

## Notice of Privacy Practices/ HIPAA

This notice describes how your mental health records may be used and disclosed and how you can get access to this information. Please read carefully.

Mandated law provides extremely strong privileged communication protections for conversations between your therapist and you in the context of your established professional relationship. There is a difference between privileged conversations and documentation in your mental health records. Records are kept documenting your care as required by law professional standards, and other review procedures. HIPAA very carefully defines what kind of information is to be included in your "Designated Medical Record" as well as some material, known as "Psychotherapy Notes" which are not accessible to insurance companies and other 3<sup>rd</sup> party reviewers and in some cases, not to the client him/herself.

HIPAA provides privacy protections about your personal health information, which is called "Protected Health Information" (PHI), which could personally identify you. PHI consists of 3 components: *treatment, payment, and health care operations*.

*Treatment* refers to activities which I provide, coordinate, or manage in your mental health care or other services related to your mental health care. Examples include psychotherapy sessions, psychological testing, or talking to your primary care physician about your medication or overall medical condition.

*Payment* is when I obtain reimbursement for your mental health care. An example would be if filing insurance on a client's behalf.

*Health Care Operations* are activities related to the performance of my practice such as quality assurance. In mental health care, the best example is when utilization review occurs, a process in which insurance companies review the therapist's work to determine "medical necessity". (Not applicable to current services.)

The *use* of your protected health information refers to activities my office conducts for filing claims, scheduling appointments, keeping records, and other tasks *within* my office related to client care. *Disclosure* refers to activities a client may authorize which occurs *outside* my office such as sending protected health information to other parties (ie. Primary care physician, schools).

### Uses and Disclosures of Protected Health Information Requiring Authorization

Tennessee requires authorization and consent for treatment, payment, and health care operations. HIPAA does nothing to change this requirement by law in TN. I may disclose PHI for the purposes of treatment, payment, and health care operations with your consent. You have signed this general consent to care and authorization to conduct payment and health care operations, authorizing me to provide treatment and to conduct the administrative steps associated with your care.

Additionally, if you ever want me to send any of your protected health information of any sort to anyone outside my office, you will always first sign a specific authorization to release information to this outside party. A copy of that authorization is available upon request. The requirement of your signing an additional authorization form is an added protection to help insure your protected health information is kept strictly confidential.

There is a third, special authorization provision potentially relevant to the privacy of your records: **my psychotherapy notes**. In recognition of the importance of the confidentiality of the conversations between therapist-client in treatment settings, HIPAA permits keeping “psychotherapy notes” separate from the overall “designated medical record”. “Psychotherapy notes” cannot be secured by insurance companies nor can they insist upon their release for payment of services as has unfortunately occurred over the last two decades of managed mental health care. “Psychotherapy notes” are my notes “recorded in any medium by a mental health provider documenting and analyzing the contents of a conversation during a private, group, or joint family counseling session and that are separated from the rest of the individual’s medical record”. “Psychotherapy notes” are necessarily more private and contain much more personal information about you, hence the need for increased security. “Psychotherapy notes” are not the same as your “progress notes” which provide the following about your care each time you have an appointment at my office: medication prescriptions and monitoring, assessment/treatment start and stop times, the modality of care, frequency of treatment furnished, results of clinical tests, and any summary of your diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

Certain payers of care, such as Medicare and Workers Compensation, require the release of both your progress notes and my psychotherapy notes in order to pay for your care. If I am forced to submit your psychotherapy notes in addition to your progress notes for reimbursement for services rendered, you will sign an additional authorization directing me to release my psychotherapy notes. Most of the time, I will be able to limit reviews of your protected health information to only your “designated record set” which includes the following: all identifying paperwork you completed when your first started your care here, all billing information, a summary of our first appointment, your mental status examination, your individualized treatment plan, your discharge summary, progress notes, reviews of your care by managed care companies, results of psychological testing, and any authorization letters or summaries of care you have authorized me to release on your behalf. Please note that the actual test questions or raw data of psychological tests which are protected by copyright laws and the need to protect clients from unintended, potentially harmful use are not part of your “designated mental health record”.

You may, in writing, revoke all authorizations, to disclosure of protected health information at any time. You cannot revoke an authorization for an activity already done that you instructed me to do or if the authorization was obtained as a condition for obtaining insurance and TN law provides the insurer the right to contest under the policy.

### **Business Associates Disclosures**

HIPPA requires that I train and monitor the conduct of those performing ancillary administrative services for my practice and refers to these people as “Business Associates”. Presently, in my practice, I do all of my own billing and record keeping, and no other individuals have access to these records. In other words, there are no other “Business Associates” connected with my practice.

### **Uses and Disclosures Not Requiring Consent or Authorization**

**By law, protected health information may be released without your consent or authorization in the following case: 1) suspected child abuse, physical or sexual, 2) elder and domestic abuse, 3) Health Oversight Activities (i.e. licensing board for psychology in TN), 4) Judicial or administrative proceedings (e.g. if you are ordered here by court), 5) serious threat to health or safety (e.g. threat of suicide, “duty to warn” law, national security threats) 6) Workers Compensation Claims (if you seek to have your care reimbursed under Workers Compensation, all of your care is automatically subject to review by your employer and/or insurer(s).**

**I never release any information of any sort for marketing purposes.**

## **Patients' Rights and Therapist's Duties**

You have a right to the following:

- The right to request restrictions on certain uses and disclosures of your protected health information which I may or may not agree to, but if I do, such restrictions shall apply unless our agreement is changed in writing.
- The right to receive confidential communications by alternative means and at alternative locations.
- The right to inspect and have a copy of your protected health information in my designated mental health record set and any billing records for as long as protected health information is maintained in the record.
- The right to amend material in your protected health record, although I may deny an improper request and/or respond to any amendments you make to your record of care.
- The right to an accounting of non-authorized disclosures of your protected health information.
- The right to a paper-copy of notices/information from me, even if you have previously requested electronic transmission of notice/information.
- The right to revoke your authorization of your protected health information except to the extent that action has already been taken.

For more information on how to exercise these aforementioned rights, please do not hesitate to ask me for further assistance on these matters. I am required by law to maintain the privacy of your protected health information and to provide you with a notice of your privacy rights and my duties regarding your PHI. I reserve the right to change my privacy policies and practices as needed with these current designated practices being applicable unless you receive a revision of my policies when you come for future appointments. My duties on these matters include maintaining the privacy of your protected health information, to provide you this notice of your rights and privacy practices with respect to your PHI, and to abide by the terms of this notice unless it is changes and you are so notified. If for some reason you desire a copy of my internal policies for executing privacy practices, please let me know, and I will get you a copy of these documents I keep on file for auditing purposes.

### **Complaints**

I am the appointed "privacy officer" for my practice per HIPAA regulations. If you have concerns of any sort that my office may have somehow compromised your privacy rights, please do not hesitate to speak to me immediately about this matter. You will always find me willing to talk to you about preserving the privacy of your protected health information. You may also send a written complaint to the secretary of the U.S. Department of Health and Human Services.

This notice shall go into effect 4/14/2003 and remain so unless new notice provisions effective for all protected health information are enacted accordingly.

Client's Acknowledgment of HIPAA/ Privacy Practices

By indicating below, Client hereby acknowledges that he/she has received/ reviewed a copy of Notice of Privacy Practices.

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Client(s)/ Guardian Signature/ Date