

## HIPAA NOTICE\*

### Health Insurance Portability and Accountability Act (HIPAA)

**\*Maine Board of Counseling Professionals has privacy rules, whichever provides more privacy prevails**

**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 Counselor Ethics and Licensing Code provides very strong privileged communication protections for conversations between your Counselor 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 professional standards, review procedures and law. HIPAA clearly defines what kind of information is to be included in your “designated medical record”.

HIPAA provides privacy protections about your personal health information, which is called “protected health information” (PHI) which could personally identify you. I am allowed to disclose PHI for these three (\*3) reasons: *treatment, payment, and health care operations*.

*Treatment* purposes refers to activities in which I provide, coordinate or manage your mental health care or services related to your mental health care. For examples, 1) a counseling session, or 2) talking with your primary care physician about your medication or overall medical condition.

*Payment* is when I obtain reimbursement for your mental health care. The clearest example of this is filing an insurance claim on your behalf to help pay for some of the costs of the services provided.

*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 “medically necessary” or credential review.

The use of your protected health information (PHI) refers to activities my office conducts for filing your claims, scheduling appointments, keeping records and other tasks related to your care. Disclosures refer

to information you authorize to release such as the sending of your PHI to other parties (i.e. your primary care physician).

*\*In the event HIPAA disclosure information differs with the Maine Board of Counseling Professionals Licensure, whichever protects clients' privacy more prevails.*

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

Maine requires authorization consent for treatment, payment and healthcare operations. I may disclose your PHI for the purposes of treatment, payment and healthcare operations with your consent. You sign an authorization so I may bill your insurance company directly.

If you want me to send any of your protected health information (PHI) to anyone, you will first sign a specific authorization to release information to this outside party. A copy of that authorization form is available upon the request. The requirement of you signing an additional authorization form is an added protection to help ensure your PHI is kept strictly confidential. An example of this type of release might be someone who wants me to speak with a spouse, parent, etc. as part of counseling. Before I talk with anyone, you will first sign the proper authorization.

You may in writing, revoke all authorizations to disclose protected health information (PHI) at any time. You cannot revoke an authorization for a disclosure that you already instructed me to do and has been done or if the authorization was obtained as a condition for obtaining insurance and Maine 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". At present, I schedule all appointments and file all claims electronically through an insurance clearing house called Office Ally.

## IV Uses and Disclosures Not Requiring Consent or Authorization

By law, protected health information (PHI) may be released without your consent or authorization in the following situations:

- Imminent serious threat of harm, sexual or other, to a child, elder, or someone physically or mentally disabled

- Health oversight activities (i.e. Maine Counseling licensing board; discuss diagnosis with other medical provider)
- Judicial or administrative proceedings (i.e. if you are ordered here by the court for counseling; to defend my practice in a legal action or other proceeding brought by client)
- Serious threat to health or safety to yourself or another (i.e. "Duty to Warn" Law)
- Worker's Compensation claims (if you seek to have your care reimbursed under Worker's Compensation, all of your care is automatically subject to review by your employer and/or insurer(s))

I do not release information of for marketing purposes nor for fundraising. No sale of PHI.

## V Patient/Client Rights and My Duties

You have a right to the following:

- The right to request restrictions on certain uses and disclosure of your PHI 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 alternate 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 copy your PHI in my designated mental health record set and any billing records for as long as PHI is maintained in the record
- The right to amend material in your protected health information, although I may deny any improper request and/or respond to any amendment(s) you make to your record of care.
- The right to an accounting of unauthorized 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 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 PHI 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 appointment(s). My duties as a Counselor on these matters include this notice unless it is changed and you are so notified.

## VI Breach

If a breach of protected health information (PHI) occurs, I must report to you and Health and Human Services if the information was unsecured, for example, an email hacker.

## VII Complaints

I am the appointed “Privacy Officer” for my practice per HIPAA regulations. If you have any concerns of any sort regarding 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 Department of Health and Human Services.

The consequences of a privacy violation may include fines. I do complete risk analyses every so often and obtain outside objective professional input.

VIII This notice has been effect since September 15, 2009 and remains so with additional updates thus far most recently completely on January 20, 2015.