

HIPAA NOTICE (California)

Notice of Psychologists' Policies and Practices to Protect the Privacy of Your Health Information

THIS NOTICE DESCRIBES HOW PSYCHOLOGICAL AND MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

I. Disclosures for Treatment, Payment, and Health Care Operations

I may use or disclose your *protected health information (PHI)*, for certain *treatment, payment, and health care operations* purposes without your *authorization*. In certain circumstances I can only do so when the person or business requesting your PHI gives me a written request that includes certain promises regarding protecting the confidentiality of your PHI. To help clarify these terms, here are some definitions:

- “*PHI*” refers to information in your health record that could identify you.
- “*EHR*” and “*e-PHI*” refer to health records in electronic form and format.
- “*NPP*” refers to this document, the *Notice of Privacy Practices*.
- “*Treatment, Payment and Health Care Operations*”
 - *Treatment* is when I provide or another healthcare provider diagnoses or treats you. An example of treatment would be when I consult with another health care provider, such as your family physician or another psychologist, regarding your treatment.
 - *Payment* is when I obtain reimbursement for your healthcare. Examples of payment are when I disclose your PHI to your health insurer to obtain reimbursement for your health care or to determine eligibility or coverage.
 - *Health Care Operations* is when I disclose your PHI to your health care service plan (for example your health insurer), or to other health care providers contracting with your plan, or administering the plan, such as case management and care coordination.
- “*Use*” applies only to activities within my office, such as sharing, employing, applying, utilizing, examining, and analyzing information that identifies you.
- “*Disclosure*” applies to activities outside of my office, such as releasing, transferring, or providing access to information about you to other parties.
- “*Authorization*” means your written permission for specific uses or disclosures.

II. Uses and Disclosures Requiring Authorization

I may use or disclose minimum necessary PHI for purposes outside of treatment, payment, and health care operations when your appropriate authorization is obtained. In those instances when I am asked for information for purposes outside of treatment and payment operations, I will obtain an authorization from you before releasing this

information. I will also need to obtain an authorization before releasing your psychotherapy notes. "Psychotherapy notes" are notes I have made about our conversation during a private, group, joint, or family counseling session, which I have kept separate from the rest of your medical record. These notes are given a greater degree of protection than PHI.

You may revoke or modify all such authorizations (of PHI or psychotherapy notes) at any time; however, the revocation or modification is not effective until I receive it. When the state (California) laws are more protective than HIPAA, the more stringent requirements will apply.

III. Uses and Disclosures with Neither Consent nor Authorization

I may use or disclose minimum necessary PHI without your consent or authorization in the following circumstances:

- **Child Abuse:** Whenever I, in my professional capacity, have knowledge of or observe a child I know or reasonably suspect, has been the victim of child abuse or neglect, I must immediately report such to a police department or sheriff's department, county probation department, or county welfare department. Also, if I have knowledge of or reasonably suspect that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any other way, I may report such to the above agencies.
- **Elder and Dependent Adult Abuse:** If I, in my professional capacity, have observed or have knowledge of an incident that reasonably appears to be physical abuse, abandonment, abduction, isolation, financial abuse or neglect of an elder or dependent adult, or if I am told by an elder or dependent adult that he or she has experienced these or if I reasonably suspect such, I must report the known or suspected abuse immediately to the adult protective services agency or the local law enforcement agency.

I do not have to report such an incident if:

- 1) I have been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, abduction, isolation, financial abuse or neglect;
- 2) I am not aware of any independent evidence that corroborates the statement that the abuse has occurred;
- 3) the elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia; and

4) in the exercise of clinical judgment, I reasonably believe that the abuse did not occur.

- **Health Oversight:** If a complaint is filed against me with the California Board of Psychology, the Board has the authority to subpoena confidential mental health information from me relevant to that complaint.
- **Judicial or Administrative Proceedings:** If you are involved in a court proceeding and a request is made about the professional services that I have provided you, I must not release your information without 1) your written authorization or the authorization of your attorney or personal representative; 2) a court order; or 3) a subpoena duces tecum (a subpoena to produce records) where the party seeking your records provides me with a showing that you or your attorney have been served with a copy of the subpoena, affidavit and the appropriate notice, and you have not notified me that you are bringing a motion in the court to quash (block) or modify the subpoena. The privilege does not apply when you are being evaluated for a third party or where the evaluation is court-ordered. I will inform you in advance if this is the case.
- **Serious Threat to Health or Safety:** If you or your family member communicate to me that you pose a serious threat of physical violence against an identifiable victim, I must make reasonable efforts to communicate that information to the potential victim and the police. If I have reasonable cause to believe that you are in such a condition, as to be dangerous to yourself or others, I may release relevant information as necessary to prevent the threatened danger.
- **Worker's Compensation:** If you file a worker's compensation claim, I may disclose to your employer your medical information created as a result of employment-related health care services provided to you at the specific prior written consent and expense of your employer so long as the requested information is relevant to your claim provided that is only used or disclosed in connection with your claim and describes your functional limitations provided that no statement of medical cause is included.

IV. Client's Rights and Psychologist's Duties

Client's Rights:

- *Right to Request Restrictions* – You have the right to request restrictions on certain uses and disclosures of PHI about you. However, I am not required to agree to all restrictions you request. An important *exception* is your right to request non-disclosure to your health plan for which you pay out-of-pocket unless the disclosure is for treatment purposes or in the rare event disclosure is required by law.
- *Right to Receive Confidential Communications by Alternative Means and at Alternative Locations* – You have the right to request and receive confidential communications of PHI by alternative means and at alternative locations. (For example, you may not want a family member to know that you are seeing me. Upon your request, I will send your bills to another address.)
- *Right to Inspect and Copy* – You have the right with your written request to inspect or obtain a copy (or both) of PHI and/or psychotherapy notes in my mental health and billing records used to make decisions about you for as long as the PHI is maintained in the record. I may deny your access to PHI under certain circumstances, but in some cases you may have this decision reviewed. On your request, I will have 30 days to respond to your request with one 30-day extension and will discuss with you the details of the request and denial process. There will be a small charge to cover the cost of paper copies and labor. I must provide you access to EHR and other electronic records in the electronic form and format requested by the individual if the records are readily reproducible in that format. Otherwise, I must provide the records in another mutually agreeable electronic format. Hard copies are permitted only when you reject all readily reproducible e-formats.
- *Right to Amend* – You have the right to request an amendment of PHI for as long as the PHI is maintained in the record. I may deny your request. On your request, I will discuss with you the details of the amendment process.
- *Right to an Accounting* – You generally have the right to receive an accounting of disclosures of PHI for which you have neither provided consent nor authorization (as described in Section III of this Notice). On your request, I will discuss with you the details of the accounting process.
- *Right to Prohibit Sale of PHI* – Your absence of a written authorization means you are prohibiting the sale of your PHI. Marketing or research uses would be examples of reasons to sell PHI.
- *Right to a Paper Copy* – You have the right to obtain a paper copy of the HIPAA Notice from me upon request, even if you have agreed to receive the Notice electronically.

Psychologist's Duties:

- I am required by law to maintain the privacy of PHI and to provide you with a notice of my legal duties and privacy practices with respect to PHI.
- I must notify you if unsecured PHI is breached. Because your PHI will be encrypted, no notification will be required. No risk assessment of unsecured PHI will need to be conducted if notification of a breach is made.
- I reserve the right to change the privacy policies and practices described in this notice. Unless I notify you of such changes, however, I am required to abide by the terms currently in effect.
- I am allowed to send unencrypted emails if you are advised of the risk and still request that form of transmission.
- I am allowed to make relevant disclosures to your family after death under essentially the same circumstances such disclosures were permitted before death.
- I am allowed to tell you about a third-party product or service without your written authorization when: I receive no compensation for that product or service, my communication with you is face to face, it involves general health promotion, and/or it involves government or government-sponsored programs.
- If I revise my policies and practices (indicated in the HIPAA Notice), I will provide current clients with a revised notice, at their request, in person or by mail to their home address. All new clients receive a copy during their first session. A copy of the Notice is posted in my office and on my website.

V. Questions and Complaints

If you have questions about this notice, disagree with a decision I make about access to your records, or have other concerns about your privacy rights, you may contact Dr. Carolyn Finn Mitchell, Ph.D, at (408) 235-1566.

If you believe that your privacy rights have been violated and wish to file a complaint with me, you may send your written complaint to Dr. Carolyn Finn Mitchell, Ph.D. at 3425 South Bascom Avenue, Suite 235, Campbell, California 95008.

You may also send a written complaint to the Secretary of the U.S. Department of Health and Human Services. The person listed above can provide you with the appropriate address upon request.

You have specific rights under the Privacy Rule. I will not retaliate against you for exercising your right to file a complaint.

VI. Effective Date, Restrictions, and Changes to Privacy Policy

This notice went into effect on February 19, 2007.

This notice was revised per the Omnibus Final Rule as regulated by the federal government's Health Information Technology for Economic and Clinical (HITECH) Act of 2009 on September 23, 2013.

I reserve the right to change the terms of this notice and to make the new notice provisions effective for all PHI that I maintain. I will provide you with a revised notice in the next regular session following the date of revision, or if need be, I will mail it to your home.