

# Desert Hope Psychotherapy and Consultation Services, LLC

Steve LeGendre, MA, MPA, LMFT, LPC

## ARIZONA HIPPA PRIVACY NOTICE FORM

### Notice of Steve LeGendre's Policies and Practices to Protect the Privacy of Your Health Information

I am a mental health care provider. Specifically, I am a Marriage and Family Therapist and Professional Counselor, licensed by the State of Arizona through the Arizona Board of Behavioral Health Examiners. I create and maintain treatment records that contain individually identifiable health information about you. These records are generally referred to as "medical records", "mental health records" or "client records", and this Notice, among other things, concerns the privacy and confidentiality of those records and the information contained therein.

THIS INFORMATION DESCRIBES HOW 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. Uses and Disclosures for Without Your Authorization—For Treatment, Payment or Health Care Operations.**

A. Definitions- I may use or disclose your protected health information (PHI) for treatment, payment and health care operations purposes with your written authorization. To assist you the following terms are clarified:

- PHI-refers to information in your health record that could identify you.
- Treatment-means when I provide, coordinate or manage your health care and other services related to your health care.
- Payment-means when I obtain reimbursement for your health care. For example, when I disclose your PHI to your health insurer to obtain reimbursement for your care or to determine eligibility for coverage.
- Health Care Operations-represents activities that relate to the performance and operation of my practice.
- Use-means activities within my office such as sharing, employing, applying, utilizing, examining and analyzing information that identifies you.
- Disclosure means activities outside of my office, such as releasing, transferring, or providing access to information about you to other persons.
- Authorization means your written permission to disclose confidential mental health or medical information. All authorizations to disclose must be on a specific legally required form.
- Medical information-is synonymous with these terms" personal health information" and "protected health information" for purposes of this Notice. It means, 1) any individually identifiable health information (either directly or indirectly identifiable), whether oral or recorded in any form or medium, that is created or received by a

health care provider (me), health plan, or others and 2) that relates to the past, present, or future physical or mental health or condition of an individual (you); the provision of health care (i.e. mental health) to an individual (you).

B. Federal privacy regulations allow health care providers (me) who have a direct treatment relationship with the client (you) to use or disclose your PHI, without your written authorization to carry out the health care provider's own treatment, payment or health care operation. I may also disclose your PHI for treatment activities of any health care provider. Below you will find the different categories of my uses and disclosures with some examples.

1. **For Treatment:** If I decide to consult with another licensed health care provider about your condition, I would be permitted to use and disclose your PHI which is otherwise confidential, in order to assist me in the diagnosis or treatment of your condition. Disclosures for treatment purposes are not limited to the minimum necessary standard because physicians and other health care providers need access to the full record and/or full and complete information in order to provide quality care. The word "treatment" includes, among other things, the coordination and management of health care among health care providers or by a health care provider with a third party, consultations between health care providers, and referrals of a client for health care from one health care provide to another. Example: If a psychiatrist is treating you, I may disclose your PHI to him/her in order to coordinate your care.
2. **To Obtain Payment for Treatment:** I may use and disclose your PHI to bill and collect payment for the treatment services I provided you. Example: If your health plan requests a copy of your health records or a portion thereof, in order to determine whether or not payment is warranted under the terms of your policy or contract, I am permitted to use and disclose your PHI.
3. **For Health Care Operations:** I may disclose your PHI to facilitate the efficient and correct operation of my practice. Example: If your health plan decides to audit my practice in order to review my competence and my performance or to detect possible fraud or abuse, your clinical record may be used or disclosed for those purposes. I may also provide your PHI to my attorney, accountants, consultants and others to make sure that I am in compliance with applicable laws.

*Please Note: I, or someone in my practice acting with my authority, may contact you to provide appointment reminders or information about treatment alternatives or other health-related benefits and services that may be of interest to you. Your prior written authorization is not required for such contact.*

*Please Note: As a psychotherapist under HIPPA, two different kinds of PHI may be involved: medical records and psychotherapy notes. Medical records include treatment plans, assessments, symptoms, diagnoses, clinical tests and examinations, progress in treatment, patient functionality, and modalities and*

*frequency of treatment. Psychotherapy notes are optional at the therapist's discretion and contain more personal and sensitive information that is used by the therapist in the process of treatments. Psychotherapy notes have special protections under HIPPA. In general, where PHI is referred to in this notice it should be interpreted to mean medical records and not psychotherapy notes. It will be noted in this document where PHI includes psychotherapy notes, or where other provisions apply to psychotherapy notes.*

**II. Other Uses and Disclosures Without Your Authorization:**

I may be required or permitted to disclose your PHI without your written authorization. The following circumstances are examples of when such disclosures may or will be made:

- A. If disclosure is compelled by a court pursuant to an order of that court. If a lawsuit is filed against me by you or by someone on your behalf, PHI, including psychotherapy notes, may be disclosed in a court proceeding as part of my defense.
- B. If disclosure is compelled by a board, commission or administrative agency for purposes of adjudication pursuant to its lawful authority.
- C. If disclosure is compelled by a board, commission, or administrative agency pursuant to an investigative subpoena issued pursuant to its lawful authority.
- D. If disclosure is compelled by a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum (subpoena for mental health records), notice to appear, or any provision authorizing discovery in a proceeding before a court or administrative agency.
- E. If disclosure is compelled by a search warrant lawfully issued to a governmental law enforcement agency.
- G. If disclosure is compelled by an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum (i.e. a subpoena for mental health records) or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.
- H. To Avoid Harm-I may provide PHI to law enforcement personnel or persons able to prevent or mitigate a serious threat to the health or safety of a person or the public. Note: this may include the disclosure of information contained in my psychotherapy notes.
- I. If disclosure is compelled or permitted by the fact that you are in such a mental or emotional condition as to be dangerous to yourself, or the person or property of others, and if I determine that disclosure is necessary to prevent the threatened danger. Note: this may include the disclosure of information contained in my psychotherapy notes.
- J. If disclosure is mandated by the Arizona Child abuse and Neglect Reporting

law. For example, if I have a reasonable suspicion of child abuse or neglect. Note: this may include the disclosure of information contained in my psychotherapy notes.

K. If disclosure is mandated by the Arizona Elder/Dependent Adult Abuse Reporting Law. For example, if I have a reasonable suspicion of elder abuse or dependent adult abuse. Note: this may include the disclosure of information contained in my psychotherapy notes.

L. If disclosure is compelled or permitted by the fact that you tell me of a serious/imminent threat of physical violence by you against a reasonably identifiable victim or victims. Note: this may include the disclosure of information contained in my psychotherapy notes.

M. If disclosure is required by the Arizona Board of Behavioral Health Examiners as a result of a complaint or other investigation. Note: this may include the disclosure of information contained in my psychotherapy notes.

N. For Workers' Compensation Purposes. I may provide PHI in order to comply with Workers' Compensation Laws. The HIPAA privacy regulations and protections do not apply to services provided under Workman's Compensation Insurance.

O. Appointment reminders. As indicated above, I am permitted to contact you without your prior authorization to provide appointment reminders or information about alternatives or other health-related benefits and services that may be of interest to you. Be sure to let me know where and by what means (i.e. telephone, letter, e-mail, fax) you may be contacted.

P. If disclosure is compelled by the U.S. Secretary of Health and Human Services to investigate or determine my compliance with privacy requirements under the federal regulations (the "Privacy Rule").

Q. If disclosure is otherwise specifically required by law.

*Please Note: The above list is not an exhaustive list but informs you of most circumstances when disclosures without your written authorization may be made. Other uses and disclosures will generally (but not always) be made only with your written authorization even though federal privacy regulations or state law may allow additional uses or disclosures without your written authorization. Uses or disclosures made with your written authorization will be limited in scope to the information specified in the authorization form, which must identify the information "in a specific and meaningful fashion". You may revoke your written authorization at any time, provided that the revocation is in writing and except to the extent that I have taken action in reliance on your written authorization. Your right to revoke an authorization is also limited if the authorization was obtained as a condition of obtaining insurance coverage for you. If local law protects your confidentiality or privacy more than the federal "Privacy Rule" does, or if local law*

*give you greater rights than the federal rule does with respect to access of your records, I will abide by local law. In general, uses or disclosures by me of your PHI (without your authorization) will be limited to the minimum necessary to accomplish the intended purpose of the use or disclosure. Similarly, when I request your PHI from another health care provider, health plan or health care clearinghouse, I will make an effort to limit the information requested to the minimum necessary to accomplish the intended purpose of the request. As mentioned above, in the section dealing with uses or disclosure for treatment purposes, the “minimum necessary” standard does not apply to disclosures to or requests by a health care provider for treatment purposes because health care providers need complete access to information in order to provide quality care.*

**III. Certain Uses and Disclosures Require You to Have the Opportunity to Object.**

*Disclosures to Family, Friends, or Others.* I may provide PHI to a family member or friend who is involved in our treatment process such as marital or family therapy.

**IV. Your Rights Regarding Protected Health Information.**

A. You have the right to request restrictions on certain uses and disclosures of PHI about you, such as those necessary to carry out treatment, payment, or health care operations. I am not required to agree to your requested restriction. If I do agree, I will maintain a written record of the agreed-upon restriction.

B. You have the right to receive confidential communications of PHI from me by alternative means or at alternative locations.

C. You have the right to inspect and copy PHI about you by making a specific request to do so in writing. This right to inspect and copy is not absolute—in other words, I am permitted to deny access for specified reasons. For instance, **you do not have this right to access with respect to my “psychotherapy notes”.** The term **“psychotherapy notes” means notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session, or a group, joint, or family counseling session that are separated from the rest of the individual’s medical (includes mental health) record.** The term excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

D. You have the right to amend PHI in my records by making a request to do so in a writing that provides a reason to support the requested amendment. This right to amend is not absolute—in other words, I am permitted to deny the requested amendment for specified reasons. You also have the right, subject to limitations, to provide me with a written addendum with respect to any item or statement in your

records that you believe to be incorrect or incomplete and to have the addendum become a part of your record.

E. You have the right to receive an accounting from me of the disclosures of PHI made by me in the six years prior to the date on which the accounting is requested. As with other rights, this right is not absolute. In other words, I am permitted to deny the request for specified reasons. For instance, I do not have to account for disclosures made in order to carry out my own treatment, payment or health care operations. I also do not have to account for disclosures of PHI that are made with your written authorization, since you have a right to receive a copy of any such authorization you might sign.

F. You have the right to obtain a paper copy of this notice.

*Please Note: In order to avoid confusion or misunderstanding, I ask that if you wish to exercise any of the rights enumerated above, that you put your request in writing and deliver or send the writing to me. If you wish to learn more detailed information about any of the above rights, or their limitations, please let me know. I am willing to discuss any of these matters with you.*

#### **V. Retention of Records:**

A. Unless otherwise required by statute or by federal law, I shall retain your PHI in as follows:

1) If you, as the client, are an adult, I will retain your PHI for at least six years after the date of your last clinical appointment.

2) If the client is a child or adolescent, I will retain the PHI for at least three years after the child's eighteenth birthday or for at least six years after the date of the child's last clinical appointment, whichever comes first.

B. In the event I terminate my clinical practice, I will make a good faith effort to contact you, based on your last known address, and make your PHI available to you. Any PHI or clinical records that have not been distributed, per the client's request, will be destroyed after seven years. PHI will be destroyed by an approved agency responsible for record destruction.

#### **VI. Issues of E-Mail, Texting and Social Media:**

HIPPA Privacy and Security rules not only allow but require me to communicate with you by e-mail or text if requested and initiated by you. I am responsible for implementing appropriate safeguards when e-mailing or texting e-PHI (electronic Protected Health Information). E-mails and texts pose a security risk. It is my policy not to initiate any communication by e-mail, texting, or social media. I will not transmit any PHI. I will contact you by phone or letter and after confirming your identity, discuss any PHI needs.

**VII. Telebehavioral Health and Telepractice**

There are a number of risks to tele-behavioral or tele-practice as a modality of practice. There are inherent confidentiality risks with electronic communication. I will utilize a HIPPA compliant tele-practice software to insure confidentiality. In addition, this modality has a potential for technology failure. In the event of technology failure or emergency procedures to contact me will be reviewed at the beginning of each session.

**VIII. My Duties:**

I am required by law to maintain the privacy and confidentiality of your PHI. This notice is intended to let you know my legal duties, your rights, and my privacy practices with respect to such information. I am required to abide by the terms of the notice currently in effect. I reserve the right to change the terms of this notice and/or my privacy practices and to make the changes effective for all PHI that I maintain, even if it was created or received prior to the effective date of the notice revision. If I make a revision to this notice, I will make the notice available at my office on or after the effective date of the revision and I will post the revised notice in a clear and prominent location.

As the Privacy Officer of this practice, I have a duty to develop, implement and adopt clear privacy policies and procedures for my practice and I have done so. I am the individual who is responsible for assuring that these privacy policies and procedures are followed not only by me, but by any employees that work for me or that may work for me in the future. I have trained or will train any employees that may work for me so that they understand my privacy policies and procedures. In general, client records, and information about clients, are treated as confidential in my practice and are released to no one without the written authorization of the client, except as indicated in this notice or except as may be otherwise permitted by law. Client records are kept secured so that they are not readily available to those who do not need them.

Because I am the Contact Person of this practice, you may complain to me and to the Secretary of the U.S. Department of Health and Human Services if you believe your privacy rights may have been violated wither by me or by those employed by me. You may file a complaint with me by simply providing me with a writing that specifies the manner in which you believe the violation occurred, the approximate date of such occurrence, and any details that you believe will be helpful to me. My telephone number is 520-730-5843. I will not retaliate against you in any way for filing a complaint with me or with the Secretary. Complaints to the Secretary must be filed in writing. A complaint to the Secretary can be sent to U.S. Department of Health and Human Services at 200 Independence Avenue S.W., Washington, DC 20201.

If you need or desire further information related to this Notice or its contents, or if you have any questions about this Notice or its contents, please feel free to contact me. As the Contact Person for this practice, I will do my best to answer your questions and to provide you with additional information.

**IX. Effective Date of This Notice:** This notice went into effect on February 22, 2010. This notice was revised and in effect as of March 24, 2020.

**X. Privacy Officer:** Steve LeGendre. Telephone Number-520-730-5843