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Notice of Policies and Practices to Protect the Privacy of Protected Health Information

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.

I. I HAVE A LEGAL DUTY TO SAFEGUARD YOUR PROTECTED HEALTH INFORMATION (PHI)

I am required by law to maintain the privacy and security of your protected health information (“PHI”) and to provide you with this *Notice of Policies and Practices to Protect the Privacy of Protected Health Information* (“Notice”). I must abide by the terms of this Notice, and I must notify you if a breach of your unsecured PHI occurs. I can change the terms of this Notice, and such changes will apply to all information I have about you. A current Notice is always available upon request and is also posted on my website. I am required to have this Notice available to you, both in my office and on my website, as well as to make a good faith effort to obtain your written acknowledgment of your receipt of this Notice. You are entitled to a copy of this Notice.

Electronic records, if kept, will be kept in accordance with The Health Insurance Portability and Accountability ACT (HIPAA) guidelines set forth in the Privacy, Security, and Transaction Code Sets Rules; paper files will be stored in a locked drawer/cabinet in the therapist’s office, and in accordance with HIPAA guidelines.

- The Privacy Rule is a Federal law that gives you rights over your health information and sets rules and limits on who can look at, and receive, your health information. The Privacy Rule applies to all forms of your protected health information, whether electronic, written, or oral. In general, the Privacy Rule requires that I: inform you of my privacy policy; grant you access to your records; obtain your Authorization before sharing your PHI for “non-routine purposes” (unless disclosure is permitted without your Authorization-information below covers these exceptions in more detail); secure your records; inform my business associates (BA) of this Notice to protect PHI; and properly train employees in terms of HIPAA compliance. I will also have a HIPAA contract with all business associates (BA’s) who receive PHI to provide me with services, or provide services on my behalf (i.e. answering services, collection agencies, lawyers, etc.); a BA is a person, entity, or organization (that is not part of my staff) who provides services to me, or on my behalf. In addition to the HIPAA contract with BA’s, if I become aware that a BA has violated the HIPAA contract, I must take reasonable steps to: correct the violation; terminate the contract; or report the BA to The Department of Health and Human Services.
- The Security Rule is a Federal law that requires security for health information in electronic form and encompasses administrative, physical, and technical standards.
- The Transaction and Code Sets Rule is designed to achieve higher quality care and reduce administrative costs by streamlining the process of routine administrative and financial transactions.

For additional information about HIPAA, you can go to the following government website: <https://www.hhs.gov>. There are also a number of brochures about HIPAA I retrieved from this website that are helpful to better understand HIPAA, entitled: “HIPAA Overview,” “Your Health Information Privacy Rights,” “Privacy, Security, and Electronic Health Records,” “Sharing Health Information with Family and Friends,” and “Understanding the HIPAA Notice.” If you would like these brochures, I would be happy to get you a printed or electronic copy of them, at your written or verbal request.

In terms of your records, your records will be kept in accordance with The American Psychological Association's "Recordkeeping Standard" outlined in the *Ethical Principles of Psychologists and Code of Conduct*. The APA's Code of Ethics indicates that psychologists should create and maintain records in order to: facilitate the provision of later services, replicate research design/analyses, meet institutional requirements, ensure accuracy of billing/payments, and to be in compliance with law.

I. Disclosures for Treatment, Payment, and Healthcare Operations

I may use or disclose your protected health information (PHI), for certain treatment, payment, and healthcare operations without your Authorization. In certain circumstances, I can only do so when the person or business requesting your PHI gives me a written request that includes certain promises regarding protecting the confidentiality of your PHI.

To help clarify these terms, here are some definitions:

- **Protected Health Information (PHI)** refers to information in your health record that could identify you.
- **Treatment** is when healthcare providers, including myself, diagnose or provide treatment to, or for, you. An example of treatment would be when I consult with another healthcare provider, such as your family physician, psychiatrist, or another psychologist, regarding your treatment.
- **Payment** is when I obtain reimbursement for your healthcare. Examples of payment are when I: disclose your PHI to your health insurer to obtain reimbursement for your healthcare or to determine eligibility or coverage; use a collection agency for outstanding debts.
- **Healthcare Operations** are when I disclose your PHI to your healthcare service plan (for example your health insurer), or to your other healthcare providers contracting with your plan, for administering the plan, such as case management and care coordination.
- **Use** applies only to activities within my office such as sharing, employing, applying, utilizing, examining, and analyzing information that identifies you.
- **Disclosure** applies to activities outside of my office such as releasing, transferring, or providing access to information about you to other parties.
- **Authorization** means written permission for specific uses or disclosures.

II. HOW I MAY USE AND DISCLOSE YOUR PHI

A. Except for the specific purposes set forth below, I will use and disclose your PHI only with your written Authorization ("Authorization"). It is your right to revoke such Authorization at any time by giving me written notice of your revocation; however, this revocation will not apply to PHI already released with your Authorization, nor does it affect disclosures of PHI that are allowed without your consent or Authorization. Authorization to release PHI must include:

- A description of the information that will be disclosed.
- Limitations on information that will be disclosed.
- The name and function of provider/entity who/that may disclose information.
- The name and function of person/entity authorized to use the information.
- An expiration date of the Authorization.
- A statement informing you of your right to receive a copy of, and revoke, the Authorization.

Uses (inside my counseling practice) and **Disclosures** (outside my counseling practice) relating to treatment, payment, or healthcare operations do not require your written consent. I can use and disclose your PHI without your Authorization for the following reasons:

- **For your treatment.** I can use and disclose your PHI to treat you, which may include disclosing your PHI to another healthcare professional. For example, if you are being treated by a physician or a psychiatrist, I can disclose your PHI to help coordinate your care, although my preference is for you to give me an Authorization to do so.

- **To obtain payment for your treatment.** I can use and disclose your PHI to bill and collect payment for the treatment and services provided to you, by me. For example, I might send your PHI to your insurance company or to a collection agency to get paid for healthcare services that I have provided to you, or to collect outstanding debts.
- **For healthcare operations.** I can use and disclose your PHI for purposes of conducting healthcare operations pertaining to my practice, including contacting you when necessary.

B. Certain other uses and disclosures do not require your consent or Authorization. Subject to certain limitations in the law, I can use and disclose your PHI without your Authorization for the following reasons:

- When disclosure is required by state or federal law, and the use or disclosure complies with, and is limited to, the relevant requirements of such law.
- For public health activities, including reporting suspected child, elder, or dependent adult abuse (regardless of who the alleged perpetrator is), or preventing or reducing a serious threat to anyone's health or safety, including damage to property.
- For health oversight activities, including audits and investigations.
- For judicial and administrative proceedings, including responding to a court or administrative order.
- For law enforcement purposes, including reporting crimes occurring on my premises.
- To coroners or medical examiners, when such individuals are performing duties authorized by law.
- For research purposes, including studying and comparing the mental health of patients who received one form of therapy versus those who received another form of therapy.
- Specialized government functions, including: ensuring the proper execution of military missions; protecting the President of the United States; conducting intelligence or counter-intelligence operations; or helping to ensure the safety of those working within, or housed in, correctional institutions.
- For workers' compensation purposes; I may provide your PHI in order to comply with workers' compensation laws.
- Appointment reminders and health related benefits or services. I may use and disclose your PHI to contact you to remind you that you have an appointment with me. I may also use and disclose your PHI to tell you about treatment alternatives, or other healthcare services or benefits that I offer.
- The information is de-identified.
- The information included is part of a "limited data set" that contains only certain identifiers like city and state of residence.
- When necessary to avert serious threats to persons or property.

The following are also **exceptions** to confidentiality that enable me to disclose your PHI without your consent:

- You provide written Authorization to release information.
- You present a physical danger to yourself, others, or property.
- You are gravely disabled.
- Child/elder/dependent adult abuse/neglect is suspected; this applies regardless of who is the alleged perpetrator.
- I am court-ordered to release records.

There are also a number of instances where patient-therapist privilege does not apply and information can be disclosed without your consent or Authorization:

- **Patient-litigant exception:** the patient's *emotional* condition has been raised as an issue by the patient/representative.
- **Court-appointed psychotherapist:** the therapist is appointed by the court to examine the defendant to help the court make a decision about the patient.

- However, within the court-appointed psychotherapist exception, the therapist must inform the patient that this information will not be confidential. If the therapist fails to do this-the evaluation cannot be submitted in court.
- **Board of prison terms-appointed psychotherapist:** there is no privilege when the therapist is appointed to determine the need for mental health treatment of an inmate.
- **Crime or tort:** Therapeutic services are sought/obtained to enable or aid anyone to commit or plan to commit a crime or a tort, including when services are to escape detection/apprehension after a crime or a tort.
- **Breach of duty arising out of psychotherapist-patient relationship:** i.e. patient/representative brings legal action against the psychologist alleging a breach of duty, and confidential information is necessary to the psychologist's defense. This also includes utilization of a collection agency due to non-payment of fees agreed upon during informed consent.
- **Proceeding to determine sanity of criminal defendant or a proceeding to establish competence:** the psychologist is hired to determine sanity or competence to stand trial.
- **Patient under the age of 16 years old is the victim of crime:** the patient is suspected to be the victim of a crime and disclosure is in the best interest of patient.

C. You have the opportunity to object to certain uses and disclosures. I may provide your PHI to a family member, friend, or other person that you indicate is involved in your care or the payment for your healthcare, unless you object in whole or in part. The opportunity to consent may be obtained retroactively in emergency situations.

D. Use and disclosure of “psychotherapy notes” requires your Authorization. I rarely keep “psychotherapy notes” as that term is defined in 45 CFR § 164.501. However, any use or disclosure of such notes requires your Authorization unless the use or disclosure is:

- For my use in treating you.
- For my use in training or supervising other mental health practitioners to help them improve their skills in group, joint, family, or individual therapy.
- For my use in defending myself in legal proceedings instituted by patient/representative.
- For use by the Secretary of Health and Human Services to investigate my compliance with HIPAA.
- Required by law, and the use or disclosure is limited to the requirements of such law.
- Required by law for certain health oversight activities pertaining to the originator of the psychotherapy notes.
- Required by a coroner who is performing duties authorized by law.
- Required to help avert a serious threat to the health and safety of others, or of property.
- I may also refuse to give you a copy of your psychotherapy notes if I believe it will cause substantial risk of significant adverse or detrimental consequences.

III. YOUR RIGHTS REGARDING YOUR PHI.

You have the following rights with respect to your PHI:

A. The right to request limits on uses and disclosures of your PHI. You have the right to ask me not to use or disclose certain PHI for treatment, payment, or healthcare operations purposes. I am not required to agree to your request if I believe it would affect you, or your healthcare; the above limitations to confidentiality and disclosures also apply.

B. The right to request restrictions for out-of-pocket expenses paid for in full. You have the right to request restrictions on disclosures of your PHI to health plans for payment or healthcare operations purposes if the PHI pertains solely to a healthcare item or a healthcare service that you have paid for out-of-pocket in full.

C. The right to choose how I send PHI to you. You have the right to ask me to contact you in a specific way (for example, home or office phone) or to have me send mail to a different address; I will agree to all reasonable requests.

D. The right to see and get copies of your PHI. You have the right to inspect, get a summary of, and/or get a copy of your medical record and other information that I have about you. However, there are circumstances where I can deny your request. According to The Privacy Rule set forth by HIPAA there are circumstances where the denial of access is reviewable and other cases where the denial is not reviewable:

- **Unreviewable** grounds for denial are: situations involving psychotherapy notes; information compiled for use in legal proceedings; certain information held by clinical laboratories; certain requests which are made by inmates of correctional institutions; information created or obtained during research that includes treatment if certain conditions are met; denials when information was obtained from non-healthcare providers pursuant to promises of confidentiality.
- **Reviewable** grounds for denial are: disclosures which would cause endangerment of the individual or another person; situations where the PHI refers to another and disclosure is likely to cause substantial harm; requests are made by a personal representative where disclosure is likely to cause substantial harm.

Unless access is denied, I will allow you to inspect your records, provide you with a copy of your record, or give you a summary (if you agree to receive a summary in advance), within the following time periods (after receiving a written request): you are entitled to inspect your records within 5 working days of your written request; you are entitled to receive a copy of your records within 15 days of your written request; you are entitled to have a summary of your record within 10 business days of your written request (however, if your record is extraordinary in length, or you were recently discharged from a licensed health facility within last 10 days, I have up to 30 days from the time of your written request to produce a summary, but I must inform you that more than 10 days will be needed to prepare the summary).

E. The right to get a list of the disclosures I have made. You have the right to request a list of instances in which I have disclosed your PHI for purposes other than treatment, payment, or healthcare operations, or for which you provided me with an Authorization. I will respond to your request for an accounting of disclosures within 60 days of receiving your request. The list I will give you will include disclosures made in the last six years unless you request a shorter time.

F. The right to amend your PHI. If you believe there is a mistake in your PHI, or that information is missing from your PHI, you have the right to request that I correct the existing information or add the missing information. However, I may deny your request if: the information was not created by me (unless person who created is not available); the information is not part of your designated record set or is not available for inspection; I believe the information is inaccurate and incomplete. If I deny your request, you must be: provided with a timely, written explanation describing the basis for denial; informed of your right to file a statement of disagreement; allowed to have the request and denial notice included in future disclosures of your protected health information; and notified of the procedures for filing a complaint with The Department of Health and Human Services.

If your request for the amendment of your PHI is accepted, the record must be amended, you must be informed the amendment was accepted, and I must provide the amended information to those previously receiving your PHI.

G. The right to get a paper or electronic copy of this notice. You have the right get a paper copy of this Notice, and you have the right to get a copy of this notice by e-mail. If you have agreed to receive this Notice via e-mail, you also have the right to request a paper copy.

IV. SALE OF PHI AND USE/DISCLOSURE OF PHI FOR MARKETING PURPOSES

As a psychologist, I will not use or disclose your PHI for marketing purposes; I will not sell your PHI in the regular course of my business.

V. HOW TO COMPLAIN ABOUT MY PRIVACY PRACTICES

If you think I may have violated your privacy rights, you may file a complaint with me. My office phone number is (760) 688-6761.

You can also file a complaint with the United States Department of Health and Human Services. Contact information for the U.S. Department of Health and Human Services, Office for Civil Rights, is provided below:

U.S. Department of Health and Human Services Office for Civil Rights

Mailing Address:

Centralized Case Management Operations
200 Independence Ave., SW
Room 509F, HHH Building
Washington, D.C. 20201

Telephone and Fax:

Customer Response Center: (800) 368-1019
Fax: (202) 619-3818
TDD: (800) 537-7697

Web Address:

www.hhs.gov/ocr/privacy/hipaa/complaints

It is important that you know that I will not retaliate against you if you file a complaint about my privacy practices.

VI. EFFECTIVE DATE OF THIS NOTICE

This original date this notice went into effect was: December 10th, 2015; slight modifications were made on November, 16, 2023.