

## NOTICE OF PRIVACY PRACTICES

### TEXAS FERTILITY CENTER ORGANIZED HEALTH CARE ARRANGEMENT

Effective Date 6/6/2017

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

If you have any questions about your rights or this Notice, please contact the Privacy Officer at (512) 451-0149 ext. 7426.

#### **UNDERSTANDING YOUR PROTECTED HEALTH INFORMATION (PHI)**

Texas Fertility Center has agreed to form and to enter into what is referred to as Organized Health Care Arrangement or "OHCA". Participants of the OHCA may share your Protected Health Information with other Participants of the OHCA for the purposes of treatment, payment, and health care operations in order to better address your health care needs. Participants of the OHCA have agreed to conduct at least one of the following joint activities: (a) utilization review, in which the OHCA Participants review the other Participants' health care decisions (or have a third party do so); (b) quality assessment and improvement activities, in which treatment provided by the OHCA Participants is assessed by other OHCA Participants (or a third party on their behalf); or (c) payment activities, to the extent the financial risk for delivering health care is shared, in part or in whole, by the OHCA Participants through a joint arrangement and Protected Health Information created or received by an OHCA Participant is reviewed jointly by the other OHCA Participants (or a third party on their behalf) for the purpose of administering the sharing of financial risk. We, and the other Participants of the OHCA, will share medical, billing, and other health information about you with each other as may be necessary to carry out these activities and as otherwise permitted by law. Currently, we participate in an OHCA with the following entities: Vaughn and Silverberg, LLP, Texas Fertility Center, Austin Fertility Surgery Center, San Antonio IVF, and Ovation. For purpose of this notice, the members of the Texas Fertility Center OHCA are collectively referred to in this document as Texas Fertility Center or ("TFC").

#### **Who Will Follow This Notice?**

1. Vaughn and Silverberg, LLP
2. Texas Fertility Center;
3. Texas Fertility Center affiliated entities, including Vaughn and Silverberg, LLP, Austin Fertility Surgery Center; San Antonio IVF; Ovation
4. Texas Fertility Center and its affiliated entities' subcontractors;
5. Participants of the Texas Fertility Center Organized Health Care Arrangement ("OHCA") who provide clinically integrated care, including: Vaughn and Silverberg, LLP, Texas Fertility Center, Austin Fertility Surgery Center, San Antonio IVF,; and Ovation; and
6. Subcontractors of the OHCA Participants.

We understand that medical information about you and your health is personal and are committed to protecting this information. When you receive care from Texas Fertility Center or a Texas Fertility Center affiliated entity, a record of the care and services you receive is made. Typically, this record contains your treatment plan, history and physical, test results, and billing record. This record serves as a:

1. Basis for planning your treatment and services;
2. Means of communication among the physicians and other health care providers involved in your care;
3. Means by which you or a third-party payor can verify that services billed were actually provided;
4. Source of information for public health officials; and

5. Tool for assessing and continually working to improve the care rendered.

This Notice tells you the ways we may use and disclose your Protected Health Information (referred to herein as “medical information”). It also describes your rights and our obligations regarding the use and disclosure of medical information.

### **Our Responsibilities**

Texas Fertility Center and its affiliated entities are required by law to:

1. Maintain the privacy and security of your medical information;
2. Provide you with notice of our legal duties and privacy practices with respect to information we collect and maintain about you;
3. Abide by the terms of this notice;
4. Notify you if we are unable to agree to a requested restriction;
5. Accommodate reasonable requests you may have to communicate health information by alternative means or at alternative locations;
6. Notify you, and the Department of Health & Human Services, of any unauthorized acquisition, access, use or disclosure of your unsecured medical information. We are required by law to notify you following a breach of unsecured protected health information. Unsecured medical information means medical information not secured by technology that renders the information unusable, unreadable, or indecipherable as required by law; and
7. Disclose, upon request, to you or another person named by you an electronic copy of your medical records. Texas law requires, however, that we first obtain your written authorization (under certain circumstances) prior to disclosing electronically.

### **The Methods in Which We May Use and Disclose Medical Information about You**

The following categories describe different ways we may use and disclose your medical information. The examples provided serve only as guidance and do not include every possible use or disclosure.

1. **For Treatment.** We will use and disclose your medical information to provide, coordinate, or manage your health care and any related service. For example, we may share your information with your primary care physician or other specialists to whom you are referred for follow-up care.
2. **For Payment.** We will use and disclose medical information about you so that the treatment and services you receive may be billed and payment may be collected from you, an insurance company, or a third party. For example, we may need to disclose your medical information to a health plan in order for the health plan to pay for the services rendered to you.
3. **For Health Care Operations.** We may use and disclose medical information about you for office operations. These uses and disclosures are necessary to run Texas Fertility Center or a Texas Fertility Center affiliated entity in an efficient manner and provide that all patients receive quality care. For example, your medical records and health information may be used in the evaluation of services, and the appropriateness and quality of health care treatment. In addition, medical records are audited for timely documentation and correct billing.
4. **Appointment Reminders.** We may use and disclose medical information in order to remind you of an appointment. For example, Texas Fertility Center or a Texas Fertility Center affiliated entity may provide a written or telephone reminder that your next appointment with Texas Fertility Center is coming up.
5. **Research.** Under certain circumstances, we may use and disclose medical information about you for research purposes. For example, a research project may involve comparing the surgical outcome of all patients for whom one type of procedure is used to those for whom another procedure is used for the same condition. All research projects, however, are subject to a special approval process. Prior to using or disclosing any medical information, the project must be approved through this research approval process. We will ask for your specific authorization if the researcher will have access to your name, address, or other information that reveals who you are, or will be involved in your care.

6. **As Required by Law.** We will disclose medical information about you when required to do so by federal or Texas laws or regulations.
7. **To the Department of Health and Human Services.** We will share information about you with the Department of Health and Human Services if it wants to see that we are complying with federal privacy laws.
8. **To Avert a Serious Threat to Health or Safety.** We may use and disclose medical information about you to medical or law enforcement personnel when necessary to prevent a serious threat to your health and safety or the health and safety of another person.
9. **Sale of Practice.** We may use and disclose medical information about you to another health care facility or group of physicians in the sale, transfer, merger, or consolidation of our practice.

### **Special Situations**

1. **Organ and Tissue Donation.** If you have formally indicated your desire to be an organ donor, we may release medical information to organizations that handle procurement of organ, eye, or tissue transplantations.
2. **Military and Veterans.** If you are a member of the armed forces, we may release medical information about you as required by military command authorities.
3. **Workers' Compensation.** We may release medical information about you for workers' compensation or similar programs. These programs provide benefits for work-related injuries or illness.
4. **Qualified Personnel.** We may disclose medical information for management audit, financial audit, or program evaluation, but the personnel may not directly or indirectly identify you in any report of the audit or evaluation, or otherwise disclose your identity in any manner.
5. **Public Health Risks.** We may disclose medical information about you for public health activities. These activities generally include the following activities:
  - a. To prevent or control disease, injury, or disability;
  - b. To report reactions to medications or problems with products;
  - c. To notify people of recalls of products they may be using;
  - d. To notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition; and
  - e. To notify the appropriate government authority if we believe you have been the victim of abuse, neglect, or domestic violence.
  - f. All such disclosures will be made in accordance with the requirements of Texas and federal laws and regulations.
6. **Health Oversight Activities.** We may disclose medical information to a health oversight agency for activities authorized by law. Health oversight agencies include public and private agencies authorized by law to oversee the health care system. 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, eligibility or compliance, and to enforce health-related civil rights and criminal laws.
7. **Lawsuits and Disputes.** If you are involved in certain lawsuits or administrative disputes, we may disclose medical information about you in response to a court or administrative order.
8. **Law Enforcement.** We may release medical information if asked to do so by a law enforcement official:
  - a. In response to a court order or court issued subpoena; or
  - b. If Texas Fertility Center or a Texas Fertility Center affiliated entity determines there is a probability of imminent physical injury to you or another person, or immediate mental or emotional injury to you.
9. **Coroners, Medical Examiners and Funeral Directors.** We may release medical information to a coroner or medical examiner when authorized by law (*e.g.*, to identify a deceased person or determine the cause of death). We may also release medical information about patients to funeral directors.

10. **Inmates.** If you are an inmate of a correctional facility, we may release medical information about you to the correctional facility for the facility to provide you treatment.
11. **Other Uses or Disclosures.** Any other use or disclosure of PHI will be made only upon your individual written authorization. You may revoke an authorization at any time provided that it is in writing and we have not already relied on the authorization.
12. **Electronic Disclosure.** We may use and disclose your medical information electronically. For example, if another provider requests a copy of your medical record for treatment purposes, we may forward such record electronically. Under Texas law, we are required to obtain your written authorization before we disclose your PHI, except to another covered entity for treatment, payment, and permissible health care operations.

## **DISCLOSURES REQUIRING AUTHORIZATION**

1. **Psychotherapy Notes.** Psychotherapy notes are notes by a mental health professional that document or analyze the contents of a conversation during a private counseling session – or during a group, joint, or family counseling session. If these notes are maintained separate from the rest of your medical records, they can only be used and disclosed as follows. In general, psychotherapy notes may not be used or disclosed without your written authorization, except in the following circumstances.

Psychotherapy notes about you may be used and disclosed without your written authorization in the following situations:

- a. The mental health professional who created the notes may use them to provide you with further treatment;
- b. The mental health professional who created the notes may disclose them to students, trainees or practitioners in mental health who are learning under supervision to practice or improve their skills in group, joint, family, or individual counseling;
- c. The mental health professional who created the notes may disclose them as necessary to defend himself or herself or Texas Fertility Center in a legal proceeding initiated by you or your personal representative;
- d. The mental health professional who created the notes may disclose them as required by law;
- e. The mental health professional who created the notes may disclose the notes to appropriate government authorities when necessary to avert a serious and imminent threat to the health or safety of you or another person;
- f. The mental health professional who created the notes may disclose them to the United States Department of Health and Human Services when that agency requests them in order to investigate the mental health professional's compliance, or Texas Fertility Center's compliance, with Federal privacy and confidentiality laws and regulations; and
- g. The mental health professional who created the notes may disclose them to medical examiners and coroners, if necessary, to determine your cause of death.

***All other uses and disclosures of psychotherapy notes require your written authorization. You have the right to revoke such authorization in writing.***

**Marketing.** Marketing *generally* includes a communication made to describe a health-related product or service that may encourage you to purchase or use the product or service. For example, marketing includes communications to you about new state-of-the-art equipment if the equipment manufacturer pays us to send the communication to you. We will obtain your written authorization to use and disclose PHI for marketing purposes unless the communication is made face-to-face, involves a promotional gift of nominal value, or otherwise permitted by law.

***All other uses and disclosures of your information for marketing purposes require your written authorization. You have the right to revoke such authorization in writing.***

2. **Fundraising.** We do not use and disclose your information for fundraising purposes.
3. **Sale of Your Medical Information.** Texas Fertility Center will not sell your medical information for marketing purposes. However, there are instances in which Texas Fertility Center will sell your PHI. For

example, should Texas Fertility Center merge or the practice is sold to another physician group, your medical record may be part of the asset transfer.

*Any other Sale of Protected Health Information requires your written authorization. You have the right to revoke such authorization in writing.*

4. **Uses and Disclosures Requiring an Opportunity to Agree or Object.** Please note that HIPAA permits us, in certain circumstances, to disclose your medical information without your authorization (including facility directors, emergency circumstances, and disclosure to relatives). Texas law is stricter. Therefore, we will not disclose your information for these purposes without first obtaining your explicit authorization.

## **INFORMATION SHARING BETWEEN PARTICIPANTS OF THE TEXAS FERTILITY CENTER ORGANIZED HEALTH CARE ARRANGEMENT**

**This notice applies to sharing of your medical information between Participants of the OHCA listed above in this Notice. If you receive services from a Participant of the OHCA, all Participants in the OHCA will share your medical information with one another for treatment, payment and certain joint health care operational purposes such as quality review and case management, and as otherwise permitted by federal and state law and this Notice. You are receiving this Notice because we believe that your information will be shared through the OHCA. More information about the OHCA can found by contacting the Privacy Officer at: (512) 451-0149 ext. 7426.**

## **YOUR RIGHTS REGARDING YOUR MEDICAL INFORMATION**

You have the following rights regarding medical information collected and maintained about you:

1. **Right to Inspect and Copy.** The right to inspect and receive a copy of medical information that may be used to make decisions about your care. This includes the right to direct us to transmit a copy of your medical information to a designated person or entity of your choice. Usually, this includes medical and billing records. Upon your request, Texas Fertility Center will provide a copy of such records as soon as possible, and within fifteen (15) days of your request.

To inspect and receive a copy of your medical information or to direct us to provide a copy of your choosing, you must submit your request in writing or electronically to the Privacy Officer for Texas Fertility Center. If you request a copy of the information, Texas Fertility Center may charge a fee for the costs of copying, mailing, or summarizing your records. We will inform you of all fees in advance. You can also ask to see or get an electronic copy of health information we have about you. Please contact our Privacy Officer at (512) 451-0149 ext. 7426 with any questions you have on how to request access, receive a copy, or how to direct us to transmit your information to a designated person or entity. On our website (<https://txfertility.com>), there is a fee schedule for copies and/or summaries of medical records.

Texas Fertility Center may deny your request to inspect and copy in certain very limited circumstances. If you are denied access to medical information, you may request that the denial be reviewed. Another licensed health care professional chosen by Texas Fertility Center will review your request and denial. The person conducting the review will not be the person who denied your request. Texas Fertility Center will comply with the outcome of the review.

2. **Right to Amend.** If you feel that medical information maintained about you is incorrect or incomplete, you may ask Texas Fertility Center to amend the information. You have the right to request an amendment for as long as the information is kept by Texas Fertility Center.

To request an amendment, your request must be made in writing and submitted to Texas Fertility Center. In addition, you must provide a reason that supports your request.

Texas Fertility Center 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, Texas Fertility Center may deny your request if you ask us to amend information that:

- Was not created by Texas Fertility Center, unless the person or entity that created the information is no longer available to make the amendment;
- Is not part of the medical information kept by Texas Fertility Center;

- Is not part of the information which you would be permitted to inspect and copy; or
- Is accurate and complete.

3. **Right to an Accounting of Disclosures.** To request an “accounting of disclosures.” This is a list of the disclosures made of your medical information for purposes other than treatment, payment, or health care operations.

To request this list you must submit your request in writing to Christi Schunek, Privacy Officer. Your request must state a time period, which may not be longer than six (6) years. Your request should indicate in what form you want the list (for example, on paper or electronically). The first list you request within a 12-month period will be free. For additional lists within the 12-month period, you may be charged for the cost of providing the list. Texas Fertility Center 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.** To request a restriction or limitation on the medical information Texas Fertility Center or a Texas Fertility Center affiliated entity uses or discloses about you for treatment, payment or health care operations. You also have the right to request a limit on the medical information they disclose about you to someone who is involved in your care or the payment for your care.

Neither Texas Fertility Center nor one of its affiliated entities is required to agree to your request, unless the request pertains solely to a health care item or service for which Texas Fertility Center has been paid out of pocket in full and: (i) the restriction pertains to payment or a health care operation and (ii) the disclosure is not otherwise required by law. Should Texas Fertility Center or one of its affiliated entities agree to your request, Texas Fertility Center or the affiliated entity will comply with your request unless the information is needed to provide you emergency treatment.

5. To request restrictions, you must make your request in writing to Texas Fertility Center or the Texas Fertility Center affiliated entity. In your request, you may indicate: (1) what information you want to limit; (2) whether you want to limit their use and/or disclosure; and (3) to whom you want the limits to apply.

6. **Right to Request Confidential Communications.** To request that Texas Fertility Center or a Texas Fertility Center affiliated entity communicate with you about medical matters in a certain way or at a certain location. For example, you can ask that Texas Fertility Center or affiliated entity contact you only at work or by mail.

To request that Texas Fertility Center or an affiliated entity communicate in a certain manner, you must make your request in writing to the Privacy Officer. You do not have to state a reason for your request. Texas Fertility Center and Texas Fertility Center affiliated entities will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

7. **Right to Revoke an Authorization.** There are certain types of uses or disclosures that require your express authorization. For example, Texas Fertility Center or an affiliated entity may not sell your information to a third party for marketing purposes without first obtaining your authorization. If you provide authorization for a particular use or disclosure of your medical information, you may revoke such authorization in writing by contacting Christi Schunek, Privacy Officer, Texas Fertility Center, 6500 North Mopac Expressway, Building 1, Suite 1200, Austin, Texas 78731 or [Christi@txfertility.com](mailto:Christi@txfertility.com). We will honor your revocation except to the extent that we have already taken action in reliance of the specific authorization.

8. **Right to Receive a Copy of this Document.** You have a right to obtain a paper copy of this document upon request.

## **CHANGES TO THIS NOTICE**

We reserve the right to change our practices and to make the new provisions effective for all medical information we maintain. Should our information practices change, we will post the amended Notice of Privacy Practices in our office and on our website. You may request that a copy be provided to you by contacting the Privacy Officer.

## **COMPLAINTS**

If you believe your privacy rights have been violated, you may file a complaint with Texas Fertility Center or with the Office for Civil Rights, U.S. Department of Health and Human Services. To file a complaint with Texas Fertility Center, contact the Privacy Officer at (512) 451-0149 ext. 7426 . Your complaint must be filed within 180 days of when you knew or should have known that the act occurred. The address for the Office of Civil Rights is:

*Secretary of Health & Human Services  
Region VI, Office for Civil Rights  
U.S. Department of Health and Human Services  
1301 Young Street, Suite 1169  
Dallas, TX 75202*

All complaints should be submitted in writing.

***You will NOT be penalized for filing a complaint.***