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Notice of My Privacy Practices (related to new HIPAA laws, September 2013)

HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND SHARED, AND HOW YOU CAN GET ACCESS TO THIS INFORMATION

PLEASE REVIEW THIS INFORMATION CAREFULLY

Protected Health Information (PHI) means information about your mental and physical health (past, present, and future). Some of that information is in my locked file pertaining to your psychotherapy treatment.

I am letting you know in this policy:

1. How I am allowed and not allowed to use and pass on your PHI legally and ethically, under the Health Insurance Portability and Accountability Act (HIPAA), its regulations (including HIPAA Privacy and Security Rules) and the AMHCA (American Mental Health Counselors Association) Code of Ethics, and
2. What your rights are, i.e. how you can say “yes” and “no” to different types of information being shared, and
3. How you may gain access to and control your PHI.

Privacy and confidentiality are important to me, as you know. It is my responsibility to keep your PHI and other information confidential, and to let you know my legal duties and privacy policies about PHI. I am required to follow the terms of this Notice of Privacy Practices. If I change this policy, I will do my best to give you the new one at your next appointment.

REASONS I MAY USE AND SHARE HEALTH INFORMATION ABOUT YOU:

For treatment, only with your permission: Your PHI may be used and disclosed by those who are involved in your care for the purpose of providing, coordinating, or managing your health care treatment and related services. This includes consultation with clinical supervisors. At times I may discuss part of my treatment with you, without using names or identifying information, at a confidential consultation with my colleagues, in order to get feedback and improve my ability to provide the best care possible. I may inform the person who covers for me when I am on vacation (or otherwise unable to cover my practice) of limited information about you so they can support you in case of an emergency call. I will share PHI with any other consultant only with your authorization.

For payment from insurance, or to send you a personal bill if you are behind in your payments, only with your permission: I may use and disclose PHI so that I can get paid by insurance companies for the treatment services provided to you. This will only be done with your authorization. For example: checking your insurance eligibility and coverage for my services, processing claims with your insurance company, reviewing services provided to you to determine medical necessity, or undertaking utilization review activities. I share the minimum PHI information with my billing assistant, with whom I have a written contract and who is HIPAA compliant, to protect the privacy of your PHI.

Required By Law: Under the law, I must show you your PHI if you ask. Also, if the Secretary or staff of the U.S. Department of Health and Human Services checks my office to insure that I am following the Privacy Rule, I must show them your PHI.

WITHOUT YOUR AUTHORIZATION: The following are situations in which I am legally or ethically required to share your PHI without your permission.

As a Licensed Mental Health Counselor, it is my practice to follow *stricter* privacy and confidentiality requirements for disclosures without an authorization. The following language addresses these categories to an extent consistent with the *AMHCA Code of Ethics* and HIPAA.

Child (or Elderly or Disabled) Abuse or Neglect: I must report any situation where I believe a child (or elderly or disabled person) is at risk of abuse or neglect. I would always endeavor to discuss the situation with you first, and help you to correct the situation and make it safe.

Required by Law: If the Secretary or staff of the U.S. Department of Health and Human Services checks my office to insure that I am following the Privacy Rule, I must show them your PHI.

Court and Administrative Proceedings: Very rarely, I might get a subpoena or other type of court order to turn over your PHI records. I would make every attempt to discuss this order with you so that you know what I am telling the court.

Deceased Patients: I may disclose PHI regarding deceased patients as mandated by state law, or to a family member or friend that was involved in your care or payment for care prior to death, based on your prior consent. A release of information regarding deceased patients may be limited to an executor or administrator of a deceased person's estate or next-of-kin.

Medical Emergencies: I may use or disclose your PHI in a medical or mental health emergency situation to medical personnel only in order to prevent serious harm to you or others. I will provide you a copy or report of this notice as soon as reasonably practicable after the resolution of the emergency.

Family Involvement in Care: I would only share information to close family members or friends directly involved in your treatment based on **your consent** unless it would be necessary to prevent serious harm to you or others.

Health Care Monitoring: If required, I may disclose PHI to a health oversight agency for activities authorized by law, such as audits, investigations, and inspections. Oversight agencies seeking this information include government agencies and organizations that provide financial assistance to the program (such as third party payers based on your prior consent) and peer review organizations performing utilization and quality control.

Law Enforcement: I may disclose PHI to a law enforcement official as required by law, in compliance with a subpoena (**with your written consent**), court order, administrative order or similar document; for the purpose of identifying a suspect, material witness or missing person, in connection with the victim of a crime, a deceased person, with the reporting of a crime in an emergency, or in connection with a crime on the premises.

Specialized Government Functions: I may review requests from U.S. military command authorities if you have served as a member of the armed forces, authorized officials for national security and intelligence reasons and to the Department of State for medical suitability determinations. I may share your PHI based on your written consent, mandatory disclosure laws and the need to prevent serious harm.

If you sue me or bring a complaint against me: I hope that any complaint you may have with my therapy services, you would bring up to me and we could resolve it together. If we cannot resolve it, you have the right to file a complaint with the Massachusetts Mental Health Counselors Licensing Board, called the Board of Allied Mental Health (www.mass.gov/ocabr/licensee/dpl-boards/mh/ or 1000 Washington Street, Suite 710, Boston, MA 02118-6100) or to bring suit in court. If I need to

use information in your record to defend myself against charges, I am allowed to do this without your permission.

Public Health: If required, we may use or disclose your PHI for mandatory public health activities to a public health authority authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, or if directed by a public health authority, to a government agency that is collaborating with that public health authority.

Public Safety: We may disclose your PHI if necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. If information is disclosed to prevent or lessen a serious threat it will be disclosed to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

Research: PHI may only be disclosed after a special approval process or with your authorization.

Verbal Permission: We may also use or disclose your information to family members that are directly involved in your treatment **with your verbal permission.**

With Authorization: Uses and disclosures not specifically permitted by applicable law will be made only with your written authorization, which may be revoked at any time, except to the extent that we have already made a use or disclosure based upon your authorization. The following uses and disclosures will be made only with your written authorization: (i) most uses and disclosures of psychotherapy notes which are separated from the rest of your medical record; (ii) most uses and disclosures of PHI for marketing purposes, including subsidized treatment communications; (iii) disclosures that constitute a sale of PHI; and (iv) other uses and disclosures not described in this Notice of Privacy Practices. It is my policy to never sell or market your information for *any* reason, or send fundraising letters.

YOUR RIGHTS REGARDING YOUR PHI:

You have the following rights regarding PHI we maintain about you. I am the “HIPAA privacy officer” in my business, so it is my job to be sure your rights are protected. You can give me a written request if you want any of the following:

Right of Access to Inspect and Copy: You have the right, which may be restricted only in exceptional circumstances, to inspect and copy your PHI that is maintained in a “designated record set”. A designated record set contains mental health/medical and billing records and other records that are used to make decisions about your care. Your right to inspect and copy PHI will be restricted only in those situations where there is compelling evidence that access would cause serious harm to you or if the information is contained in separately maintained psychotherapy notes. I may charge a reasonable, cost-based fee for copies if more than 10 pages. If your records are maintained electronically (such as encrypted billing records), you may also request an electronic copy of your PHI. You may also request that a copy of your PHI be provided to another person.

Right to Amend: If you feel that the PHI we have about you is incorrect or incomplete, you may ask us to amend the information although we are not required to agree to the amendment. If we deny your request for amendment, you have the right to file a statement of disagreement with us. We may prepare a rebuttal to your statement and will provide you with a copy.

Right to an Accounting of Disclosures: You have the right to request an accounting of certain of the disclosures that we make of your PHI. We may charge you a reasonable fee if you request more than one accounting in any 12-month period.

Right to Request Restrictions: You have the right to request a restriction or limitation on the use or disclosure of your PHI for treatment, payment, or health care operations. We are not required to agree to your request unless the request is to restrict disclosure of PHI to a health plan for the purposes of carrying out payment or health care operations, and the PHI pertains to a health care item or service that you paid for out of pocket. In that case, we are required to honor your request for a restriction.

Right to Request Confidential Communication: You have the right to request that we communicate with you about health matters in a certain way or at a certain location. We will accommodate reasonable requests. We may require information regarding how payment will be handled or specification of an alternative address or other method of contact as a condition for accommodating your request. We will not ask for an explanation of why you are making the request.

Breach Notification: If there is a breach of unsecured PHI concerning you, we may be required to notify you of this breach, including what happened and what you can do to protect yourself.

Right to a Copy of This Notice: You have a right to a copy of this notice.

COMPLAINTS

If you believe I have violated your privacy rights, you have the right to file a complaint in writing with me, the HIPAA Privacy Officer of my practice, at 28 Green St., Newbury, MA 01951 or with the Secretary of Health and Human Services at 200 Independence Avenue, S.W. Washington, D.C. 20201 or by calling (202) 619-0257. **I will not retaliate against you for filing a complaint.**

The effective date of this notice is September 2013.

Signed: _____ Date _____

*Revised 9/2013 from NASW
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