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## HIPAA - NOTICE OF PRIVACY RIGHTS AND PRACTICES

In late 2002, the federal government passed a law entitled the Health Insurance Portability and Accessibility Act (“HIPAA”). This law defined certain rights for health care clients regarding privacy of, and access to, information regarding them which is obtained or transmitted in health care practices or institutions. Part of this law requires all health care professionals to give current clients this notice of their rights at their first appointment after April 15, 2003, and of the clinician’s specific practices regarding privacy and health care information. Virtually all of the rights and responsibilities defined in HIPAA were already either guaranteed to you under California state law, or California state law offers even greater protections of your rights already. Within this notice, if either California law or the Ethical Principles of the American Psychological Association, under which I practice, affords you more rights than HIPAA, I have indicated the greater protections in the text.

What is “Medical Information”?

This notice describes the limits on how medical information about you may be used and disclosed and how you can get access to this information. The term “medical information” is synonymous with “personal health information” and “protected health information”, two other terms which are part of the required text of this notice. These terms refer to individually identifiable health information, whether oral or recorded in any form or medium, that is created or received by a health care provider (such as myself), a health plan, or others **and** which relates to the past, present, or future physical or mental health or condition of an individual client, or to the health care or payment for healthcare of a client.

I create and maintain treatment records that contain individually identifiable information about you. These are generally referred to as “mental health records” and this notice concerns the privacy and confidentiality of those records and the information within them.

Limited Uses and Disclosures of Medical Information which May Be Made Without Prior Consent:

There are a limited number of rarely occurring situations in which California law requires disclosure of medical information without the client’s authorization, which are described below. If any of these situations arose, my policy would be to make every reasonable attempt to inform you of the situation as soon as I became aware of it and before the date of the required disclosure. When such disclosures are required of me, only the minimum information necessary to meet the terms of the required disclosure will be transmitted.

Disclosures compelled by a court order or an order of an arbitration panel or administrative agency, health oversight agency, board or commission. Such orders typically arise if the client brings a lawsuit or criminal claim against a third party, such as to claim psychological damages or other wrongful behavior by that third party. This type of order also might arise if the client brought a complaint against the health professional with an administrative agency or civil court. Please note that a subpoena alone typically is not legally sufficient to compel disclosure of mental health information, but that I would still inform you if I ever received a subpoena for your records.

- Disclosures compelled by a search warrant issued by a governmental law enforcement agency. This might occur in the rare event that the client was under investigation for having committed a criminal felony (a felony is a serious crime against a person, business or property). In such cases, I would attempt to claim the confidentiality privilege for you to block such release of information from your records, in which case the law enforcement agency could only obtain the records if they successfully obtained a court order.
- If you are legally under the guardianship of a conservator or legal guardian and the guardian or conservator legally compels disclosure by obtaining a court order.
- If disclosure is compelled by the California Child Abuse and Neglect Reporting Law (e.g., if you have disclosed that you have committed an act of child abuse) or by the California Elder/Dependent Adult Abuse Reporting Law (e.g., if you disclose that you have committed physical or sexual abuse upon an elderly person or a developmentally disabled person).
- If disclosure is compelled by the fact that you are in immediate and imminent (i.e., immediately upcoming) danger of serious violence toward yourself or the person or property of others, I will work with you, to the extent you are willing and able, to reduce the threat and prevent the threatened violence. In certain circumstances, disclosure to others of this immediate risk may be necessary to prevent the threatened danger, but if this were ever the case, I would make every effort to indicate to you ahead of time that such disclosure is seeming necessary and to collaborate with you therein.
- If you tell me of a serious, immediate, specific and imminent plan/attempt at physical violence to be shortly committed by you against a reasonably identifiable victim or victims, California law would require me to take action to have the intended victims informed so as to prevent the violence. I would also work with you to the extent you were willing and able, to assist you in reducing the threat and preventing the violence.
- In the event of your death, if the coroner should undertake an investigation into the cause of your death, and as part of the investigation obtains a court order to compel disclosure from your records.
- Disclosure compelled by the U.S. Secretary of Health and Human Services to investigate or determine my compliance with the HIPAA privacy requirements under federal regulations.

Disclosures Made With Your Written Consent:

All other disclosures of your medical information will **only** be made with your written consent. Beyond the rare required exceptions noted above, I will not even disclose the fact that you are (or were) a client to any third party without your consent. Similarly, beyond the exceptions above, I will never initiate communication with any third party regarding your personal health information without your written consent.

- Uses and disclosures made with your written consent will be limited in scope to the information specified in the authorization form.
- You may revoke your written authorization at any time, provided the revocation is in writing, and except to the extent that I have already taken action previously in reliance on your written consent.
- Your right to revoke an authorization is also limited if the authorization was obtained as a condition of your insurance company reimbursing me for charges incurred for treatment sessions which have already occurred.
- If you give me written authorization to discuss your personal health information with an insurance company or other health professional, I will not only limit disclosures to the type of information specified in the authorization form you sign, but within that will disclose only the minimum information necessary to accomplish the purpose for which the communication is being conducted (e.g., payment of insurance claims or coordination of care).
- Similarly, if you give me written authorization to request information from another health care provider in order to facilitate optimal care, I will limit the information I request to the minimum necessary to achieve that purpose.
- You have a right to request additional restrictions, beyond those required by law or my professional ethics code, on certain uses and disclosures of protected health information, such as those necessary to carry out treatment, payment or health care operations. I will consider any such requests, but am not legally required to agree to them. Reasons for declining such a request might include if it will prevent me from receiving full payment, or if it would require me to conduct treatment or record-keeping in a fashion which is below the accepted standard of care in my profession. If I do agree to such a request, I will maintain a record of the agreed upon restrictions in your chart.
- If you yourself request communication of protected health information from me, you have the right to request that it be relayed by alternative means (e.g., fax) or at alternative locations (e.g., a P.O. Box vs. your home). If the means you request would incur additional financial costs to me relative to local telephone or U.S. Mail (e.g., Fed-Ex, long distance calls), I am permitted to obtain payment from you for these additional costs.
- You have the right to inspect and obtain copies of protected health information about you (i.e., your chart); the HIPAA regulation requires that you make a specific request to do so in writing.
- HIPAA grants you the right to amend protected health information in my records by making a request to do so in writing that provides a reason to support the specific requested amendment. This right to amend which is granted by HIPAA is not absolute; I am permitted to deny requested amendments for “specified reasons” (this term has not yet been defined by HIPAA at this time). You also have the right, subject to limitations (also not yet specified by law), to provide me with a written

addendum with respect to any item in your records which you believe to be incorrect or incomplete and to have the addendum become part of your record. Any addenda are added to the file; it is a violation of the law to rewrite or destroy the original portions of the chart which the amendment(s) are attempting to correct or complete.

- You have the right to receive an accounting from me of any disclosures of protected health information made by me in the 6 years prior to the date on which the accounting is requested. Typically, you would already know of any disclosures that had been made.

#### My Duties and This Practice's Specific Privacy Practices:

I am required by law to maintain the privacy and confidentiality of your personal health information. As noted, this notice is required by law to inform you of my legal duties, your rights, and my privacy practices with respect to such information. I am required to abide by the terms of the notice currently in effect. I am legally entitled to change the terms of my privacy practices, but only within the legal limits specified here (unless the laws themselves change). If I make a revision in my privacy practices (e.g., such as if I began engaging in electronic billing of insurance claims at a point in the future), I would revise this notice accordingly and make the revision available.

The effective date of these policies and procedures is April 15, 2003; however, most of them have been in effect already since I began practicing as a Marriage Family Therapist. I will maintain documentation of any communications, forms, authorizations or requests related to these practices, and of complaints, if any, received regarding these practices and the result of any such complaints.

- This practice does not maintain sign-in sheets.
- When I am not using them, clients' charts are kept in a locked file cabinet in my individual office. Client records are not left in places in my office where others will see their contents. No other employees handle or view my clients' charts except my supervisor during supervision.
- I do not use electronic (i.e. computer) transmission of insurance claims or applications for sessions to managed care companies, or any other communications with third parties. I do not keep client chart notes on computer.
- When I participate in conversations regarding confidential material (e.g., if your treatment is allotted by a managed care insurance company which requires treatment information for authorization of sessions), these conversations will take place in an area and a manner where they will not be overheard by others (e.g., in my office with the door closed).
- By law, I keep patient records for at least 7 years from the date of last treatment session. With respect to records of a minor, I keep those records for at least 7 years or until the patient is 21 years old, whichever is longer. In addition, if a patient is no longer in treatment after 7 years (or as indicated above for a minor), I keep a summary of the file for an additional 5 years, in accordance with the standards of the Board of Behavioral Sciences. When records are destroyed due to the number of

years following patient termination of treatment, they are destroyed and discarded in a fashion which protects patient privacy and confidentiality.

- Unless a client indicates otherwise to me that more information is permissible, I do not leave phone messages which identify myself as a Marriage Family Therapist or which could otherwise lead another individual to conclude that the intended message recipient is in psychotherapy. If there is any other alteration that you would request in how I handle phone communications with you, and you have not already made this request, please do so, and in most cases, I will likely be able to oblige your request. It is rare that I have occasion to send any written materials to clients via mail which they have not specifically requested from me on that occasion. However, if you know you would want any correspondence sent to a different location, and have not already made this known to me, please let me know.
- My duty of confidentiality and the psychotherapist-patient privilege survive the death of a patient, by law.
- Because the HIPAA regulation requires that every current client be given the health professional's Notice of Privacy Rights and Practices at this time, the regulation also requires that the health professional maintain some type of record demonstrating their compliance, i.e., that each client was in fact given the notice. In accordance with this, I will be having each client sign an "Acknowledgment of Receipt" for the notice when I give it to them.

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**Acknowledgment of Receipt of “Notice of Privacy Rights and Practices”**

I received a copy of the 5-page “Notice of Privacy Rights and Practices.”

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Please Print Your Name (if a minor, parent please print your name)

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Please Sign Your Name (if a minor, parent please sign)

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Date