

Notice of Mental Health Policies and Practices to Protect the Privacy of Your Health Information

THIS NOTICE DESCRIBES HOW COUNSELING, PSYCHOLOGICAL, AND MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

I. Disclosures for Treatment, Payment, and Health Care Operations

We may use or disclose your *protected health information (PHI)*, for certain *treatment, payment, and health care operations* purposes without your *authorization*. In certain circumstances we can only do so when the person or business requesting your PHI gives us a written request that includes certain promises regarding protecting the confidentiality of your PHI. To help clarify these terms, here are some definitions:

- “*PHI*” refers to information in your health record that could identify you.
- “*Treatment, Payment and Health Care Operations*”
 - *Treatment* is when we provide or another healthcare provider diagnoses or treats you. An example of treatment would be when we consult with another health care provider, such as your family physician or another mental health provider, regarding your treatment.
 - *Payment* is when we obtain reimbursement for your healthcare. Examples of payment are when we disclose your PHI to your health insurer to obtain reimbursement for your health care or to determine eligibility or coverage.
 - *Health Care Operations* is when we disclose your PHI to your health care service plan (for example your health insurer), or to other health care providers contracting with your plan, or administering the plan, such as case management and care coordination.
- “*Use*” applies only to activities within our [office, clinic, practice group, etc.] such as sharing, employing, applying, utilizing, examining, and analyzing information that identifies you.
- “*Disclosure*” applies to activities outside of our [office, clinic, practice group, etc.], such as releasing, transferring, or providing access to information about you to other parties.
- “*Authorization*” means your written permission for specific uses or disclosures.

II. Uses and Disclosures Requiring Authorization

We may use or disclose PHI for purposes outside of treatment, payment, and health care operations when your appropriate authorization is obtained. In those instances when we are asked for information for purposes outside of treatment and payment operations, we will obtain an authorization from you before releasing this information. your provider will also need to obtain an authorization before releasing your psychotherapy notes. “*Psychotherapy notes*” are notes your provider has made about your conversation during a private, group, joint, or family counseling session, which your provider has kept separate from the rest of your medical record. These notes are given a greater degree of protection than PHI.

You may revoke or modify all such authorizations (of PHI or psychotherapy notes) at any time; however, the revocation or modification is not effective until we receive it.

We will also obtain an authorization from you before using or disclosing:

- PHI in a way that is not described in this Notice.
- PHI for marketing purposes

III. Uses and Disclosures with Neither Consent nor Authorization

We may use or disclose PHI without your consent or authorization in the following circumstances:

- **Child Abuse:** Whenever your provider, in their professional capacity, has knowledge of or observes a child they know or reasonably suspect, has been the victim of child abuse or neglect, they must immediately report such to a police department or sheriff's department, county probation department, or county welfare department. Also, if your provider has knowledge of or reasonably suspects that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any other way, your provider may report such to the above agencies.
- **Adult and Domestic Abuse:** If your provider, in their professional capacity, has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, abduction, isolation, financial abuse or neglect of an elder or dependent adult, or if your provider is told by an elder or dependent adult that he or she has experienced these or if your provider reasonably suspects such, your provider must report the known or suspected abuse immediately to the adult protective services agency or the local law enforcement agency.

Your provider does not have to report such an incident if:

- 1) Your provider has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, abduction, isolation, financial abuse or neglect;
 - 2) Your provider is not aware of any independent evidence that corroborates the statement that the abuse has occurred;
 - 3) the elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia; and
 - 4) in the exercise of clinical judgment, your provider reasonably believes that the abuse did not occur.
- **Health Oversight:** If a complaint is filed against us with a licensing board, the Board has the authority to subpoena confidential mental health information from us relevant to that complaint.
 - **Judicial or Administrative Proceedings:** If you are involved in a court proceeding and a request is made about the professional services that we have provided you, we must not release your information without 1) your written authorization or the authorization of your attorney or personal representative; 2) a court order; or 3) a subpoena duces tecum (a subpoena to produce records) where the party seeking your records provides us with a showing that you or your attorney have been served with a copy of the subpoena, affidavit and the appropriate notice, and you have not notified us that you are bringing a motion in the court to quash (block) or modify the subpoena. The privilege does not

apply when you are being evaluated for a third party or where the evaluation is court-ordered. We will inform you in advance if this is the case.

- **Serious Threat to Health or Safety:** If you or your family member communicate to your provider that you pose a serious threat of physical violence against an identifiable victim, your provider must make reasonable efforts to communicate that information to the potential victim and the police. If your provider has reasonable cause to believe that you are in such a condition, as to be dangerous to yourself or others, your provider may release relevant information as necessary to prevent the threatened danger.
- **Worker's Compensation:** If you file a worker's compensation claim, your provider may disclose to your employer your medical information created as a result of employment-related health care services provided to you at the specific prior written consent and expense of your employer so long as the requested information is relevant to your claim provided that is only used or disclosed in connection with your claim and describes your functional limitations provided that no statement of medical cause is included.
- When the use and disclosure without your consent or authorization is allowed under other sections of Section 164.512 of the Privacy Rule and the state's confidentiality law. This includes certain narrowly-defined disclosures to law enforcement agencies, to a health oversight agency (such as HHS or a state department of health), to a coroner or medical examiner, for public health purposes relating to disease or FDA-regulated products, or for specialized government functions such as fitness for military duties, eligibility for VA benefits, and national security and intelligence.

IV. Patient's Rights and Psychologist's Duties

Patient's Rights:

- *Right to Request Restrictions* – You have the right to request restrictions on certain uses and disclosures of protected health information about you. However, we are not required to agree to a restriction you request.
- *Right to Receive Confidential Communications by Alternative Means and at Alternative Locations* – You have the right to request and receive confidential communications of PHI by alternative means and at alternative locations. (For example, you may not want a family member to know that you are seeing us. Upon your request, we will send your bills to another address.)
- *Right to Inspect and Copy* – You have the right to inspect or obtain a copy (or both) of PHI and/or psychotherapy notes in our mental health and billing records used to make decisions about you for as long as the PHI is maintained in the record. We may deny your access to PHI under certain circumstances, but in some cases you may have this decision reviewed. On your request, we will discuss with you the details of the request and denial process.
- *Right to Amend* – You have the right to request an amendment of PHI for as long as the PHI is maintained in the record. We may deny your request. On your request, we will discuss with you the details of the amendment process.
- *Right to an Accounting* – You generally have the right to receive an accounting of disclosures of PHI for which you have neither provided consent nor authorization (as

described in Section III of this Notice). On your request, we will discuss with you the details of the accounting process.

- *Right to a Paper Copy* – You have the right to obtain a paper copy of the notice from us upon request, even if you have agreed to receive the notice electronically.
- *Right to Restrict Disclosures When You Have Paid for Your Care Out-of-Pocket*. You have the right to restrict certain disclosures of PHI to a health plan when you pay out-of-pocket in full for our services.
- *Right to Be Notified if There is a Breach of Your Unsecured PHI*. You have a right to be notified if: (a) there is a breach (a use or disclosure of your PHI in violation of the HIPAA Privacy Rule) involving your PHI; (b) that PHI has not been encrypted to government standards; and (c) my risk assessment fails to determine that there is a low probability that your PHI has been compromised.

Clinician's Duties:

- We are required by law to maintain the privacy of PHI and to provide you with a notice of our legal duties and privacy practices with respect to PHI.
- We reserve the right to change the privacy policies and practices described in this notice. Unless we notify you of such changes, however, we are required to abide by the terms currently in effect.
- If we revise our policies and procedures, we will provide you with a revised notice by e-mail, unless you have requested to not be contacted via e-mail, in which case we will provide you with a revised notice via mail to the address you have provided.

V. Questions and Complaints

If you have questions about this notice, disagree with a decision I make about access to your records, or have other concerns about your privacy rights, you may contact me via the secure patient portal. If you believe that your privacy rights have been violated and wish to file a complaint with my office, you may send me a written complaint. You may also send a written complaint to the Secretary of the U.S. Department of Health and Human Services. You have specific rights under the Privacy Rule. We will not retaliate against you for exercising your right to file a complaint.

VI. Effective Date, Restrictions, and Changes to Privacy Policy

This notice will go into effect on July, 2020, *which may not be earlier than the date on which the notice is printed or otherwise published.*] We reserve the right to change the terms of this notice and to make the new notice provisions effective for all PHI that we maintain. We will provide you with a revised notice via the patient portal.