

**BALBOA NEPHROLOGY MEDICAL GROUP, INC.**

**NOTICE OF PRIVACY POLICY  
AND  
PRACTICES**

**EFFECTIVE DATE: APRIL 14, 2003  
(amended June, 2013)**

Prepared by Frank J. Stella, M.D.



## **INTRODUCTION:**

In accordance with the Health Insurance Portability and Accountability Act of 1996 (known as HIPAA), Balboa Nephrology Medical Group, Inc. (“BNMG” or “Balboa”) is required to protect the privacy of your personal health information (also known as Protected Health Information or **PHI**). This document will provide notice of our privacy policy and practices including your rights and our legal duties concerning your health information and records. Please review this document; you will be asked to sign a form acknowledging your opportunity to review this notice. A copy will be provided to you on request.

## **SUMMARY**

Since you are a patient who has consented to receive care from the physicians and staff of BNMG, the law allows us to use and disclose your medical information for specific purposes. These include uses and disclosures for purposes of treatment, obtaining payment for services, and health care operations which will be explained below. In addition, the law may authorize disclosures for reasons of public health and interest including disaster relief, law enforcement, and formal judicial and administrative proceedings. With your permission, your medical information may be disclosed to family members and/ or others of your choosing who have an involvement or interest in your health status. Any other disclosure will require your written authorization

You have the following rights that will be respected by this policy:

1. To examine or receive a copy of your medical record of care that has been provided by BNMG. You may request to receive this copy in paper or in electronic format, if this is available. You may request that the copy of your medical record be sent via e-mail. Balboa does not recommend that protected health information be sent by e-mail, as the receipt of this information may not be secure. You may request that the copy of your medical record be reviewed or obtained by another person. Any request for your medical information must be in writing. If you request e-mail transmission of your health information, you must acknowledge and accept the potential security risk involved. **NOTE:** Providing you with a copy of your medical record may involve a nominal cost.

2. To receive an accounting of the disclosures of your medical information that do not involve treatment, payment, or health care operations.
3. To request a correction or amendment of your medical record.
4. To specify other restrictions on the use and disclosure of medical information.
5. To request a specific method or avenue in receiving a communication involving confidential information.
6. To restrict disclosure of medical information for services that you paid for “out of pocket”. You may request to have a service, e.g. an office visit, laboratory test, etc. that you choose to pay for yourself, without submission of a claim to your insurance company. In this instance, you have the right to restrict the disclosure of this particular service, test result, etc. If you make this request, it will be necessary to pay for this, in advance.
7. To be notified in the event Balboa allows for the inappropriate disclosure or use (known as a “breach”) of your medical information. As part of its HIPAA Security Plan, Balboa has established a Breach Notification Policy. Under this Policy, you will be notified if it is determined a breach has occurred.
8. If you feel that an improper use or disclosure of your health information has occurred, you may file a complaint with Balboa and with the U.S Health and Human Safety Department (please see the last page of this Notice for the process of filing a complaint).

The entire Notice will go into more detail regarding the specific issues involved in this policy. **Please review it.**

## USES AND DISCLOSURE OF MEDICAL INFORMATION

**A. Treatment:** Obviously, we must use your medical information to treat you. This information is needed by the physicians and other involved medical office personnel to provide the care you need. We may disclose this information to others in the context of treating you. For example, it is usually necessary to share information with other physicians and health care providers (e.g. your primary care physician, physician consultants, dialysis nurses and technicians, the vascular access lab personnel, physical therapist, pharmacist, laboratory, etc) who are or will be providing services to you. Unless you request otherwise, we may disclose information to a family member or others involved in your care.

**B. Payment:** Disclosure of certain medical information, such as the services rendered and diagnoses, are necessary to obtain payment from insurance companies, Medicare, Medi-Cal, HMOs, Workman's Compensation., employer health plans, etc. This disclosure may require the actual submission of copies of specific details in your records to justify the medical necessity of the services you received.

**C. Health Care Operations:** It may be necessary to use and disclose medical information about you in the operation of this medical practice. For example, it may be necessary to review your record in the regular medical review assessment of a physician or employee's performance as a matter of quality improvement. We conduct random and focused audits to be in compliance with Medicare guidelines for the detection of fraud and abuse; this may involve the confidential disclosure of information to receive legal services assisting in these activities. These audits involve a review of the patient's medical record, submitted diagnoses and services rendered, the accuracy of billing activities, etc. Health care operations may include the use and disclosure of medical information with health plans to receive authorizations for medical and associated services. Additionally, there may be disclosure of medical information with "business associates" such as a billing service, transcription services, and other administrative services. These associates are formally and legally bound to protect the confidentiality of your medical information.

**D. Disclosures Required by Law:** We may disclose your personal health information to the extent that this disclosure is required by law. Examples of this required disclosure include:

1. **Public Health:** it may be necessary to report certain diseases and conditions in control and prevention management. In addition, suspected instances of child, elder, or dependent adult abuse, domestic violence, and similar concerns may be reportable to the appropriate agency, without your consent. You or your personal representative may be notified of this occurrence unless it is deemed that notification could result in potential harm.
2. **Food and Drug Administration (FDA):** adverse events with respect to medications and suspected defective medical devices may be reportable to the FDA.
3. **Health and Oversight Activities:** it may be required to disclose your personal health information with a regulatory agency involved in an official inquiry that

may involve audits, administrative, civil or criminal investigations, inspections and surveys necessary for the appropriate oversight of a government benefits program.

4. Judicial Proceedings: it may be required to disclose your personal health information in response to a subpoena or other court order.
5. Law Enforcement: it may be required to disclose your personal health information to law enforcement officials in the course of an investigation involving a crime, missing person, criminal abuse, etc.
6. Coroner's Office: we may be required by law to disclose your personal health information to the Coroner's office in the investigation of a death.
7. Organ or Tissue Donation: we may disclose your personal health information if the potential for organ or tissue donation is being assessed by an official organ or tissue procurement, banking, or transplantation organization or service. This may include the ongoing surveillance and tracking of transplanted persons.
8. Public Safety: we may be required by law to disclose your personal health information to appropriate authorities to avert or lessen a serious threat to the health and safety of a particular person or the general public.
9. Workman's Compensation: we may be required to disclose your personal health information to comply with workman's compensation laws. To the extent that the care you receive is covered by workman's compensation, it may be necessary to report your health status to your employer and insurer. In addition, it may necessary to report cases of occupational injury and illness to your employer and insurer.
10. Specialized Government Function: we may disclose your personal health information to the appropriate authorities for military or national security purposes. Additionally, we may disclose this information to law enforcement and correctional facilities that have you in lawful custody.
11. Change of Physician/ Ownership: In the event that your physician, working as an employee or affiliate with BNMG, leaves the group or retires, your medical records may remain the property of BNMG. The review and use of this medical information by the BNMG physician assuming your care is essential in establishing a relationship with you and will not require any special authorization. However, if your care is assumed by a physician not affiliated with BNMG, it will be necessary to complete a written authorization so that copies of this information can be forwarded to your new doctor. In the event BNMG is sold or merged with another entity, your personal health information will become the property of the new owner and you retain the right to have copies of your medical information transferred elsewhere, upon your written authorization.
12. Psychotherapy Notes: Any psychotherapy notes in your medical record cannot be disclosed or used without your authorization except in very specific circumstances. These instances include but are not limited to: an investigation by a regulatory agency to determine compliance with the HIPAA rules, an investigation by a health oversight agency for lawful oversight of the originator of the psychotherapy notes, to avert a serious and imminent threat to public health or safety, for the lawful activities of a coroner or medical examiner, and

other instances required by law. Of note: Balboa does not record or maintain psychotherapy notes.

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### **USES AND DISCLOSURES WITH YOUR AUTHORIZATION**

Except in those instances described above, we may not disclose or use your medical information without your authorization. You may authorize us to disclose information about your health status and history. Examples of this include disclosures to a life insurance company to secure coverage, the results of a pre-employment physical exam to a potential employer, current status of your health to a disability insurance company, etc. Your authorization must be in writing including your signature or that of your personal representative. It must include in plain language the extent of the information you wish us to disclose. This authorization may be revoked at any time but uses and disclosures may have occurred in reliance on the existing authorization at the time of disclosure. A specific authorization form may be provided to you by our offices for your completion.

### **YOUR HEALTH INFORMATION RIGHTS**

Under HIPAA laws, you have certain rights with respect to your personal health information. The following is an overview of your rights and our obligations and restrictions to enforcing those rights.

**A. Privacy Policy and Practices Notice:** You have the right to receive and review the Privacy Policy and Practices Notice provided by BNMG. This is the document you are now reviewing. We will ask you to acknowledge the opportunity to review this document by signing an Acknowledgement Form.

**B. Access:** As referenced above on page 1, you have the right to examine and receive a copy of your medical information, with some exceptions ( i.e. psychotherapy notes). This request must be in writing and directed to the privacy official designated at the end of this notice. A special form will be provided to you for this purpose. Upon submission, the privacy official will review your request and, except in special circumstances, the records will be available for your review. We may charge you a reasonable fee if copying or the preparation of a summary is requested.

**C. Amendment:** You have the right to request that we amend your personal health information if you feel the information is incorrect. This will require a written statement as to why the record should be amended. A special form is available for this purpose. Upon receipt of this formal request, the issue will be assessed by the privacy official and the involved BNMG physician providing your care. We may deny your request for certain reasons that will be provided to you in a written communication. If you are denied this request, you may provide your own statement of disagreement that will be included in your medical record. If your request for an amendment is accepted, we will make reasonable attempts to notify others that you identify as needing to know of the correction. Additionally, we will notify other known providers of your care who may be relying on incorrect (un-amended) information, the reliance on which could be to your detriment.

**D. Restriction of Uses and Disclosures:** You have the right to request that we restrict our use and disclosure of your medical information for treatment, payment, or health care operations. You may also request restrictions on disclosure to persons involved in your care, restrict disclosure to family

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members and friends concerning your condition and welfare, etc. We are not required to abide by your request. If we agree to your request, we will abide by our agreement except in emergency circumstances or as required or authorized by law.

**E. Confidential Communications:** You have the right to request that we communicate with you about your personal health information in confidence and in a manner that is very specific. For example, you may wish to have your confidential information sent to a location other than your home address, an e-mail address, via a letter marked CONFIDENTIAL, etc. We will comply with this request unless we feel it is unreasonable or unfeasible. This request must be in writing and is to be submitted to the privacy official for review and approval. A special form is available for this request. While we may honor your request, we have no control over the receiving end of this confidential communication and cannot be responsible for inappropriate access to this information by others. For this reason, BNMG prefers to provide this information directly to you at the time of an office visit

**F. Accounting of Disclosures:** You have the right to receive an accounting of the disclosures of your personal health information. This accounting will not include disclosures made prior to effective date of this notice, April 14, 2003. The maximum disclosure accounting time period is the six years immediately preceding the accounting request or April 14, 2003, whichever is more recent. The HIPAA rule does not require an accounting for the following types of disclosures:

1. for treatment, payment or health care operations
2. to the individual patient or the patient's personal representative
3. for notification to and communication with family or other persons involved in a patient's health care or payment of health care
4. for disaster relief
5. pursuant to a written authorization
6. for national security or intelligence purposes
7. to correctional institutions for inmates in lawful custody
8. that are incident to a use or disclosure authorized by law
9. to an oversight agency in BNMG's response to an official inquiry

In addition, accountings of disclosures may be temporarily suspended if BNMG has received notice by an oversight or law enforcement agency that an accounting of this information could potentially impede their activities.

### **OTHER ITEMS OF PRIVACY PROTECTION**

**A. Minimum Necessary:** BNMG will adhere to the "minimum necessary" principle in the use and disclosures of your personal health information. Only the minimum amount of information needed to accomplish the intended purpose of the request will be provided.

**B. Workforce Training:** The members of our staff receive training on the intent of the HIPAA rule with respect to privacy protection. Specific policies and procedures will be instituted, including a

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chain of command in dealing with disclosures of your personal health information. Any physician, affiliate, or other employee who violates the privacy protection efforts of BNMG will be disciplined. Adherence to the policies and procedures of privacy protection will be a condition of employment.

**C. Research:** Several of BNMG physicians are involved in clinical research, under the designation California Institute of Renal Research (CIRR). You may be approached to participate in a clinical study. This participation will require your informed consent, and, disclosure of information about you will need a formal authorization. In general, research protocols will de-identify you by removing your name and other information and assign you an identifying number to be used in data collection, the reporting of events, etc.

**D. Limited Data Set:** This is defined under the HIPAA rule as protected health information from which certain items, that could potentially identify you, have been removed. This could involve the removal of your name, address, social security number, phone number, email address, etc. This limited data set may be used for a variety of purposes including research, public health for incidence or prevalence of diseases, official surveys, etc. It is expected that the recipient of this information will enter into a data use agreement that assures safeguards for the protected health information that is contained in this limited data. In addition, any inadvertently included information that could identify a patient will be kept confidential.

**E. Personal Representative:** The HIPAA Rule defines a “personal representative” as a person legally authorized to make health care decisions on behalf of the individual patient, or act for a deceased individual or his/her estate. This personal representative will be treated the same as the patient in matters of privacy protection, including the uses and disclosure of medical information and the rights afforded by the Privacy Rule. Formal documentation of this representation (via an advanced directive for healthcare, a court appointed conservatorship, etc.) will be expected. The Privacy Rule permits an exception to the rights of the personal representative, if a reasonable belief exists that this representative is abusing or neglecting the patient, posing the potential for endangerment.

**F. Minors:** Usually, parents are the personal representative for their minor children. In some instances this may not be the case and could result in a conflict if a parent demands to be involved in any decision regarding the health care of the minor child. If this occurs, the appropriate enforcement agency will be contacted and legal counsel may be utilized to resolve the issue.

### **AMENDMENTS TO THIS PRIVACY POLICY**

BNMG reserves the right to make amendments to the Privacy Policy and Practices. Amendments may be necessary to fulfill changes in the law or to refine operational practices that deal with privacy

protection. Any revision will be made effective for all personal health information, even if it was received or created prior to the effective date of the amendment. A copy of the most current policy will be posted in each of our medical offices.

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## **COMPLAINTS**

You may file a complaint with the privacy officer listed below and/or with the Department of Health and Human Services (at the following address) if you believe your privacy rights have been violated. A Privacy Complaint Form may be provided to you on request. You must provide specific details regarding your concern that a breach of confidentiality occurred. No retaliation against you for filing a complaint in good faith will occur.

Addresses: BNMG Privacy Officer: Frank J. Stella, M.D.  
9610 Granite Ridge Drive  
Suite B  
San Diego, Ca 92123  
858-499-1900  
E-mail: [fstella@bnmg.org](mailto:fstella@bnmg.org)

Government Agency      Region IX  
Office of Civil Rights  
U.S. Department of Health & Human Services  
90 7<sup>th</sup> Street, Suite 4-100  
San Francisco, CA 94103  
(415) 437-8310; (415) 437-8311 (TDD)  
(415) 437-8329 (fax)  
[OCRMail@hhs.gov](mailto:OCRMail@hhs.gov)

This complaint form may be found at  
[www.hhs.gov/ocr/privacy/hipaa/complaints/hipcomplaint.pdf](http://www.hhs.gov/ocr/privacy/hipaa/complaints/hipcomplaint.pdf)

## **QUESTIONS?**

If you have questions regarding this notice or the privacy protection efforts of BNMG, you may contact one or both of the following persons:

Privacy Official: Sue Seberg, Privacy Official  
7910 Frost St.  
Suite 220  
San Diego, Ca 92123  
858-637-4700  
E-mail: [sseberg@bnmg.org](mailto:sseberg@bnmg.org)

Privacy Officer: Frank J. Stella, M.D.

9610 Granite Ridge Drive  
Suite B  
San Diego, Ca 92123  
858-499-1900  
E-mail: [fstella@bnmg.org](mailto:fstella@bnmg.org)

