used when using or disclosing PHI or when requesting PHI from another covered entity. With that said, JFA 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. Minimum Necessary Standard does not apply to information that has been de-identified. De-identified information is information that does not identify an individual and there is no reasonable basis to believe that the information can be used to identify an individual or an individual's health information.

The following categories describe the different ways that we may use and disclose your PHI. For each category of uses or disclosures, we will explain what we mean and present some examples. Not every use or disclosure in a category will be listed. However, all of the ways we are permitted to use and disclose information will fall within one of the categories.

- 1. For Payment.** We may use or disclose your protected health information to determine your eligibility for Plan benefits, to facilitate payment for the treatment and services you receive from health care providers, to determine benefit responsibility under the Plan, or to coordinate Plan coverage. For example, we may tell your health care provider about your medical history to determine whether a particular treatment is experimental, investigational, or medically necessary, or to determine whether the Plan will cover the treatment. We may also share your protected health information during a utilization review or with a precertification service provider. Likewise, we may share your protected health information with another entity to assist with the adjudication or subrogation of health claims or to another health plan to coordinate benefit payments.
- 2. For Health Care Operations.** We may use and disclose your protected health information for other Plan operations. These uses and disclosures are necessary for the Plan to operate and for JFA to assist in administering the Plan. For example, we may use medical information in connection with conducting quality assessment and improvement activities; underwriting, premium rating and other activities related to Plan coverage; submitting claims for stop-loss (or excess-loss) coverage; conducting or arranging for medical review, legal services, audit services, and fraud & abuse detection programs; business planning and development such as cost management; and business management and general Plan administrative activities.
- 3. To Business Associates.** We may contract with individuals or entities known as Business Associates to perform various functions on our behalf or to provide certain types of services that require the use or disclosure of your PHI. In order to perform these functions or to provide these services, Business Associates will receive, create, maintain, use and/or disclose your protected health information, but only after they agree in writing with us to implement appropriate safeguards regarding your protected health information. For example, we may disclose your protected health information to a Business Associate to administer claims or to provide support services, such as utilization management, pharmacy benefit management or subrogation, but only after the Business Associate enters into a Business Associate Agreement with JFA.

4. **As Required by Law.** We will disclose your protected health information when required to do so by federal, state or local law. For example, we may disclose your protected health information when required by national security laws or public health disclosure laws, or during a national or state of emergency caused by serious illness or a pandemic.
5. **To Avert a Serious Threat to Health or Safety.** We may use and disclose your protected health information when necessary to prevent a serious threat to your health and safety, or the health and safety of the public or another person. Any disclosure, however, would only be to someone able to help prevent the threat. For example, we may disclose your protected health information in a proceeding regarding the licensure of a physician. We may also disclose your personal health information to assist federal or state health officials and/or paramedics or other first responders, in preventing further spread of disease or infection related to a pandemic. Specifically, JFA may disclose protected health information: (a) of an individual who has been infected with or exposed to COVID-19, when such disclosure is needed to provide treatment; (b) when the notification is required by law to confirm or details suspected cases of infectious disease to public health officials; (c) to notify a public health authority in order to prevent or control spread of disease; (d) when first responders may be at risk of infection; (e) when the disclosure is necessary to prevent or lessen a serious and imminent threat to the health and safety of a person or the public; or (f) when responding to a request by a correctional institution or law enforcement official having lawful custody of an inmate or other individual.
6. **To Plan Sponsors.** For the purpose of administering your plan(s), we may disclose to JFA employees certain protected health information. However, those employees will only use or disclose that information as necessary to perform plan administration functions or as otherwise authorized by HIPAA, unless you have authorized further disclosures (or limited such). Your protected health information cannot be used for employment purposes without your specific authorization.

### **Special Situations**

In addition to the above, the following categories describe other possible ways that JFA may use and disclose your PHI. For each category of uses or disclosures, we will explain what we mean and present some examples. Not every use or disclosure in a category will be listed. However, all of the ways we are permitted to use and disclose information will fall within one of the categories.

1. **Organ and Tissue Donation.** If you are an organ donor, we may release your protected health information to organizations that handle organ procurement or organ, eye, or tissue transplantation or to an organ donation bank, as necessary to facilitate organ or tissue donation and transplantation.
2. **Military and Veterans.** If you are a member of the armed forces, we may release your protected health information as required by military command authorities. We may also release protected health information about foreign military personnel to the appropriate foreign military authority.
3. **Workers' Compensation.** We may release your protected health information for workers' compensation or similar programs. These programs provide benefits for work-related injuries or illness.
4. **Public Health Risks.** We may disclose your protected health information for public health actions. These actions generally include the following:
  - to prevent or control infection, disease, injury, or disability;
  - to report births and deaths;

- to report child abuse or neglect;
- to report reactions to medications or problems with products;
- to notify people of recalls of products they may be using;
- to notify a person who may have been exposed to a disease or may be at risk for contracting or spreading an infection, disease or condition; and/or
- to notify the appropriate government authority if we believe that a patient has been the victim of abuse, neglect, or domestic violence. We will only make this disclosure if you agree, or when required or authorized by law.

**5. Health Oversight Activities.** We may disclose your protected health information to a health oversight agency for activities authorized by law. These oversight activities include, for example, audits, investigations, inspections, and licensure. These activities are necessary for the government to monitor the health care system, government programs, and compliance with civil rights laws.

**6. Lawsuits and Disputes.** If you are involved in a lawsuit or a dispute, we may disclose your protected health information in response to a court or administrative order. We may also disclose your protected health information in response to a subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if efforts have been made to inform you about the request or to obtain an order protecting the information requested from disclosure.

**7. Law Enforcement.** We may disclose your protected health information if asked to do so by a law enforcement official:

- in response to a court order, subpoena, warrant, summons or similar process;
- to identify or locate a suspect, fugitive, material witness or missing person;
- about the victim of a crime if, under certain limited circumstances, we are unable to obtain the victim's authorization;
- about a death that we believe may have been the result of criminal conduct;
- about criminal conduct; and
- in emergency circumstances to report a crime; the location of the crime or victims; or the identity, description or location of the person who committed the crime.

**8. Coroners, Medical Examiners and Funeral Directors.** We may release protected health information to a coroner or medical examiner. This may be necessary, for example, to identify a deceased person or determine the cause of death. We may also release medical information about patients to funeral directors as necessary to carry out their duties.

**9. National Security and Intelligence Activities.** We may release your protected health information as required by federal officials for intelligence, counterintelligence, and other national security activities authorized by law.

**10. Inmates.** If you are an inmate of a correctional institution or are in the custody of a law enforcement official, we may disclose your protected health information to the correctional institution or law enforcement official if necessary: (a) for the institution to provide you with health care; (b) to protect your health and safety or the health and safety of others; or (c) for the safety and security of the correctional institution or law enforcement.

**11. Research.** We may disclose your protected health information to researchers when:

- (1) the individual identifiers have been removed (it has been de-identified); or

- (2) an institutional review board or privacy board has: (a) reviewed the research proposal; and (b) established protocols to ensure the privacy of the requested information, and approves the research.

### **Required Disclosures**

The following is a description of disclosures of your PHI we are required to make.

- 1. Government Audits.** We are required to disclose your protected health information to the Secretary of the United States Department of Health and Human Services when the Secretary is investigating or determining our compliance with the HIPAA privacy rule.
- 2. Disclosures to You.** When you request, we are required to disclose to you the portion of your protected health information that contains medical records, billing records, and any other records used to make decisions regarding your health care benefits. We are also required, when requested, to provide you with an accounting of most disclosures of your protected health information if the disclosure was for reasons other than for payment, treatment, or health care operations, and/or if the protected health information was not disclosed pursuant to your individual authorization.

### **Other Disclosures**

- 1. Personal Representatives.** We will disclose your PHI to individuals authorized by you, or to an individual designated as your personal representative, attorney-in-fact, etc., so long as you provide us with a written notice/authorization and any supporting documents (i.e., power of attorney). Note: Under the HIPAA Privacy Rule, we do not have to disclose information to a personal representative if we have a reasonable belief that:
  - (a) you have been, or may be, subjected to domestic violence, abuse or neglect by such person;
  - (b) treating such person as your personal representative could endanger you; or
  - (c) in the exercise or professional judgment, it is not in your best interest to treat the person as your personal representative.
- 2. Spouses and Other Family Members.** With only limited exceptions, we will send all mail to the employee. This includes mail relating to the employee's spouse and other family members who are covered under the Plan, and includes mail with information on the use of Plan benefits by the employee's spouse and other family members and information on the denial of any Plan benefits to the employee's spouse and other family members. If a person covered under the Plan has requested Restrictions or Confidential Communications (see below under "Your Rights"), and if we have agreed to the request, we will send mail as provided by the request for Restrictions or Confidential Communications.
- 3. Authorizations.** Other uses or disclosures of your protected health information not described above will only be made with your written authorization. You may revoke written authorization at any time, so long as the revocation is in writing. Once we receive your written revocation, it will only be effective for future uses and disclosures. It will not be effective for any information that may have been used or disclosed in reliance upon the written authorization and prior to receiving your written revocation.

Please note that JFA and the Plan may not, without your written authorization, use or disclose any of your protected health information for marketing purposes or make any disclosures that constitute a sale of such protected health information. Further, if the Plan maintains any psychotherapy notes, such notes may not be used or disclosed without your written authorization.

## Your Rights

You have the following rights with respect to your PHI:

- 1. Right to Inspect and Copy.** You have the right to inspect and copy certain protected health information that may be used or disclosed to make decisions about your health care benefits. To inspect and copy your protected health information, you must submit your request in writing to JFA's **Privacy Officer, Jaeger & Flynn Associates, Inc., 5 Wells Street, Saratoga Springs, NY 12866, Telephone 518-373-0069; Fax 518-373-0121.**

If you request a copy of the information, we may charge a reasonable fee for the costs of copying, mailing, or other supplies associated with your request.

We may deny your request to inspect and copy in certain, very limited circumstances. If you are denied access to your medical information, you may request that the denial be reviewed by submitting a written request to the JFA's **Privacy Officer.**

- 2. Right to Amend.** If you feel that the protected health information we have about you is incorrect or incomplete, you may ask us to amend the information. You must provide a reason that supports your request. You have the right to request an amendment for as long as the information is kept by or for the Plan. To request an amendment, your request must be made in writing and submitted to the **Privacy Officer**, at the above address.

JFA may deny your request for an amendment if it is not in writing or does not include a reason to support the request. In addition, we may deny your request if you ask us to amend information that:

- is not part of the medical information kept by or for the Plan;
- was not created by us, unless the person or entity that created the information is no longer available to make the amendment;
- is not part of the information that you would be permitted to inspect and copy; or
- is already accurate and complete.

If we deny your request, you have the right to file a statement of disagreement with JFA and any future disclosures of the disputed information will include your statement.

- 3. Right to an Accounting of Disclosures.** You have the right to request an "accounting" of certain disclosures of your protected health information. The accounting will not include: (a) disclosures for purposes of treatment, payment, or health care operations; (b) disclosures made to you; (c) disclosures made pursuant to your authorizations; (d) disclosures made to friends or family in your presence or because of an emergency; (e) disclosures for state or national security purposes; and (f) disclosures incidental to otherwise permissible disclosures.

To request this list or accounting of disclosures, you must submit your request in writing to JFA's **Privacy Officer**, at the above address. Your request must state a time period of no longer than six (6) years and may not include dates before April 14, 2003. Your request should indicate in what form you want the list (e.g., paper or electronic). The first list you request within a 12-month period will be provided free of charge. For additional lists, we may charge you for the costs of providing the list. We will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

- 4. Right to Request Restrictions.** You have the right to request a restriction or limitation on your protected health information used or disclosed for treatment, payment, or health care operations. You also have the right to

request a limit on your protected health information that we disclose to someone who is involved in your care or the payment for your care, such as a family member or friend. For example, you could ask that we not use or disclose information about a specific surgery that you had.

Except as provided in the next paragraph, we are not required to agree to your request. However, if we do agree to the request, we will honor the restriction until you revoke it or we otherwise notify you.

To request restrictions, you must send your request in writing to JFA's **Privacy Officer**, at the above address. In your request, you must include: (a) what information you want to limit; (b) whether you want to limit our use, disclosure, or both; and (c) to whom you want the limits to apply. JFA will comply with any restriction request so long as it is not regarding disclosure to the health plan for the purposes of carrying out treatment.

- 5. Right to Request Confidential Communications.** You have the right to request that we communicate with you about medical matters in a certain way or at a certain location. For example, you can ask that we only contact you at work or by mail. To request confidential communications, you must make your request in writing to JFA's **Privacy Officer**, at the above address.

We will not ask you the reason for your request. Your request must specify how or where you wish to be contacted. We will accommodate all reasonable requests if you clearly provide information that the disclosure of all or part of your protected information could negatively affect you.

- 6. Right to Be Notified of a Breach.** You have the right to be notified in the event that we (or a Business Associate) discover a breach of unsecured protected health information.
- 7. Right to a Paper Copy of this Notice.** You have the right to a paper copy of this notice. You may ask us to give you a copy of this notice at any time. Even if you have agreed to receive this notice electronically, you are still entitled to a paper copy of this notice. To obtain a paper copy of this Notice, send request to JFA's **Privacy Officer**, at the above address.

At all times, you may obtain a copy of this notice at our website at: [www.jaegerflynn.com](http://www.jaegerflynn.com).

**Complaints.** If you believe that your privacy rights have been violated, you may file a complaint with the Plan or with the Office for Civil Rights of the United States Department of Health and Human Services, using its electronic complaint online portal at: <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf> (please note that due to the COVID-19 Pandemic in 2020, that all complaints should be made using the online portal instead of mailing such complaints. To file a complaint with the Plan, contact JFA's Privacy Officer, Jaeger & Flynn Assoc., Inc., 5 Wells Street, Saratoga Springs, NY 12866, T: 518-373-0069, F: 518-373-0121. All complaints to the Plan must be submitted in writing.

You will not be penalized, or in any other way retaliated against, for filing a complaint with the Office of Civil Rights or with JFA.