

## NOTICE OF PRIVACY PRACTICES

Per the Health Insurance Portability and Accountability Act (HIPAA), I am required by law to maintain the privacy and security of your protected health information (PHI), and to provide you with this notice, which describes how I use and disclose my clients' PHI, and informs you of your rights to access or limit access to this information. Please review it carefully.

*Rebecca Stanwyck, LCSW*

### **What information do I collect?**

I am required to keep records for each client, including name, date of birth, address and phone number, health insurance information, as well as the dates of sessions and a brief record of what was discussed. These records *may* also include a diagnosis, symptoms, treatment plan, prognosis, and progress to date. All of this information is considered protected health information or PHI.

### **How do I protect your PHI?**

The law also requires that I protect the privacy of these records, however, in my opinion, there are actually *fewer* legal protections for consumers of healthcare and mental healthcare under HIPAA, than there were when I began practicing my profession over 25 years ago. So *my* standards of privacy and confidentiality are based on my professional code of ethics, which are more rigorous than what you can expect in most doctors' offices, and I'd like to explain them to you.

First of all, you will never see client records sitting out where others could view them in my office, nor are they accessible to anyone besides myself (and a colleague, in case of emergency). The type of record I keep will depend on several things: e.g. whether you want me to submit claims to your health insurance plan, or provide you with statements, or if you have a workers' compensation or disability claim where you've signed a release for your therapy records, or if you are involved in a legal action where potentially your records may be requested.

#### Health insurance claims

In order to submit claims for payment to an insurance organization, I use a billing software program. I have password-protection on both my computer and the software, and I do my own billing, most of it from a computer that sits on my desk at home. I have *not* joined the electronic records revolution, and still submit paper claims via the postal service. However, once your health insurance plan receives the claim in the mail, they immediately scan it to create an electronic record, which they can more easily transmit within their organization, but also outside of it.

#### Employee Assistance Program (EAP) claims

If your EAP referred you to me, I use their specific forms for records and billing. Typically, these are faxed or mailed, so I do not create a file on my computer.

### Client statements

In order to provide you with a statement, I also need to create a file in my billing software program, from which I can then email or print statements. I do not have an encryption program for my email, so I simply attach a PDF file. If you have concerns about the privacy of email then ask me for a paper copy.

### **When can I use or disclose your PHI without your consent?**

Under HIPAA, I am allowed to use your PHI for your treatment, to obtain payment for your treatment, and for "healthcare operations." This means that in addition to submitting health insurance and EAP claims as described above, there are other circumstances where I am allowed to disclose your PHI, for example to coordinate care with your physician or psychiatrist, although my preference and usual practice is to request an authorization from you to do so.

There are allowable reasons that your PHI can be released under HIPAA which violate my professional standards of confidentiality. Therefore, I prefer to simply list here the *only* circumstances where federal or state law *requires* me to disclose information about you (otherwise known as "**exceptions to confidentiality**"):

1. Where there is serious threat of harm to yourself or another person (*i.e. you have given me reason to believe that you have an intention to harm*)
2. Where there is reason to believe that a child or vulnerable adult in your care has been subject to neglect or abuse (*in which case I will inform you that I am making a required report to the appropriate agency*)
3. In response to a judicial order (*though I will still seek to avoid the release of your records through all legal and appropriate means*)
4. For national security purposes (*in which case I am prohibited from informing you that your records have been requested, and must release them if I don't want to go to federal prison*)

### **When must I have your authorization to disclose your PHI?**

HIPAA allows the use/disclosure of PHI for marketing purposes, with your consent. But again, my professional code of ethics and standards of confidentiality do not permit me to do this. However, you may be interested to know that if you have paid for my professional services out-of-pocket and in full, you have the right to restrict the disclosure of your PHI to health plans.

### Release of records

If you have signed, or anticipate signing, a consent form authorizing the release of your records (for example to your disability insurance carrier), I will first of all notify you that I've received such a request, and then discuss with you what information I must release. I only respond to written requests for records, and I

prefer to release *the least amount possible* of information, e.g. a brief letter summarizing your progress, however in some cases I may be required to release your entire record. I do charge a fee to write a letter or report about you, or copy your records, which you may need to pay if the requestor does not.

Psychotherapy notes are considered separate from PHI under HIPAA. This means that I must have a specific authorization from you to release them, however in most cases I will advise against you signing such an authorization, or I may deny your request, as I believe my notes about your psychotherapy should be kept private and confidential *forever*.

### **Your rights regarding your PHI**

You have the right to obtain a copy of your PHI (excepting psychotherapy notes). I have the right to deny this request if I believe this information would be harmful to you. You have the right to appeal this denial by obtaining a second opinion from a licensed health care provider. I may also offer to give you a treatment summary.

You have the right to request that I amend anything in your PHI that you believe is incorrect. I have the right to deny this request, which must be done in writing.

You have the right to ask me not to disclose your PHI for treatment, payment or healthcare operations. I have the right to deny this request if I believe it would affect your healthcare.

You also have the right to request that I restrict use or disclosure of your PHI to other providers and family members, although under my professional code of ethics I am prohibited from doing so anyway.

You have the right to be notified following any breach of your PHI by my office. And you have the right to receive a paper or electronic copy of this notice.

### **How to complain about my privacy practices**

If you think I may have violated your privacy rights, you may file a complaint with me directly, by phone, email or in writing. You can also file a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights, by:

1. Sending a letter to 200 Independence Avenue SW, Washington, DC 20201
2. Calling 1-877-696-6775
3. Visiting [www.hhs.gov/ocr/privacy/hipaa/complaints](http://www.hhs.gov/ocr/privacy/hipaa/complaints)

I will not retaliate against you if you file a complaint about my privacy practices.

Effective date of this notice: September 23, 2013