

PATIENT NOTIFICATION OF PRIVACY RIGHTS

The Health Insurance Portability and Accountability Act (HIPAA) has created new patient protections surrounding the use of protected health information. Commonly referred to as the "medical records privacy law", HIPAA provides patient protections related to the electronic transmission of data (Transaction Rules), the keeping and use of patient records (Privacy Rules), and storage and access to health care records (Security Rules). HIPAA applies to all health care providers, including mental health care, and providers and health care agencies throughout the country are now required to provide patients with a notification of their privacy rights as it relates to their health care records. You may have already received similar notices such as this one from your other health care providers. As you might expect, the HIPAA law and regulations are extremely detailed and difficult to grasp if you don't have formal legal training. My Patient Notification of Privacy Rights is my attempt to inform you of your rights in a simple yet comprehensive fashion. Please read this document as it is important you know what patient protections HIPAA affords all of us. In mental health care, confidentiality and privacy are central to the success of the therapeutic relationship and as such, you will find I will do all I can do to protect the privacy of your mental health records. If you have any questions about any of the matters discussed in this document, please do not hesitate to ask me for further clarification. By law, I am required to secure your signature indicating you have received this Patient Notification of Privacy Rights Document. You will be asked to provide your signature on my "Informed Consent" form. Thank you for your thoughtful consideration of these matters.

Ashley Johnston, LPC, MHSP Licensed Professional Counselor

THIS NOTICE DESCRIBES HOW YOUR MENTAL HEALTH RECORDS MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION.

PLEASE READ IT CAREFULLY.

I. PREAMBLE

The Psychological Licensing Law provides extremely strong privileged communication protections for conversations between your psychotherapist and you in the context of your established professional relationship with your psychotherapist. 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 is not accessible to insurance companies and other third-party reviewers and in some cases, not to the patient him/her self.

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

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

Payment means I may use or disclose PHI so that services you receive are appropriately billed to, and payment is collected from, your health plan. By way of example, I may disclose PHI to permit your health plan to take certain actions before it approves or pays for treatment services.

Health Care Operations are activities related to the performance of my practice such as quality assurance. In mental health care, the best example of health care operations is when utilization review occurs, a process in which your insurance company reviews our work together to see if your care is "really medically necessary."

The use of your protected health information refers to activities my office conducts for scheduling appointments, keeping records and other tasks *within* my office related to your care. *Disclosures* refer to activities you authorize which occur *outside* my office such as sending your protected health information to other parties (e.g. your primary care physician, the school your child attends).

II. 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 Tennessee. 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 you signing an additional authorization form is an added protection to help insure your protected health information is kept strictly confidential. An example of this type of release of information might be your request that I talk to your child's school counselor about her eating disorder and what she might do to be of help to your child. Before I talk to that counselor, you will have first signed the proper authorization for me to do so.

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 conversations between psychotherapist-patient in treatment settings, HIPAA permits keeping separate "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 of the notes. "Psychotherapy notes" are not the same as your "progress notes" which provide the following information 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 you first started your care here, all billing information, 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 patients 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 Tennessee law provides the insurer the right to contest the claim under the policy.

III. USES AND DISCLOSURES NOT REQUIRING CONSENT NOR AUTHORIZATION

By law, protected health information may be released without your consent or authorization in the following cases:

- Suspected child abuse, physical or sexual
- Elder and domestic abuse
- Health Oversight Activities (i.e. licensing board for counselors in TN)
- Judicial or administrative proceedings (e.g. if you are ordered here by the court)
- Serious threat to Health or Safety (e.g. threat of suicide, "duty to warn" law, national security threats)
- Workers Compensation Claims (if you seek to have your care reimbursed under Worker 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.

IV. PATIENT'S RIGHTS AND MY 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. For example, you may not want your bills sent to your home address so I will send them to another location of your choosing;
- 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 information, although I may deny an improper request and/or respond to any amendment(s) 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 notices/information; and
- 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 each of 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 your 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 changed and you are so notified.

V . COMPLAINTS

I am the appointed "privacy officer" for my practice per HIPAA regulations. If you have any 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 mental health information. You may also send a written complaint to the secretary of the U.S. Department of Health and Human Services.

VI. THIS NOTICE SHALL REMAIN IN EFFECT UNLESS NEW NOTICE PROVISIONS EFFECTIVE FOR ALL PROTECTED HEALTH INFORMATION ARE ENACTED ACCORDINGLY.