

**Health Insurance Portability and Accountability Act (HIPAA)  
Patient Notification of Privacy Rights**

**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 Licensing Laws of the State of Texas provide privileged communication protections for conversations between your therapist and you in the context of your established professional relationship with your therapist. 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 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, and in some cases, not to the patient himself/herself. HIPAA provides privacy protections regarding your personal health information, which is called "protected health information," which could personally identify you. PHI consists of three (3) components: *treatment, payment, and health care operations.*

*Treatment* refers to activities in which Emotional Crisis Management Counseling Services 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* is when Emotional Crisis Management Counseling Services obtain reimbursement for your mental health care. The clearest example of this parameter is filing insurance on your behalf to help pay for some of the costs of the mental health services provided to you.

*Health care operations* are activities related to the performance of Emotional Crisis Management Counseling Services 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."

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

**Uses and Disclosures of Protected Health Information (PHI) Requiring Authorization**

The State of Texas requires authorization and consent for treatment, payment and health care operations. HIPAA does nothing to change this requirement by law in Texas. We may disclose PHI for the purposes of treatment, payment and healthcare 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 administrative steps associated with your care (i.e., file insurance for you).

Additionally, if you ever want us to send any of your protected health information of any sort to anyone outside our 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 that you sign 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 we speak with your physician about your treatment and/or medications. Before I talk to that physician, you will first have signed the proper authorization for us to do so.

There is a third, special authorization provision potentially relevant to the privacy of your records: our psychotherapy notes. In recognition of the importance of the confidentiality of conversations between therapist-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. "Psychotherapy notes' are *our* notes and are defined as follows: " 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 our office: assessment/treatment start and stop times, the modalities 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 payors of care, such as Medicare and Workers Compensation, require the release of both your progress notes and psychotherapy notes in order to pay for your care. If we are 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 we will be able to limit reviews of your PHI to only your "designated record set" which includes the following: all identifying paperwork you completed at your initial visit, all billing and reimbursement information, a summary of our first appointment, your mental status and progress notes for each session, your treatment plan, discharge summary, reviews by managed care companies, results of psychological testing, and any authorizations you have signed. Please note that the actual test questions or raw data of psychological tests are *not* part of your 'designated mental health record set.

You may, in writing, revoke all authorizations to disclose PHI at any time. You cannot revoke an authorization to disclose PHI that has already been disclosed, or an authorization that was obtained as a condition for obtaining insurance in cases where Texas law provides the insurer the right to contest the claim under the policy.

### **Business Associates Disclosures**

HIPAA requires that we train and monitor the conduct of those performing ancillary administrative services for my practice and refers to these people as "Business Associates." These include our secretaries, telephone answering service, health insurance billing service and collection agency. These business associates need to receive some of your PHI in order to do their jobs properly. To protect your privacy they have agreed in their contract with us to safeguard your information in accordance with state and federal standards.

### **Uses and Disclosures Not Requiring Consent nor Authorizations**

*By law, PHI may be released without your consent or authorization in the following instances:*

1. Child abuse
2. Suspected sexual abuse of a child
3. Adult and domestic Abuse
4. Health oversight activities (i.e. licensing boards investigations)
5. Judicial or administrative proceedings (i.e., court ordered treatment and/or evaluations)
6. Serious threat to health or safety (i.e., Duty to Warn law, national security threats)
7. 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 insurer(s).

***No information will ever be released for any sort of marketing purposes.***

### **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. we may or may not agree to these restrictions, but if we do, they 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 we will send them to another location of your choosing. The right to inspect and receive a copy of your PHI in the designated mental health record set for as long as PHI is maintained in the record. The right to amend material in your PHI, although we 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 PHI.**

*The right to a paper copy of notices/information from me, even if you have previously requested electronic transmission of same. The right to revoke any authorization of your PHI except to the extent that action has already been taken.*

For more information on how to exercise each of the rights, please do not hesitate to ask me for further assistance. We are 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. We reserve the right to change our privacy policies and practices as needed. Current practices are applicable unless you receive a revision of our policies at a future time. Our duties as a therapists include maintaining the privacy of your PHI, providing you with this notice of your rights and our privacy practices with respect to your PHI, and abiding by the terms of this notice unless it is changed and you are so notified.

### **Complaints**

The appointed "Privacy Officer" for Emotional Crisis Management Counseling Services per HIPAA regulations is listed below. If you have any concerns that your privacy rights have been compromised, please let us know immediately. You may also send a written complaint to the Secretary of the U.S. Department of Health and Human Services.

### **Effective Date – 2/1/2018**

*(Enter your practice contact information here)*