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

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.

Preamble

The Psychology Licensing Law provides extremely strong privileged communication protections for conversations between you and your Psychologist in the context of the 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. The Health Insurance Portability and Accountability Act (HIPAA) clearly 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.

I. Uses and Disclosures of Protected Health Information for Treatment, Payment, and Health Care Operations

Under HIPAA regulations, I may *use* or disclose your *protected health information (PHI)*, for treatment, payment, and health care operations purposes with your *consent*. 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 I provide, coordinate, or manage your health care and other services related to your health care. Examples include a psychotherapy session, psychological testing, or when I consult with another health care provider, such as your family physician or another psychologist.
- **“Payment”** is when I obtain reimbursement for your healthcare. Examples are when I disclose your PHI to your health insurer to obtain reimbursement for your health care or to determine eligibility or coverage.
- **“Health Care Operations”** are activities that relate to the performance and operation of my practice. Examples are quality assessment and improvement activities,

business-related matters such as audits and administrative services, and case management and care coordination.

- **“Use”** of your protected health information refers to activities my office conducts to file your claims, schedule appointments, keep records and other tasks *within* my office related to your care.
- **“Disclosures”** refers to activities you authorize which occur *outside* my office such as sending your protected health information to other parties, such as your primary care physician or the school your child attends.

II. Uses and Disclosures of Protected Health Information Requiring Authorization

Tennessee requires authorization and consent for treatment, payment and healthcare operations. HIPAA does nothing to change this requirement by law in Tennessee. I may disclose PHI for the purposes of treatment, payment, and healthcare operations with your consent. During your first appointment, you signed a general consent for care and an authorization to conduct payment and health care operations. This authorizes me to provide treatment and to conduct the administrative steps associated with your care (i.e., file insurance for you).

Additionally, if you ever want me to send any of your protected health information 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 form is available upon request. The requirement of you signing an additional authorization form is added protection to help ensure 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 teacher about his/her ADHD condition and what this teacher might do to help your child. You would first need to sign a release before I could talk to that teacher.

There is a third authorization provision relevant to the privacy of your records which deals with my psychotherapy notes. In recognition of the importance of the confidentiality of conversations between psychologist and patient 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” contain much more personal information about you and therefore increased privacy and security of the notes is needed. “Psychotherapy notes” are not the same as “progress notes” which provide the following information about your care each time you have an appointment at my office: assessment/treatment start and stop times, the modalities of care, frequency of treatment furnished, results of clinical tests, medication prescription and monitoring, and any summary of your diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

Certain payors 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, I will ask you to sign an additional authorization directing me to release my psychotherapy notes along with the progress notes.

Most of the time I will be able to limit reviews of your PHI 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, a summary of our first appointment, your mental status examination, your 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 are protected by copyright laws and are not part of your “designated mental health record”.

You may, in writing, revoke all authorizations to disclosure PHI at any time. You may not revoke an authorization to the extent that (1) I have already acted on that authorization; or (2) if the authorization was obtained as a condition of obtaining insurance coverage, and the law provides the insurer the right to contest the claim under the policy.

III. Business Associates Disclosures

HIPAA 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”. In my practice, “business associates” includes our secretaries who provide services such as typing, making phone calls, and filing insurance claims –all activities which bring them into contact with your PHI. I have purposely separated your administrative and clinical records in an attempt to further enhance your privacy. My clerical staff does not access those sections of your designated medical record that contain the particulars of your mental health concerns (psychotherapy notes); ONLY I access your full designated mental health record. Another example of a business associate is the cleaning person in my office. In compliance with HIPAA, I have signed a formal contract with any business associates. It clearly spells out to them that protecting your mental health information is an absolute condition for employment. I train them in my privacy practices, monitor their compliance, and correct any errors, if they should occur.

IV. Uses and Disclosures Not Requiring Consent nor Authorization

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

- Suspected physical, sexual, emotional, or psychological abuse of a child, elderly person, or vulnerable adult
- Suspected neglect of a child, elderly person, or vulnerable adult
- Domestic abuse
- Health oversight activities (i.e., licensing board for Psychology in Tennessee)
- Judicial or administrative proceedings (i.e., if you are ordered here by the court for an independent child custody evaluation in a divorce)

- Serious threat to the health or safety of yourself or others (i.e., our “Duty to Warn” Law, national security threats, severe suicidality or mental illness requiring involuntary hospitalization)
- 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 insurers)

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

V. 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 PHI. However, I am not required to agree to the restrictions you request. If I do, such restrictions shall not apply unless our agreement is changed in writing.
- *The right to receive confidential communications by alternative means and at alternative locations.* For example, if you do not want your bills sent to your home address, I will send them to another location of your choice.
- *The right to inspect and copy* your PHI and any billing records for as long as the PHI is maintained in the record.
- *The right to amend* material in your PHI. However, 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 nonauthorized disclosures* of your PHI.
- *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 PHI except to the extent that action has already been taken.

For more information on how to exercise these rights, please do not hesitate to ask me. 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. These current designated practices are applicable unless you receive a revision of my policies when you come for your future appointment(s). My duties as a Psychologist on these matters include maintaining the privacy of your protected health information, providing you with this notice of your rights and my privacy practices with respect to your PHI, and abiding by the terms of this notice unless it is changed 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 which I keep on file for auditing purposes.

VI. Complaints

I am the appointed “Privacy Officer” for my practice per HIPAA regulations. If you have any concerns 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.

VII. Effective Date

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

Acknowledgement of Receipt of Privacy Notice

Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), you have certain rights regarding the use and disclosure of your protected health information. By checking the box below, you are acknowledging that you have received a copy of HIPAA Notice of Privacy Practices.

BY SIGNING BELOW I AM AGREEING THAT I HAVE READ, UNDERSTOOD AND AGREE TO THE ITEMS CONTAINED IN THIS DOCUMENT.

Signature

Date