

Health Insurance Portability and Accountability Act Compliance

Protected health information includes information

- about a person's health, health care, or payment of health care (the term "health" includes mental health and behavioral health issues)
- that identifies a person
- created or received by a covered health care plan or provider.

Note: All medical records or other individually identifiable health information held or disclosed by a covered entity in **any form** (electronically, on paper, or orally) are covered by HIPAA regulations.

Protected health information may not be disclosed by a covered entity without the informed and voluntary written consent or authorization of the client. A covered entity is required to obtain the client's consent for use or disclosure of client information for purposes of health care treatment, payment, and operations. Disclosure must be limited to the minimum amount necessary for the purposes of disclosure, with the exception of transferring records for treatment, when providers need access to the full record to ensure quality care. A client's authorization is required for any other type of disclosure.

Health care providers may condition treatment on obtaining client consent of protected health information for the purposes of treatment, payment and health care operations. Similarly, health plans and health care clearinghouses also may condition enrollment on the client's provision of a consent to disclose protected health information for the purposes of treatment, payment and health care operations.

- Clients have a right to gain access to their medical records. As such, they are entitled to see and copy their records and request amendments. A history of disclosures of protected health information must be made available to clients on their request.
- Clients have a right to request a restriction on the use and disclosure of their protected health information for the purposes of treatment, payment or health care operations.
- Covered entities are required to provide clients with a clear, written explanation of how their protected health information can be used and disclosed.

Mental Health Records

- "Psychotherapy notes" are accorded special privacy protections under this regulation. Ordinarily, a written consent is required before psychotherapy notes can be disclosed to anyone.
- A health plan may not condition a client's enrollment or eligibility on the provision of the client's authorization or consent for disclosure of psychotherapy notes.
- Psychotherapy notes are excluded from the provision that gives clients the right to see and copy their health information.

How are psychotherapy notes defined?

- Psychotherapy notes are defined in the regulation as "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 sessions or a group, joint, or family counseling session.
- Excluded from the definition of psychotherapy notes are medication prescription and monitoring, counseling session start and stop times, modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

- Circumstances under which psychotherapy notes may be disclosed under HIPAA without the client’s consent or authorization.
- When needed to defend a lawsuit against the therapist by the individual who is the subject of the notes;
- To HHS when required for enforcement of the privacy rule;
- When required by law;
- When needed for oversight of the provider who created the notes;
- To a coroner or medical examiner;
- When needed to avert a serious and imminent threat to health or safety.

Unlike other health records, psychotherapy notes are not subject to disclosure to individuals. (Litwak, Behavioral Healthcare Tomorrow, April 2001).

Questions and Guidance

Questions about interpretation of the regulations can be addressed to Niti Wade, LCSW at 919.371.6928, or HHS directly by calling 1.866.627.7748.

By signing this form, you consent to our use and disclosure of your protected healthcare information and potentially anonymous usage in a publication. You have the right to revoke this consent in writing, signed by you. However, such a revocation will not be retroactive.

By signing this form, I understand that:

- Protected health information may be disclosed or used for treatment, payment, or healthcare operations.
- The practice reserves the right to change the privacy policy as allowed by law.
- The practice has the right to restrict the use of the information but the practice does not have to agree to those restrictions.
- The patient has the right to revoke this consent in writing at any time and all full disclosures will then cease.
- The practice may condition receipt of treatment upon execution of this consent.

May we phone, email, or send a text to you to confirm your appointments? Yes No

May we leave a message on your answering machine at home or on your cell? Yes No

If Yes, understand that with Emails, Cell Phones, Computers, and Faxes: It is very important to be aware that computers and unencrypted emails, texts, voicemails, and e-fax communication can be relatively easily accessed by unauthorized people and hence can compromise the privacy and confidentiality of such communication. Emails, text, voicemails, and e-faxes, in particular, are vulnerable to such unauthorized access due to the fact that servers or communication companies may have unlimited and direct access to all emails, texts, voicemails, and e-faxes that go through them. While data on therapist’s laptop is encrypted, emails and e-faxes are not. It is always a possibility that emails, e-faxes, voicemails, and texts can be sent erroneously to the wrong address and computers. Therapist’s laptop is equipped with a firewall, virus protections, and a password, and they back up all confidential information from their computer on a regular basis onto an encrypted hard drive. Also, be aware that phone messages are transcribed and sent to Therapist via unencrypted emails. Please notify therapist if you decide to avoid or limit, in any way, the use of emails, texts, cell phone calls, voicemails, or e-faxes. If you communicate confidential or private information via unencrypted email, texts, voicemails, or e-faxes, will assume that you have made an informed decision, will view it as your agreement to take the risk that such communication may be intercepted, and therapist will honor your desire to communicate on such matters. **Please do not use texts, email, voicemail, or faxes for emergencies.**

This consent was signed by:

(PRINT CLIENT NAME PLEASE)

(CLIENT SIGNATURE)

DATE

(PRINT GUARDIAN NAME PLEASE)

(GUARDIAN SIGNATURE)

DATE

(PRINT COUNSELOR NAME PLEASE)

(WITNESS SIGNATURE)

DATE

If more than one individual (e.g., spouse or family member) is seeking therapy, please have each of the others sign below. Signatures below confirm that each understands and accepts all of the information contained in the **Health Insurance Portability and Accountability Act Compliance Agreement**.

(PRINT CLIENT NAME PLEASE)

(CLIENT SIGNATURE)

DATE

(PRINT CLIENT NAME PLEASE)

(CLIENT SIGNATURE)

DATE