



PRIVACY NOTICE

Revised 5/8/23

Notice of 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 and sign on the last page to signify your receipt. This Notice is required by federal law and also serves to further define concepts found in your Service Agreement.

I. Definition of Terms

I may use or disclose your *protected health information (PHI)*, for *treatment, payment, and health care operations* purposes with your consent and under some circumstances without your consent. To help clarify these terms, here are some definitions:

- “*PHI*” refers to information in your health record that could identify you. It includes information about your reasons for seeking coaching, a description of the ways in which your life is impacted, your diagnosis, the goals that we set for treatment, your progress towards those goals, your medical and social history, your treatment history, any past treatment records that I receive from other providers, reports of any professional consultations, your billing records, and any reports that have been sent to anyone, including reports to your insurance carrier.
- “*Treatment, Payment and Health Care Operations*”
 - *Treatment* is when I provide, coordinate or manage your health care and other services related to your health care. An example of treatment would be when I consult with another health care provider, such as your family physician or therapist.
 - *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, or when I complain to the Department of Insurance about not receiving prompt payment from your insurer, or for collection activities.
 - *Health Care Operations* are activities that relate to the performance and operation of my practice. Examples of health care operations are quality assessment and improvement activities, business-related matters such as audits and administrative services, and case management and care coordination.

- “*Use*” applies only to activities within my practice group such as sharing, employing, applying, utilizing, examining, and analyzing information that identifies you.
- “*Disclosure*” applies to activities outside of my practice group, such as releasing, transferring, or providing access to information about you to other parties.
- The “*Practice*” refers to psychological work provided by Living-Now, Inc.
- A “*Breach*” is defined as the acquisition, access, use or disclosure of PHI in violation of the HIPAA Privacy Rule. Examples of a breach include: stolen or improperly accessed PHI; PHI inadvertently sent to the wrong provider; and unauthorized viewing of PHI by an employee in your practice. PHI is “unsecured” if it is not encrypted to government standards.

II. Uses and Disclosures Requiring Authorization

I may use or disclose PHI for purposes outside of treatment, payment, and health care operations when your appropriate authorization is obtained. An “*authorization*” is written permission above and beyond the general consent that permits only specific disclosures. In those instances when I am asked for information for purposes outside of treatment, payment and health care operations, I will obtain an authorization from you before releasing this information. I will also need to obtain an authorization before releasing your coaching notes. “*Coaching 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 Clinical Record. These notes are given a greater degree of protection than PHI.

You may revoke all such authorizations (of PHI or coaching notes) at any time, provided each revocation is in writing. You may not revoke an authorization to the extent that (1) I have relied on that authorization; or (2) if the authorization was obtained as a condition of obtaining insurance coverage.

I will also obtain an authorization from you before using or disclosing PHI in a way that is not described in this Notice.

III. Uses and Disclosures with Neither Consent nor Authorization

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

- I may occasionally find it helpful to consult other health and mental health professionals about a case. During a consultation, I make every effort to avoid revealing the identity of my client. The other professionals are also legally bound to keep the information confidential. If you don’t object, I will not tell you about these consultations unless I feel that it is important to our work together. I will note all consultations in your Clinical Record.
- You should be aware that I practice with other mental health professionals and that I employ administrative staff. In most cases, I need to share protected information with these individuals for both clinical and administrative purposes, such as in billing. All of the mental health professionals are bound by the same rules of confidentiality. All staff members have been given training about protecting your privacy and have agreed not to release any information outside of the practice without the permission of a professional staff member.

- I also have contracts with attorneys, an accountant, collection agency, shredding company and answering service. As required by HIPAA, I have a formal business associate contract with these businesses, in which they promise to maintain the confidentiality of this data except as specifically allowed in the contract or otherwise required by law. If you wish, I can provide you with the names of these organizations and/or a blank copy of this contract.
- Disclosures required by health insurers or to collect overdue fees are discussed elsewhere in this Agreement.

There are some situations where I am permitted or required to disclose information without your consent.

- If you are involved in a court proceeding and a request is made for information concerning your evaluation, diagnosis or treatment, such information is protected by the psychologist-client privilege law. I cannot provide any information without your (or your personal or legal representative's) written authorization, or a court order. If you are involved in or contemplating litigation, you should consult with your attorney to determine whether a court would be likely to order me to disclose information.
- If a government agency is requesting the information for health oversight activities, I may be required to provide it for them.
- If a client files a complaint or lawsuit against me, I may disclose relevant information regarding that client in order to defend myself.
- If a client files a worker's compensation claim, the client typically must execute a release so that I may release the information, records or reports relevant to the claim.

There are some situations in which I am legally obligated to take actions, which I believe are necessary to attempt to protect others from harm and I may have to reveal some information about a client's treatment. These situations are unusual in my practice.

- **Child Abuse.** If I know or have reason to suspect that a child under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, the law generally requires that I file a report with the appropriate government agency, usually the Public Children Services Agency. Once such a report is filed, I may be required to provide additional information.
- **Adult:** If I have reasonable cause to believe that a vulnerable adult 60 or older or an adult diagnosed as mentally retarded/developmentally disabled is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation, the law requires that I report such belief to the county Department of Job and Family Services. Once such a report is filed, I may be required to provide additional information.

- **Domestic Abuse:** If I know or have reasonable cause to believe that a client has been the victim of domestic violence, I must note that knowledge or belief and the basis for it in the client's Coaching Notes.
- **Serious Threat to Health or Safety:** If I believe that a client presents a clear and substantial risk of imminent serious harm to him/herself or someone else and I believe that disclosure of certain information may serve to protect that individual, then I may have to disclose that information to appropriate public authorities, and/or the potential victim, and/or professional workers, and/or the family of the client.

If you communicate to me an explicit threat of inflicting imminent and serious physical harm or causing the death of one or more clearly identifiable victims, and I believe you have the intent and ability to carry out the threat, then I am may take one or more of the following actions in a timely manner:

- 1) take steps to hospitalize you on an emergency basis,
- 2) establish and undertake a treatment plan created to eliminate the possibility that you will carry out the threat, and initiate arrangements for a second opinion risk assessment with another mental health professional,
- 3) communicate to a law enforcement agency and, if feasible, to the potential victim(s), or victim's parent or guardian if a minor, all of the following information: a) the nature of the threat, b) your identity, and c) the identity of the potential victim(s).

If such a situation arises, depending on the circumstances, I will make efforts to fully discuss it with you before taking any action and I will limit my disclosure to what is necessary.

- **Judicial or Administrative Proceedings:** If you are involved in a court proceeding and a request is made for information about your evaluation, diagnosis and treatment and the records thereof, such information is privileged under state law and I will not release this information without written authorization from you or a legally-appointed representative, or a court order. The privilege does not apply when you are being evaluated for a third party or where the evaluation is court ordered. You will be informed in advance if this is the case.
- **Worker's Compensation:** If you file a worker's compensation claim, I may be required to give your mental health information to relevant parties and officials.
- **Other:** Law enforcement agencies, a health oversight agency (such as HHS or a state department of health), a coroner or medical examiner, for public health purposes relating to disease or FDA-regulated products, or for specialized government functions such as fitness for military duties, eligibility for VA benefits, and national security and intelligence.

While this written summary of exceptions to confidentiality should prove helpful in informing you about potential problems, it is important that we discuss any questions or concerns that you may have now or in the future. The laws governing confidentiality can be quite complex, and I am not an attorney. In situations where specific advice is required, formal legal advice may be needed.

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 protected health information about you. However, I am not required to agree to a restriction you request. On your request, I will discuss with you the details of the request process.
- *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 and I will comply with that request if it is reasonable. (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 to inspect or obtain a copy (or both) of PHI and coaching 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. On your request, I will discuss with you the details of the inspection process and any rights you may have in connection with that process.
- *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 have the right to 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 a Paper Copy* – You have the right to obtain a paper copy of the notice from me upon request, even if you have agreed to receive the notice electronically.
- *Right to Restrict Disclosures* when you have paid for your care out-of-pocket. You have the right to restrict certain disclosures of PHI to a health plan when you pay out-of-pocket in full for my services.

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 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.
- If I revise my policies and procedures, you will be notified by email of such and have access to a copy on my website.

V. Complaints

If you are concerned that I have violated your privacy rights, or you disagree with a decision I made about access to your records, you may discuss it with me. As an Independent Contractor, I act as my own Privacy Officer.

You may also send a written complaint to the Secretary of the U.S. Department of Health and Human Services.

VI. Breach Notification

1. When the Practice becomes aware of or suspects a breach, the Practice will conduct a Risk Assessment, as outlined in Section VII.. The Practice will keep a written record of that Risk Assessment.
2. Unless the Practice determines that there is a low probability that PHI has been compromised, the Practice will give notice of the breach within 60 days after discovery.

It will provide:

- A brief description of the breach, including dates
 - A description of types of unsecured PHI involved
 - The steps the patient should take to protect against potential harm
 - A brief description of steps the Practice has taken to investigate the incident, mitigate harm, and protect against further breaches; and
 - Your contact information.
3. The risk assessment can be done by a business associate if it was involved in the breach. While the business associate will conduct a risk assessment of a breach of PHI in its control, the Practice will provide any required notice to patients and HHS.
 4. After any breach, particularly one that requires notice, the Practice will re-assess its privacy and security practices to determine what changes should be made to prevent the re-occurrence of such breaches.

VII. Risk Assessment

The risk assessment considers the following four factors to determine if PHI has been compromised:

- 1) The nature and extent of PHI involved.
- 2) To whom the PHI may have been disclosed.
- 3) Whether the PHI was actually acquired or viewed.
- 4) The extent to which the risk to the PHI has been mitigated.

VI. Effective Date, Changes to Privacy Policy

This notice will go into effect on April 14, 2003 and Final Rule by 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.

Your signature on the Service/Privacy/Energy Consent Form indicates that you have read the information in this document.