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**www.ufcwtrust.com**

December 14, 2018

**TO: All Participants and Spouses**

**FROM: The Board of Trustees**  
**UFCW Comprehensive Benefits Trust**

**– IMPORTANT NOTICE OF PRIVACY PRACTICES –**

**Section 1: Purpose of This Notice and Effective Date**

*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.*

**Effective Date**

The effective date of this Notice is January 1, 2018.

**This Notice Is Required By Law**

The UFCW Comprehensive Benefits Trust (the “Plan”) is required by law, including the federal Health Insurance Portability and Accountability Act of 1996, known as HIPAA, to take reasonable steps to ensure the privacy of your personally identifiable health information and to inform you about:

- The Plan’s uses and disclosures of Protected Health Information (“PHI”)
- Your rights to privacy with respect to your PHI
- The Plan’s duties with respect to your PHI
- Your right to file a complaint with the Plan and with the Secretary of the United States Department of Health and Human Services (HHS)
- The person or office you should contact for further information about the Plan’s privacy practices

## Section 2: Your Protected Health Information

### Definitions

- ***Protected Health Information (PHI) Defined***

The term “Protected Health Information” (PHI) as defined by HIPAA includes all individually identifiable health information related to your past, present or future physical or mental health conditions, the provision of health care to you, or to past, present, or future payment for the provision of health care to you. PHI includes information transmitted, created or maintained by the Plan in oral, written, or electronic form.

- ***De-Identified PHI***

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.

- ***Personal Representative***

You may exercise your rights through a Personal Representative. Your Personal Representative will be required to produce evidence of authority to act on your behalf before your Personal Representative will be given access to your PHI or be allowed to take any action for you. Proof of such authority includes: (1) a completed and signed approved Appointment of Personal Representative form; (2) a notarized power of attorney for health care purposes; or (3) a court-appointed conservator or guardian. You may obtain the Plan's approved Appointment of Personal Representative form by calling the Fund office or by going online at [www.ufcwtrust.com](http://www.ufcwtrust.com) to download the form.

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.

Subject to applicable law, the Plan will recognize certain individuals as Personal Representatives without you having to provide proof of authority as described above. For example, the Plan will automatically consider a spouse to be the Personal Representative of an individual covered by the Plan unless HIPAA or other applicable law provides otherwise. In addition, the Plan will consider a parent or guardian as the Personal Representative of an unemancipated minor unless applicable law requires otherwise. Therefore, a spouse or a parent generally may act on an individual's behalf, including requesting access to their PHI, unless applicable law requires otherwise in specific cases.

Spouses and unemancipated minors may, however, request that the Plan restrict information that goes to family members as described in Section 3 of this Notice.

You may also review the Plan's Policy and Procedure for the Recognition of Personal Representatives for a more complete description of the circumstances where the Plan will automatically consider an individual to be a Personal Representative.

### **Use or Disclosure of Your PHI For Which Consent, Authorization or Opportunity to Object Is Not Required**

The Plan is allowed under federal law to use and disclose your PHI without your consent or authorization, and without giving you an opportunity to object, under the following circumstances:

- ***As required by HHS.*** The Secretary of the United States 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 may use PHI in order to carry out treatment, payment or health care operations.

- ▶ ***Treatment*** is the provision, management or coordination of health care and related services with health care providers or other covered entities. It also includes, but is not limited to, consultations and referrals between one or more of your providers (including in connection with case management programs), alerting you to an available case or disease management program or care coordination if you are diagnosed with certain diseases or illnesses, such as diabetes, precertification for hospitalization or certain procedures or diagnostic services, assisting your health care providers in determining an appropriate course of treatment, and providing you information about other health-related benefits or services that may be of interest to you, including health-related products or services (or payment for such product or service) that is provided by, or included in your Plan benefits, or other health-related products or services, only available to you, that add value to, but are not part of, your Plan benefits.

For example, the Plan may disclose information about your health care to a provider for coordination of your care in the event you require multiple services for an illness or treatment plan.

- ▶ ***Payment*** includes, but is not limited to, actions to make eligibility or coverage determinations or undertake collection activities (including billing, claims management, subrogation, plan reimbursement, coordination of benefits, reimbursing you or your health care providers for covered services, determining proper payment of your claim under another plan, reviews for medical necessity and appropriateness of care and utilization review and preauthorizations).

For example, the Plan may tell a doctor whether you are eligible for coverage or what percentage of the bill will be paid by the Plan.

- ▶ ***Health Care Operations*** includes, but is not limited to, quality assessment and improvement, reviewing competence or qualifications of health care professionals, enrollment, underwriting, submitting claims for stop-loss (or excess loss) coverage,

premium rating and other insurance activities relating to creating or renewing insurance contracts. However, the Plan will not use or disclose "genetic information" for "underwriting purposes" (as such terms are defined by HIPAA). 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 disclosure of certain information to an employer regarding claims that should not have been paid because a person was not eligible or otherwise not entitled to coverage), business planning and development, business management and general administrative activities. It also includes conducting data analyses for health improvement, cost-control, protocol development or planning-related purposes, creating limited data sets or de-identified health information in accordance with the requirements of HIPAA, providing you with customer service, and effecting the merger or consolidation of the Plan and/or its plans with another plan.

For example, the Plan may use information about your claims to refer you to a disease management program or a well-pregnancy program, to project future benefit costs or to audit the accuracy of its claims processing functions.

- ***Disclosure to the Plan's Trustees.*** The Plan may also disclose PHI to its Plan Sponsor for purposes related to, but not limited to, treatment, payment, and health care operations, and has amended the Plan Documents to permit this use and disclosure as required by federal law. The "Plan Sponsor" of this Plan is the UFCW Comprehensive Benefits Trust Board of Trustees. For example, the Plan may disclose protected health information to the Plan Sponsor for reviewing your appeal of a benefit claim or for other reasons regarding the administration of this Plan, including review of a subrogation claim.
- ***When required by applicable law.***
- ***Public health purposes.*** To an authorized public health authority if required by law or for public health and safety purposes. For example, the Plan may disclose your PHI when necessary to enable product recalls or repairs. The Plan may also use or disclose your PHI if you have been exposed to a communicable disease or are at risk of spreading a disease or condition, if authorized by law. The Plan may also disclose your PHI: to a public health authority for the prevention or control of disease, injury or disability; to a proper government or health authority to report child abuse or neglect; to report reactions to medications or problems with products regulated by the Food and Drug Administration; to notify individuals of recalls of medication or products they may be using; or to a proper government or health authority to report births and deaths.
- ***Domestic violence or abuse situations.*** If a reasonable belief exists that you may be a victim of abuse, neglect or domestic violence, the Plan may report information about abuse, neglect or domestic violence to public authorities (1) when required by law; (2) if you agree to such disclosure; or (3) when the Plan is authorized by law and the disclosure is necessary to prevent serious harm to you or other potential victims. In such case, the Plan will promptly inform you or your Personal Representative that such a disclosure has been or will be made unless that would place you at a risk of serious harm or if the Plan would be

informing a Personal Representative that it reasonably believes is responsible for the abuse. In the case of child abuse, it is not necessary for the Plan to inform the child of such disclosure.

- ***Health oversight activities.*** To a health oversight agency for oversight activities authorized by law. These activities include audits, civil, administrative or criminal investigations, inspections, licensure or disciplinary actions (for example, to investigate complaints against health care providers); civil, administrative, or criminal proceedings or actions; and other activities necessary for appropriate oversight of government benefit programs (for example, to the Department of Labor, state insurance departments, and the federal and state agencies which oversee the Medicare or Medicaid).
- ***Legal proceedings.*** When required for judicial or administrative proceedings, as authorized by law. For example, your PHI may be disclosed in response to a court or administrative tribunal order, a subpoena, a discovery request that is accompanied by a court order, or other lawful process.
- ***Law enforcement health and emergency purposes.*** We may disclose PHI to law enforcement officials for the following purposes:
  - When required for law enforcement purposes (for example, to report certain types of wounds or other physical injuries);
  - Responding to court order or court-ordered warrant, a subpoena or summons issued by a judicial officer, a grand jury subpoena; or an administrative request (including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law);  
  
Identifying or locating a suspect, fugitive, material witness or missing person;
  - Disclosing information about an individual who is or is suspected to be a victim of a crime. This only applies if the Plan is unable to obtain the individual's agreement because of incapacity or other emergency circumstances;
  - Disclosing information about an individual for purposes of alerting law enforcement officials of that individual's death if we suspect that the death may have resulted from criminal conduct;
  - Disclosing PHI which we believe constitutes evidence of criminal conduct that occurred on Plan premises;
  - When providing emergency health care not on Plan premises as a health care provider, we may disclose PHI if necessary to alert law enforcement to:
    - The commission and nature of the crime;
    - The location or victim(s) of the crime; or
    - The identity, description and location of the perpetrator of the crime.

- ***Determining cause of death and organ donation.*** 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. We may also disclose PHI for cadaveric organ, eye or tissue donation and transplantation purposes.
- ***Funeral purposes.*** When required to be given to funeral directors to carry out their duties with respect to the decedent, after or in reasonable anticipation of the individual's death.
- ***Research.*** For research, subject to certain conditions.
- ***Health or safety threats.*** 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 or it is necessary for law enforcement authorities to identify or apprehend an individual.
- ***Workers' compensation programs.*** The Plan may disclose PHI to your employer and others, when authorized by and to the extent necessary to comply with workers' compensation or other similar programs established by law.
- ***Specialized government functions.*** When certain conditions are met, for military and veterans activities, to the appropriate military authority if individuals are Armed Forces personnel; to federal officials for lawful national security and intelligence activities; to authorized Federal officials for the provision of protective services to the President, foreign heads of state or other persons authorized by federal law, or to a correctional institution or law enforcement official having lawful custody of an individual under certain circumstances (e.g., for the provision of health care to such person, the health and safety of such person or others (including other inmates or officers or employees of the correctional institution), law enforcement on the premises of the correctional institution, or the administration and maintenance of the safety, security, and good order of the correctional institution.
- ***For fundraising.*** The Plan may use, and disclose to a business or to an institutionally related foundation, certain types of PHI for the purpose of raising funds. The type of information that may be disclosed under this exception to the authorization requirement includes (1) demographic information relating to an individual, (2) dates of health care provided to an individual, and (3) health insurance status. The Plan may also contact you to raise funds and you have a right to opt out of receiving such communications.
- ***Business Associates.*** The Plan may disclose PHI to persons and businesses, called "business associates", which provide services to the Plan and which need the PHI to perform those services. For example, we may provide PHI to a physician that assists the Plan with payment operations by reviewing medical claims.
- ***Other limited circumstances.*** The Plan may use and disclosure your PHI as otherwise permitted by HIPAA and other applicable law in certain limited circumstances.

**When the Disclosure of Your PHI Requires Your Written Authorization** 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 in writing.

- ***Disclosure of PHI for Marketing Purposes; Sale of PHI.*** Except in the limited circumstances permitted by HIPAA or other applicable law, the Plan may not (1) use or disclose your PHI to market services or products to you, (2) provide your PHI to anyone else for marketing purposes, or (3) sell your PHI, without your written authorization. Your authorization is not required for marketing communications in the form of a face-to-face communication made by the Plan to you; or a promotional gift of nominal value provided by the Plan.
- ***Use or disclosure of Psychotherapy Notes.*** Although the Plan does not routinely obtain psychotherapy notes, it must generally obtain your written authorization before the Plan will use or disclose psychotherapy notes about you. However, the Plan may use and disclose such notes when needed by the Plan to defend itself against litigation filed by or other proceeding brought by you or on your behalf or as necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and the Plan may disclose psychotherapy notices to public health oversight agencies and coroners and medical examiners as permitted by HIPAA.
  - ▶ ***Psychotherapy Notes.*** Psychotherapy notes are separately filed notes in any medium about your conversations with your mental health professional during a private, group, joint, or family counseling session. Psychotherapy notes do not include medication prescription and monitoring, results of clinical tests, or any summary information about your mental health diagnosis, functional status, symptoms, prognosis, progress or treatment.
- ***If the Health Plan provides health information to a companion Pension Plan.*** Authorization is required for the Plan to provide information to a companion pension plan for the purposes of evaluating a disability application.

### **Use or Disclosure of Your PHI To Relatives and Friends**

Disclosure of your PHI to family members, other relatives, your close personal friends, and any other person you choose to identify is allowed under federal law if:

- The information is directly relevant to the family member, other relatives, or a close personal friend's involvement with your care or payment for that care (including if you are deceased, subject to certain limitations with respect to your prior expressed preferences which are known to the Plan), or
- The information is used or disclosed to notify, or assist in the notification of, a family member, Personal Representative, or another person responsible for your care, of your location, general condition, or death (the Plan may also disclose your PHI to disaster relief agencies or entities for the same purposes).

If you are present for, or otherwise available prior to a use or disclosure permitted above, and you have the capacity to make health care decisions, the Plan will not use or disclose your PHI to your

family and friends unless (a) the Plan obtains your agreement, or provides you with an opportunity to object to the use and disclosure of your PHI and you express no objections to such use and disclosure, or (b) the Plan can reasonably infer from the circumstances that you do not object to such use and disclosure.

The Plan may also disclose PHI to the persons and entities and for the purposes set forth above in emergency circumstances or if you are incapacitated, and the Plan reasonably believes to be in your best interests and relevant to that person's involvement in your care.

### **Section 3: Your Individual Privacy Rights**

#### **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
- Restrict uses and disclosures to family members, relatives, friends or other persons identified by you who are involved in your care.

The Plan may comply with your request at the discretion of the Plan Administrator or Privacy Official. Except in the limited circumstances below, the Plan is not required to agree to a requested restriction. Except as otherwise required by law (and excluding disclosures for treatment purposes), the Plan is obligated, upon your request, to refrain from sharing your PHI with another health plan for purposes of payment or carrying out health care operations if the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full by you or by another person (other than the Plan) on your behalf. If the Plan agrees to a restriction you have requested, it may terminate the restriction under certain circumstances. Make such requests in writing to:

The Privacy Officer  
UFCW Comprehensive Benefits Trust  
P.O. Box 4100  
Concord, CA 94524-4100  
(800) 552-2400

#### **You May Request Confidential Communications**

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 uses and disclosures of your PHI. Make such requests to the Privacy Officer specified above.

#### **You May Inspect and Copy PHI**



You have a right to inspect and obtain a copy of your PHI contained in a Designated Record Set (defined below) for as long as the Plan maintains the PHI, subject to certain exceptions.

- ▶ ***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 addition, if the Plan uses or maintains your PHI in a Designated Record Set electronically, you may request such PHI in an electronic format, and direct that such PHI be sent to another person or entity.

In general, the Plan must provide the requested information within 30 days. However, a single 30-day extension is allowed if the Plan is unable to comply with the initial 30-day deadline (e.g., the Plan may not be able to meet the initial deadline with respect to records maintained offsite or by its business associates).

You or your Personal Representative will be required to complete a form to request access to the PHI in your Designated Record Set. A reasonable fee may be charged. Requests for access to PHI should be made to the Privacy Officer, specified above.

If access is denied, you or your Personal Representative will be provided with a written denial setting forth the basis for the denial, a description of how you may exercise your review rights and a description of how you may complain to the Plan and the United States Department of Health and Human Services.

### **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 the Designated Record Set for as long as the PHI is maintained in the Designated Record Set subject to certain exceptions. You may request a copy of the Plan's Right to Amend Policy for a list of exceptions.

You or your Personal Representative should make your request to amend PHI to the Privacy Officer, specified above. You or your Personal Representative will be required to complete a form provided by the Plan to request amendment of your PHI.

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. If the Plan denies 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 that PHI. You may also file a complaint with the Plan and/or HHS. See Section 5.

### **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 certain disclosures of your PHI by the Plan. 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. You may review the Plan's Accounting for Disclosure Policy for a more complete list of disclosures for which an accounting is not required.

You should direct your request to the Privacy Officer specified above.

The Plan has 60 days 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.

### **You Have the Right to Obtain a Paper Copy of this Notice Upon Request**

You have a right to receive a paper copy of this Notice upon request, even if you previously agreed to receive this Notice electronically. Make such requests in writing to:

The Privacy Officer  
UFCW Comprehensive Benefits Trust  
P.O. Box 4100  
Concord, CA 94524-4100  
(800) 552-2400

## **Section 4: The Plan's Duties**

### **Maintaining Your Privacy**

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.

### **Right to Amend**

This Notice is effective as of January 1, 2018 and the Plan is required to comply with the terms of this Notice currently in effect.. The Plan reserves the right to change its privacy practices and to apply the changes to any PHI received or maintained by the Plan prior to that date. If there is a material change to the terms of this Notice, we will inform you of such change as provided by HIPAA and provide you with information about how to get a copy of the revised Notice. To the extent the Plan maintains a website, the Plan will post a copy of the current Notice on the Plan's website.

### **Right to Receive Notice**

The Plan must notify you following the acquisition, access, use or disclosure of your unsecured PHI in a manner that is impermissible under the HIPAA privacy rules, unless there is a low probability that such PHI was compromised (or notification is not otherwise required under HIPAA).

### **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,
- Uses or disclosures made pursuant to authorization where authorization was required,
- Disclosures made to the Secretary of the United States Department of Health and Human Services pursuant to its enforcement activities under HIPAA,
- Uses or disclosures required by law, and
- Uses or disclosures required for the Plan’s compliance with the HIPAA privacy regulations.

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 summarizes the claims history, claims expenses or type of claims experienced by individuals for whom a Plan Sponsor has provided health benefits under a group health plan. Identifying information will be deleted from summary health information, in accordance with HIPAA.

### **Section 5: 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 Privacy Officer  
UFCW Comprehensive Benefits Trust  
P.O. Box 4100  
Concord, CA 94524-4100  
(800) 552-2400

You may also file a complaint with the U.S. Department of Health and Human Services (“HHS”):

Region IX, Office for Civil Rights  
U.S. Department of Health and Human Services  
90 7<sup>th</sup> Street, Suite 4-100  
San Francisco, CA 94103  
Phone: (800) 368-1019  
FAX: (415) 437-8329  
TDD: (800) 537-7697  
<http://www.hhs.gov/ocr/privacy/hipaa/complaints/index.html>

If you are not located in Region IX, please contact the nearest office of the Department of Health and Human Services as listed on the HHS website at [www.hhs.gov](http://www.hhs.gov), or contact the Privacy Officer for more information on where to file a complaint.

The Plan will not retaliate against you for filing a complaint.

### **Section 6: If You Need More Information**

If you have any questions regarding this Notice or the subjects addressed in it, you may contact the Privacy Officer, specified above, at the Fund Office.

### **Section 7: Conclusion**

The Federal Health Insurance Portability and Accountability Act, known as HIPAA, regulates PHI use and disclosure by the Plan. You may find these rules at 45 Code of Federal Regulations Parts 160 and 164. This Notice attempts to summarize the regulations. The regulations will supersede this Notice if there is any discrepancy between the information in this Notice and the regulations.