

## HIPAA NOTICE OF PRIVACY PRACTICES

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION.

PLEASE REVIEW CAREFULLY

The Health Insurance Portability and Accountability Act (HIPAA) is a federal program that requires that all medical records and other individually identifiable health information used or disclosed by us in any form, whether electronically, on paper, or orally are kept properly confidential. This Act gives you, the client, significant rights to understand and control how your health information is used. HIPAA provides penalties for covered entities that misuse personal health information.

**The HIPAA Notice of Privacy Practices must describe the following:**

- ∅ How the Privacy Rule allows provider to use and disclose protected health information. It must also explain that your permission (authorization) is necessary before your health records are shared for any other reason.
- ∅ The organization's duties to protect health information privacy
- ∅ Your privacy rights, including the right to complain to HHS and to the organization if you believe your privacy rights have been violated
- ∅ How to contact the organization for more information and to make a complaint.

**What Information Is Protected**

- ∅ Information your doctors, nurses, and other providers put in your medical record
- ∅ Conversations your doctor, nurses, and other providers has about your care or treatment
- ∅ Information about you in your health insurer's computer system
- ∅ Billing information about you at your clinic
- ∅ Any information that can identify you, such as address, social security number, telephone number, etc.

**How This Information Is Protected**

- ∅ Covered entities and their business associates must put in place safeguards to protect your personal information and ensure they do not use or disclose your information improperly.
- ∅ Covered entities must reasonably limit uses and disclosures to the minimum necessary.
- ∅ Covered entities must have procedures in place to limit who can view and access your health information as well as implement training programs for employees about how to protect your health information.
- ∅ The Privacy Rule of HIPAA does not require the health care provider or health plan to share information with other providers or plans with family or friends, unless they are your personal representative, which is designated by you in writing. However, the provider or plan can share your information with family or friends if:

- They are involved in your health care or payment for your health care,
- You tell the provider or plan that it can do so,
- You do not object to sharing of the information, or
- If, using its professional judgment, a provider or plan believes that you do not object.

### Examples

- ∅ If you do not object, your doctor could talk with the friend who goes with you to the hospital or with a family member who pays your medical bill.
- ∅ If you send your friend to pick up your prescription for you, the pharmacist can assume that you do not object to their being given the medication.
- ∅ When you are not there or when you are injured and cannot give your permission, a provider may share information with these people if it seems like this would be in your best interest.

### When and how can I receive a Notice of Privacy Practices?

- ∅ Your health care provider and health plan must give you a notice that tells you how they may use and share your health information. It must also include your health privacy rights. In most cases, you should receive the notice on your first visit to a provider or in the mail from your health plan. You can also ask for a copy at any time.
- ∅ You will usually receive notice at your first appointment. In an emergency, you should receive notice as soon as possible after the emergency.
- ∅ The notice must also be posted in a clear and easy to find location where patients are able to see it, and a copy must be provided to anyone who asks for one.
- ∅ If an organization has a website, it must post the notice there.
- ∅ A health plan must give its notice to you at enrollment. It must also send a reminder at least once every three years that you can ask for the notice at any time.
- ∅ A health plan can give the notice to the “named insured” (subscriber for coverage). It does not also have to give separate notices to spouses and dependents.

### Why do I have to sign a form?

The law requires your doctor, hospital, or other health care provider to ask you to state in writing that you received the notice. If you refuse to sign the acknowledgement, the provider must keep a record of this fact. Refusing to sign the acknowledgement does not prevent a provider or plan from using or disclosing health information as HIPAA permits.

Refusing to sign the Acknowledgement of Receiving the Privacy Practices form does not affect your ability to obtain treatment, make payment, or affect your eligibility for benefits. However, if you refuse to sign this authorization, and you are in a research-related treatment program, or you have authorized your provider to disclose information about you to a third party, your provider has the right to decide not to treat you or accept you as a client in their practice.

### When can medical records be used or disclosed?

We may use and disclose your medical records only for each of the following purposes: treatment, payment and health information and how we may disclose your health information.

1. Treatment means providing, coordinating, or managing health and related services by one or more healthcare providers.
2. Payment means such activities as obtaining reimbursement for services, confirming coverage, billing or collections activities, and utilization review. An example would include sending your insurance company a bill for your visit.
3. Health Care Operations includes business aspects of running our practice, such as conducting quality assessments and improving activities, auditing functions, cost management analysis and customer service.

## What are my rights?

You have the following rights with respect to your protected health information, which you can exercise by presenting a written request.

1. The right to inspect, review, and receive a copy of your medical and billing information. If you want a copy, you may have to put your request in writing and pay for the cost of copying and mailing. In most cases, your copies must be given to you within 30 days.
2. Only you or your personal representative has the right to access your records. Your personal representative is to be designated in writing by you.
3. The right to request corrections to your information. You can ask to change any wrong information; however, your correction will be in the form of an addendum to the original documentation. The health care provider or health plan must respond to your request. In most cases, the file should be updated within 60 days.
4. The right to request that your information be restricted.
5. The right to request confidential communications.
6. The right to report of disclosures of your information. You have the right to know who has seen your information. By law, your health information can be used and shared for specific reasons not directly related to your care, like making sure doctors give good care, making sure nursing homes are clean and safe, reporting when the flu is in your area, or reporting as required by state or federal law. In many of these cases, you can find out who has seen your health information. You can learn how your health information is used and shared
7. Exception: Psychotherapy notes are notes that a mental health professional takes during a conversation with a client/patient. These notes are filed separately from the patient's medical and billing records. Excluded from the "Psychotherapy Notes" are the following:
  - Ø Medication prescription and monitoring
  - Ø What time the counseling sessions start and stop
  - Ø The modalities and frequencies of treatment furnished
  - Ø The results of clinical tests
  - Ø Any summary of the following:
    - Diagnosis
    - Functional status
    - Treatment plan
    - Symptoms
    - Prognosis
    - Progress to date

HIPAA does not allow the provider to make most disclosures about psychotherapy notes about you without your authorization and such authorization must be separate from an authorization to release medical records.

Please be aware that you do not have the right to access a provider's psychotherapy notes.

8. You have the right to understanding. Tell your mental health professional if you do not understand this authorization, and they will explain it to you.
9. You have the right to revoke or cancel this authorization at any time, except
  - a. To the extent information has already been shared based on this authorization. Once the information leaves the possession of your information so has the control of how the information is used. You need to be aware that at that point your information may be no longer protected by HIPAA.
  - b. This authorization was obtained as a condition of obtaining insurance coverage

To revoke or cancel this authorization, a request must be submitted in writing to the client's mental health professional and the client's insurance company, if applicable.

10. You have the right to refuse to sign an authorization without affecting the ability to receive treatment, make a payment or affect eligibility for benefits.
11. The right to a paper copy of this notice.

## Personal Representatives

Generally, a HIPAA-covered health care provider or health plan must allow your personal representative to inspect and receive a copy of protected health information about you that they maintain.

### Naming a Personal Representative

Your personal representative can be named several ways; state law may affect this process.

If a person can make health care decisions for you using a health care power of attorney, the person is your personal representative.

### Children

The personal representative of a minor child is usually the child's parent or legal guardian. State laws may affect guardianship.

In cases where a custody decree exists, the personal representative is the parent(s) who can make health care decisions for the child under the custody decree.

### Deceased Persons

When an individual die, the personal representative for the deceased is the executor or administrator of the deceased individual's estate, or the person who is legally authorized by a court or by state law to act on the behalf of the deceased individual or his or her estate.

### Exceptions

A provider or plan may choose not to treat a person as your personal representative if the provider or plan reasonably believes that the person might endanger you in situations of domestic violence, abuse, or neglect.

## Court Orders and Subpoenas

### Court Order

A HIPAA-covered health care provider or health plan may share your protected health information if it has a court order. This includes the order of an administrative tribunal. However, the provider or plan may only disclose the information specifically described in the order.

### Subpoena

A subpoena issued by someone other than a judge, such as a court clerk or an attorney in a case, is different from a court order.

A HIPAA-covered provider or plan may disclose information to a party issuing a subpoena only if the notification requirements of the Privacy Rule are met. Before responding to the subpoena, the provider or plan should receive evidence that there were reasonable efforts to:

- Notify the person who is the subject of the information about the request, so the person has a chance to object to the disclosure, or
- Seek a qualified protective order for the information from the court.

This notice is effective as of May 1, 2016, and the terms of the Notice of Privacy Practices currently in effect will be observed. If privacy protections listed in this notice have been violated, a formal, written complaint can be filed with the following:

1. Our office
2. Texas Health and Human Services Commission  
Office of the Ombudsman  
P.O. Box 13247  
Austin, Texas 78711-3247  
1-877-787-8999
3. The Civil Rights Office  
Health and Services Commission  
701 W. 51<sup>st</sup> Street. MC W 206  
Austin, Texas 78751  
1-888-388-6332 or 1-512-438-4313

Retaliation toward the complainant will not be tolerated by any personnel of this counseling center.