

# PATIENT NOTIFICATION OF PRIVACY RIGHTS

The Health Insurance Portability and Accountability Act (HIPAA) has created new patient protections surrounding the use of protected health information. Commonly referred to as the "medical records privacy law", HIPAA provides patient protections related to the electronic transmission of data ("the transaction rules"), the keeping and use of patient records ("privacy rules"), and storage and access to health care records ("the security rules"). HIPAA applies to all health care providers, including mental health care, and providers and health care agencies throughout the country are now required to provide patients a notification of their privacy rights as it relates to their health care records. You may have already received similar notices such as this one from your other health care providers.

As you might expect, the HIPAA law and regulations are extremely detailed and difficult to grasp if you don't have formal legal training. The Patient Notification of Privacy Rights statement prepared by the staff of Jewish Family Service is our attempt to inform you of your rights in a simple yet comprehensive fashion. Please read this document as it is important you know what patient protections HIPAA affords all of us. Your HIPAA rights extend to any of your health records, including your mental health care. Your confidentiality and privacy are central to the success of our therapeutic efforts with you and as such, you will find we will do all we can do to protect the privacy of your health records. If you have any questions about any of the matters discussed in this document, please do not hesitate to ask us for further clarification.

By law, we are required to secure your signature indicating you have received this Patient Notification of Privacy Rights Document. Thank you for your thoughtful consideration of these matters.

## The Staff of Jewish Family Service

I, \_\_\_\_\_, understand and have been provided a copy of Jewish Family Service's Patient Notification of Privacy Rights Document which provides a detailed description of the potential uses and disclosures of my protected health information, as well as my rights on these matters. I understand I have the right to review this document before signing this acknowledgment form.

\_\_\_\_\_  
Patient Signature or Parent if Minor or Legal Charge

\_\_\_\_\_  
Date

If Legal Charge, describe representative authority: \_\_\_\_\_

**THIS NOTICE DESCRIBES HOW YOUR MEDICAL AND MENTAL HEALTH RECORDS MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE READ IT CAREFULLY.**

**I. Preamble**

The Licensing Law of many mental health professions in Tennessee provides extremely strong privileged communication protections for conversations between your mental health 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 of your physical health as well, depending on the circumstances which bring you to see us. Records documenting your care are 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 about your personal health information, which is called "protected health information" that can personally identify you. PHI consists of three (3) components: *treatment, payment, and health care operations*.

*Treatment* refers to activities in which we provide, coordinate or manage your mental health care or other services related to your overall health care. Examples include a psychotherapy session or talking to your primary care physician about your medication or overall medical condition.

*Payment* is when we obtain reimbursement for your mental health or case management 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 you.

*Health care operations* are activities related to the performance of our agency such as quality assurance reviews or audits. 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 our office conducts for filing your claims, scheduling appointments, keeping records and other tasks *within* our agency related to your care. *Disclosures* refers to activities you authorize which occur *outside* our agency such as the sending of your protected health information to other parties (i.e., your primary care physician, 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. We may disclose PHI for the purposes of treatment, payment and healthcare operations with your consent.

You have already signed this general consent to care and authorization to conduct payment and health care operations, authorizing us 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 agency, 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 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 talk to your child's school teacher about his/her ADHD condition and what this teacher might do to be of help to your child. Before we talk to that teacher, you will have first signed the proper authorization for us to do so.

There is a third, special authorization provision potentially relevant to the privacy of your mental health records: our psychotherapy notes. In recognition of the importance of the confidentiality of conversations between a mental health provider and the patient in treatment settings, HIPAA permits keeping separate "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 *your therapist's* 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 is 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: medication prescriptions and monitoring, 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, require the release of both your progress notes and our 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 services rendered by us, you will sign an additional authorization directing us to release our psychotherapy notes. Most of the time we will be able to limit reviews of your protected health information 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 individualized, comprehensive treatment plan, your discharge summary, progress notes, reviews of your care by managed care companies, and any authorization letters or summaries of care you have authorized us to release on your behalf.

You may, in writing, revoke all authorizations to disclose protected health information at any time. You cannot revoke an authorization for an activity already done that you instructed us to do or if the authorization was obtained as a condition for obtaining insurance and Tennessee law provides the insurer the right to contest the claim under the policy.

### **III. Business Associates Disclosures**

HIPAA requires that we train and monitor the conduct of those performing ancillary administrative services for our agency and refers to these people as "Business Associates". At our agency "business associates" include the following: our auditing firm, Lattimore, Black Morgan and Cain, and Gordon Jewish Community Staff members who provide technical services for computer services as well as our cleaning services. None of our business associates have any direct access to protected health information but might on occasion have incidental contact with your health records (i.e., in fixing the computer, the staff might see the name of a patient receiving services here). We have signed a formal contract with these business associates which very clearly spells out to them the importance of protecting your protected health information as an absolute condition for employment. We train them in our privacy practices, monitor their compliance, and correct any errors, if they should occur.

### **IV. Uses and Disclosures Not Requiring Consent nor Authorization**

By law, protected health information *may* be released without your consent or authorization in the following cases:

- . Child abuse
- . Suspected sexual abuse of a child
- . Adult and Domestic Abuse
- . Health Oversight Activities (i.e., licensing boards)
- . Judicial or administrative proceedings
- . Serious Threat to Health or Safety (i.e., our "Duty to Warn" Law, national security threats)
- . Workers Compensation Claims

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

### **V. Patient's Rights and Our Duties**

You have a right to the following:

- . *The right to request restrictions* on certain uses and disclosures of your protected health information which we may or may not agree to but if we do, such restrictions 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 copy* your protected health information in our record set and any billing records for as long as protected health information is maintained in the record;
- . *The right to amend material* in your protected health information, 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 nonauthorized disclosures* of your protected health information;
- . *The right to a paper copy* of notices/information from us, even if you have previously requested electronic transmission of notices/information; and
- . *The right to revoke your authorization* of your protected health information 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 us for further assistance on these matters. 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 our duties regarding your PHI. We reserve the right to change our privacy policies and practices as needed with these current designated practices being applicable unless you receive a revision of our policies when you come for your future appointment(s). Our duties on these matters include maintaining the privacy of your protected health information, providing you this notice of your rights and our privacy practices with respect to your PHI, and to abide by the terms of this notice unless it is changed and you are so notified. If for some reason you desire a copy of our internal policies for executing privacy practices, please let us know and we will get you a copy of these documents we keep on file for auditing purposes.

## **VI. Complaints**

The Executive Director of Jewish Family Service is the appointed "Privacy Officer" for our agency. If you have any concerns of any sort regarding your privacy rights, please do not hesitate to speak to our Executive Director immediately about this matter. You will always find us willing to talk to you about preserving the privacy of your protected health information. You may also send a written complaint to the Secretary of the U.S. Department of Health and Human Services.

**VII. 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.**