

NORTHERN CALIFORNIA TILE INDUSTRY HEALTH AND WELFARE PLAN
(As revised January 1, 2023)

NINTH AMENDMENT

Pursuant to the powers conferred upon them by Section 5.5 of Article V of the Restated Agreement and Declaration of Trust to adopt and from time to time amend, alter or otherwise change the Welfare Plan, the Board of Trustees, acting at its meeting of January 22, 2025 amended the Northern California Tile Industry Health and Welfare Plan as follows, to be effective on the date noted below, and authorized the Chairman and Secretary to authenticate the same by affixing their signatures thereto:

1. Effective December 23, 2024, amend Part 1, Article VII in its entirety to state as follows:

VII. DISCLOSURE OF PROTECTED HEALTH INFORMATION TO THE BOARD OF TRUSTEES AND "MINIMUM NECESSARY" POLICY

1. Definitions. Whenever used in this Section, the following terms shall have the respective meanings set forth below.

(a) Plan means the Northern California Tile Industry Health and Welfare Plan.

(b) Board means the Board of Trustees of the Northern California Tile Industry Health and Welfare Plan, which is the plan sponsor as defined in ERISA § 3(16)(B).

(c) Health Information means information (whether oral or recorded in any form or medium) that is created or received by a health care provider, health plan (as defined in 45 CFR § 160.103), employer, life insurer, school or university, or health care clearinghouse (as defined in 45 CFR § 160.103) that relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

(d) Summary Health Information means information that summarizes the claims history, expenses, or types of claims by individuals for whom the Plan provides benefits, and from which the following information has been removed:

- 1) names;
- 2) geographic information more specific than state;
- 3) all elements of dates relating to the individual(s) involved (e.g., birth date) or their medical treatment (e.g., admission date) except the year; all ages for those over age 89 and all elements of dates, including the year, indicative of such age (except that ages and elements may be aggregated into a single category of age 90 and older);
- 4) other identifying numbers, such as Social Security, telephone, fax, or medical record numbers, e-mail addresses, VIN, or serial numbers;
- 5) facial photographs or biometric identifiers (e.g., fingerprints); and

- 6) any information the Board does not have knowledge of that could be used alone or in combination with other information to identify an individual.

(e) Protected Health Information (“PHI”) means Health Information, including demographic information, that is (1) transmitted or maintained in any form or medium, (2) collected from an individual and created or received by a health care provider, health plan, employer, or health care clearinghouse, and (3) identifies the individual involved or with respect to which there is a reasonable basis to believe the information may be used to identify the individual involved.

(f) Reproductive Health Care means health care, as defined in 45 CFR § 160.103, that affects the health of an individual in all matters relating to the reproductive system and to its functions and processes. This definition shall not be construed to set forth a standard of care for or regulate what constitutes clinically appropriate reproductive health care.

2. Disclosure of Summary Health Information. The Plan may disclose Summary Health Information to the Board if the Board requests such information for the purpose of obtaining premium bids for providing health insurance coverage under the Plan or for modifying, amending, or terminating the Plan.

3. Disclosure of Enrollment Information. Except as prohibited by 45 CFR § 164.502(a)(5)(i), the Plan may disclose to the Board information on whether an individual is participating in the Plan, or is enrolled in or has disenrolled from a health insurance issuer or HMO offered by the Plan.

4. Disclosure of PHI. The Plan will disclose PHI to the Board only in accordance with 45 CFR § 164.504(f) and the provisions of this Section.

5. Permitted Uses of PHI by the Board. PHI disclosed to the Board in accordance with this Section may only be used for the Plan administrative functions that the Board performs.

6. Certification. The adoption of this Section shall constitute certification by the Board that this Plan has been amended to include the provisions required under 45 CFR § 164.504(f).

7. Obligations of the Board. In addition to the requirements stated above, the Board also agrees to:

(a) not use or further disclose PHI other than as permitted in this Section or as required by law;

(b) ensure that any of its agents to whom it provides PHI received from the Plan agree to the same restrictions and conditions that apply to the Board with respect to such PHI;

(c) not use or disclose PHI for employment-related actions or in connection with any other benefit or employee benefit plan;

(d) report to the Plan any use or disclosure of the information that is inconsistent with the permitted uses and disclosures in this Section;

(e) make PHI available to individuals in accordance with 45 CFR § 164.524;

(f) make PHI available for individuals' amendment and incorporate any amendments in accordance with 45 CFR § 164.526;

(g) make the information available that will provide individuals with an accounting of disclosures in accordance with 45 CFR § 164.528;

(h) make its internal practices, books, and records relating to the use and disclosure of PHI received from the Plan available to the Department of Health and Human Services for purposes of determining the Plan's compliance with 45 CFR Part 164;

(i) if feasible, return or destroy all PHI received from the Plan that the Board maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, the Board will limit further its uses and disclosures of the PHI to those purposes that make the return or destruction of the information infeasible;

(j) ensure that adequate separation between the Plan and the Board, as required by this Section and by 45 CFR § 164.504(f)(2)(iii), is established and maintained;

(k) not to use or disclose PHI, for any of the following activities: (1) To conduct a criminal, civil, or administrative investigation into any person for the mere act of seeking, obtaining, providing or facilitating Reproductive Health Care; (2) to impose criminal, civil, or administrative liability on any person for the mere act of seeking, obtaining, providing or facilitating Reproductive Health Care; and (3) to identify any person for any such purpose described in (1) or (2) of this subsection. This prohibition only applies where the relevant activity is in connection with any person seeking, obtaining, providing, or facilitating Reproductive Health Care, and the covered entity or business associate that received the request for PHI has determined that one or more of the following conditions exist: (a) the Reproductive Health Care is lawful under the law of the state in which such health care is provided under the circumstances in which it is provided; (b) the Reproductive Health Care is protected, required or authorized by Federal law, including the United States Constitution, under the circumstances in which such health care is provided, regardless of the state in which it is provided; or (c) the presumption under 45 CFR 164.502(a)(5)(iii)(C) applies; and

(l) not use or disclose PHI potentially related to Reproductive Health Care for purposes specified in 45 CFR 164.512(d), (e), (f), or (g)(1), without obtaining an attestation that is valid under 45 CFR 164.509(b)(1) from the person requesting the use or disclosure and complying with all applicable conditions of 45 CFR 164.509.

8. Disclosure Only to Designated Parties. Pursuant to this Section, the Plan will disclose PHI only to the Board and/or to individual Trustees.

9. Disclosure Only for Designated Purposes. Access to and use of PHI by the parties described in paragraph 8 shall be restricted to Plan administration functions that the Board performs for the Plan. Such access or use shall be permitted only to the extent necessary for these individuals to perform their respective duties for the Plan.

10. Non-Compliance. If any person described in paragraph 8 does not comply with the provisions of this Section or the provisions of 45 CFR § 164.504(f), the Board shall provide a mechanism for resolving the issue of non-compliance, which may include disciplinary sanctions.

11. Statement Required in Privacy Notice. The Plan may not disclose, and may not permit a health insurance issuer or HMO providing services to the Plan to disclose, PHI to the Board except as would be permitted by the Plan in this Section, and only if the appropriate statement is included in the privacy notice of the Plan, the insurance issuer, or the HMO, as required by 45 CFR § 164.520.

12. Disclosure of ePHI. The Board will reasonably and appropriately safeguard electronic PHI (ePHI) created, received, maintained or transmitted to or by the Board on behalf of the Plan. Specifically, the Board will:

(a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the ePHI that it creates, receives, maintains or transmits on behalf of the Plan,

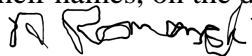
(b) ensure that adequate separation between the Plan and Board, as required by this article and by 45 CFR § 164.504(f)(2)(iii), is supported by reasonable and appropriate security measures,

(c) ensure that any agent to whom the Board provides this information agrees to implement reasonable and appropriate security measures to protect the information, and

(d) report to the Plan any security incident of which it becomes aware.

13. "Minimum Necessary" Standard. In accordance with 45 CFR § 164.502(b), as amended from time to time, reasonable efforts will be made to limit any use or disclosure by the Plan of PHI, including ePHI, or request for PHI, to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request.

IN WITNESS of the adoption of this amendment, the Chairman and Secretary hereby subscribe their names, on the dates indicated.



Chairman

Date: 1/22/2025 | 5:31 PM PST



Secretary

Date: 1/22/2025 | 6:58 PM EST