

Jennifer A. Madere, PLLC
HIPAA Notice of Privacy Practices
OMNIBUS Rule & TEXAS HB 300

1464 E. Whitestone Blvd., Ste. 2001 - Cedar Park, TX 78613 – www.intuitus-group.com

This notice describes how medical information about you may be used, disclosed, and how you may access this information under the HIPAA Omnibus Rule of 2013. Most allowed uses and disclosures do not apply in our practice unless your provider bills insurance for services you receive, however it is important for you to know the situations and procedures herein. Please review carefully.

For purposes of this Notice “us” “we” and “our” refers to our individual psychotherapy practice; and “you” or “your” refers to our clients (or their legal representatives as determined by us in accordance with state informed consent law). When you receive healthcare services from us, we will obtain access to your medical information (i.e. your health history). We are committed to maintaining the privacy of your health information and we have implemented numerous procedures to ensure that we do so.

The Federal Health Insurance Portability & Accountability Act of 2013, HIPAA Omnibus Rule, (formerly HIPAA 1996 & HI TECH of 2004) require us to maintain the confidentiality of all your healthcare records and other identifiable patient health information (PHI) used by or disclosed to us in any form, whether electronic, on paper, or spoken. HIPAA is a Federal Law that gives you rights to understand and control how your health information is used. Federal HIPAA Omnibus Rule and state law provide penalties for covered entities, business associates, and their subcontractors and records owners, respectively that misuse or improperly disclose PHI.

Starting April 14, 2003, HIPAA required us to provide you with this Notice of our legal duties and the privacy practices we are required to follow when you first come into our office for health-care services. If you have any questions about this Notice, please ask to speak to us.

Any employees, Interns, Business Associates (outside contractors we hire), their subcontractors and other involved parties follow the policies and procedures set forth in this Notice. If we are unavailable to assist you, we may provide you with the name of another healthcare provider outside our practice. If we do so, that provider will follow the policies and procedures established for his/her practice, so long as they substantially conform to current law and standards.

HOW WE MAY USE AND DISCLOSE YOUR PROTECTED HEALTH INFORMATION

Under current law, we must have your signature on a written, dated Consent Form and/or acknowledgement of this Notice, before we will use or disclose your PHI for certain purposes as detailed in the rules below.

Documentation – You will be asked to sign an acknowledgement of receiving this form when you receive this Notice of Privacy Practices as part of your Consent to Treatment. If you did not sign such a form or need a copy of the one you signed, please contact us. You may revoke your consent or authorization at any time (unless we already have acted based on it) by submitting our Revocation Form in writing to us at our address listed above. Your revocation will take effect when we receive it. We cannot give it retroactive effect, so it will not affect any use or disclosure that occurred in our reliance on your Consent or Authorization prior to revocation.

General Rule – If you do not sign our authorization/ acknowledgement form or if you revoke it, as a general rule (subject to exceptions described below under “Healthcare Treatment, Payment and Operations Rule” and “Special Rules”), we cannot in any manner use or disclose to anyone (excluding you, but including payers and Business Associates) your PHI or any other information in your medical record. By law, we are unable to submit claims to payers under assignment of benefits without your signature on our authorization/ acknowledgement form. You will, however, be able to restrict disclosures to your insurance carrier for services for which you wish to pay “out of pocket” under the new Omnibus Rule. We will not condition treatment on you signing an authorization / acknowledgement, but we may be forced to decline you as a new client or discontinue you as an active client if you choose not to sign the acknowledgement or revoke it if it interferes in our ability to adequately provide treatment or obtain payment for services rendered.

Super-confidential Information Rule

If we have PHI about you regarding communicable diseases, disease testing, alcohol or substance abuse diagnosis and treatment, or psychotherapy and mental health records (super-confidential information under the law), we will not disclose it under the General or Healthcare Treatment, Payment and Operations Rules (see below) without your first signing and properly completing our Consent form and designated your intention to use insurance coverage for your treatment. If you do not specifically authorize disclosure of the super-confidential information, we will not disclose it unless authorized under the Special Rules (i.e. we are required by law to disclose it). This means we will require a specifically signed Authorization to Release Confidential Information in order to consult or collaborate with any other healthcare professionals caring for you. If we disclose super-confidential information, we will comply with state and federal law that requires us to warn the recipient in writing that re-disclosure is prohibited.

Healthcare Treatment, Payment and Operations Rule

With your signed consent, we may use or disclose your PHI in order:

- To provide you with or coordinate healthcare treatment and services. For example, we may review your health history to form a diagnosis and treatment plan, consult with other providers about your care, delegate tasks to ancillary staff, disclose needed information to your family or others participating in your sessions, etc.

- To bill or collect payment from you, an insurance company, or another third party. For example, we may need to verify your insurance coverage, submit your PHI on claim forms in order to get reimbursed for our services, or obtain pre- authorizations from your health plan. You will be able to restrict disclosures to your insurance carrier for services for which you wish to pay "out of pocket" under Omnibus Rule.
- To run our office, assess the quality of care our patients receive and provide you with customer service. For example, we may contact you by telephone, mail or otherwise remind you of scheduled appointments, we may leave messages with whomever answers your telephone or email (but we will not give out detailed PHI), we may call you by name from the waiting room, we may tell you about alternative treatments that may interest you, we may review your PHI to evaluate our staff/Intern, or may review your records to assist you with complaints.
- HIPAA Omnibus Rule does not require that we provide the above notice regarding Appointment Reminders, Treatment Information or Health Benefits, but we are including these as a courtesy so you understand our business practices with regards to your (PHI) protected health information.

Additionally you should be made aware of these protection laws on your behalf, under the HIPAA Omnibus Rule:

- **Psychotherapy Notes** maintained by a healthcare provider, must state in their NOPPs that they can allow "use and disclosure" of such notes only with your written authorization.

Special Rules

Notwithstanding anything else contained in this Notice, only in accordance with applicable HIPAA Omnibus Rule, and under strictly limited circumstances, we may use or disclose your PHI without your permission, consent or authorization for the following purposes:

- When required under federal, state or local law
- When necessary in emergencies to prevent a serious threat to your health and safety or the health and safety of other persons
- When necessary for public health reasons (i.e. prevention or control of disease, injury or disability, ineffective or dangerous medications, suspected abuse, neglect or exploitation of children, disabled adults or the elderly, or domestic violence)
- For federal or state government health-care oversight activities (i.e. fraud and abuse investigations, audits, investigations, inspections, licensure, etc.)
- For judicial, administrative and law enforcement purposes (i.e. in response to a warrant, subpoena or court order)
- For Worker's Compensation (i.e. we may disclose your PHI if you claim health benefits for a work-related injury or illness)
- For intelligence, counterintelligence or other national security purposes (i.e. Veterans Affairs, U.S. military command, other government authorities or foreign military authorities may require us to release PHI about you)
- For research projects approved by an Institutional Review Board or a privacy board to ensure confidentiality (i.e. if the researcher will have access to your PHI, we will ask you to sign an authorization)
- To create a collection of information for educational or business purposes that is "de-identified" (i.e. it does not personally identify you by name, distinguishing marks or otherwise and no longer can be connected to you)
- To family members, friends and others, but only if you are present and verbally give permission. We give you an opportunity to object and if you do not, we reasonably assume, based on our professional judgment and the surrounding circumstances, that you do not object (i.e. you bring someone with you into room during treatment or into the lobby area when we are discussing your PHI); we reasonably infer that it is in your best interest (i.e. to allow someone to pick up your records and you asked them in writing with your signature to do so); or it is an emergency situation involving you or another person (i.e. your minor child or ward) and, respectively, you cannot consent to your care because you are incapable of doing so or you cannot consent to the other person's care because, after a reasonable attempt, we have been unable to locate you. In these emergency situations we may, based on our professional judgment and the surrounding circumstances, determine that disclosure is in the best interests of you or the other person, in which case we will disclose PHI, but only as it pertains to the care being provided and we will notify you of the disclosure as soon as possible after the care is completed. As per HIPAA law 164.512(j) (i)... (A) Is necessary to prevent or lessen a serious or imminent threat to the health and safety of a person or the public and (B) Is to person or persons reasonably able to prevent or lessen that threat.

Minimum Necessary Rule

Our staff will not use or access your PHI unless it is necessary to do their jobs (i.e. those uninvolved in your care will not access your PHI; ancillary staff will not access your billing information; billing staff will not access your PHI except as needed to complete the claim form for the latest visit; janitorial staff will not access your PHI). All of our team members are trained in HIPAA Privacy rules and sign strict Confidentiality Contracts with regards to protecting and keeping private your PHI, as do any Business Associates and their Subcontractors. Still in certain cases, we may use and disclose the entire contents of your medical record:

- To you (or your legal representative) and anyone else you give written authorization to receive a copy of your records
- To healthcare providers for treatment purposes (i.e. making diagnosis and treatment decisions or prior recommendations in the medical record)
- To the U.S. Department of Health and Human Services (i.e. in connection with a HIPAA complaint)
- To others as required under federal or state law
- To our privacy officer and others as necessary to resolve your complaint or accomplish your request under HIPAA (i.e. clerks who copy records need access to your entire medical record)

In accordance with HIPAA law, we presume that requests for disclosure of PHI from another Covered Entity are for the minimum necessary amount of PHI to accomplish the requestor's purpose. We will individually review requests for PHI to determine the

minimum necessary amount of PHI and disclose only that. For non-routine requests or disclosures, we will make a minimum necessary determination based on, but not limited to, the following factors:

- The amount of information being disclosed
- The number of individuals or entities to whom the information is being disclosed
- The importance of the use or disclosure
- The likelihood of further disclosure
- Whether the same result could be achieved with de-identified information
- The technology available to protect confidentiality of the information
- The cost to implement administrative, technical and security procedures to protect confidentiality

If we believe that a request from others for disclosure of your entire medical record is unnecessary, we will ask the requestor to document why this is needed, retain that documentation and make it available to you upon request.

Incidental Disclosure Rule

We will take reasonable administrative, technical and security safeguards to ensure the privacy of your PHI when we use or disclose it (i.e. we shred all paper containing PHI, require employees/Interns to speak with privacy precautions when discussing PHI, we use computer passwords and change them periodically, we use firewall and router protection to the federal standard, we back up any electronic PHI data off-site and encrypted to federal standard, and we do not allow unauthorized access to areas where PHI is stored or filed.

However, in the event that there is a breach in protecting your PHI, we will follow Federal Guide Lines to HIPAA Omnibus Rule Standard to first evaluate the breach situation using the Omnibus Rule, 4-Factor Formula for Breach Assessment. Then we will document the situation, retain copies of the situation on file, and report all breaches (other than low probability as prescribed by the Omnibus Rule) to the US Department of Health and Human Services at:

<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brinstruction.html>

We will also make proper notification to you and any other parties of significance as required by HIPAA Law.

Business Associate Rule

Business Associates are defined as: an entity, (non-employee) that in the course of their work will directly / indirectly use, transmit, view, transport, hear, interpret, process or offer PHI for our practice.

Business Associates and any third parties who receive your PHI from us will be prohibited from re-disclosing it unless required to do so by law or you give prior express written consent to the re-disclosure. Under Omnibus Rule, Business Associates will sign a strict confidentiality agreement binding them to keep your PHI protected and report any compromise of such information to us, you and the United States Department of Health and Human Services, as well as other required entities. Our Business Associates will also follow Omnibus Rule and have any of their Subcontractors that may directly or indirectly have contact with your PHI, sign Confidentiality Agreements to Federal Omnibus Standard.

Changes to Privacy Policies Rule

We reserve the right to change our privacy practices (by changing the terms of this Notice) at any time as authorized by law. The changes will be effective immediately. They will apply to all PHI we create or receive in the future, as well as to all PHI created or received by us in the past. If we make changes, we will post the changed Notice, along with its effective date, in our office and on our website. Also, upon request, you will be given a copy of our current Notice.

Faxing and Emailing Rule

You may request for us to fax or email your PHI as an alternative communication. For this communication, we will confirm that the fax number or email address is correct before sending the message and ensure that the intended recipient has sole access to the fax machine or computer before sending the message; confirm receipt, locate our fax machine or computer in a secure location so unauthorized access and viewing is prevented; use a fax cover sheet so the PHI is not the first page to print; and attach an appropriate notice to the message. Since our email accounts are not encrypted, we will not send PHI to you via email unless you specifically request for us to do so and it is the only feasible way to fulfill your request.

Practice Transition Rule

If for any reason we close our practice, PHI will be in the custody of the person listed on our emergency contact portion of our Consent Form, or in extreme circumstances our State Licensing Board.

Inactive Patient Records

As per Texas law and LPC Board rules, we will retain your records for seven years from your last treatment or examination, at which point we may destroy your records. Records of inactive minor patients will not be destroyed before the child's eighteenth birthday.

Collections

If we use or disclose your PHI for collections purposes, we will do so only in accordance with the law.

Marketing and Fund Raising Rules

Limitations on the disclosure of PHI regarding Remuneration

The disclosure or sale of your PHI without authorization is prohibited. Any PHI used by us for educational, research or marketing purposes will be de-identified. If at any point we wish to publish de-identified case examples as part of a professional publication or presentation, we will request your signed consent before the information is published.

Face-to-face marketing communications, such as sharing a written product brochure or pamphlet with you, is permissible under current HIPAA Law.

Flexibility on the Use of PHI for Fundraising

Our practice does not contact current or past clients regarding fundraising or promotion of events/services.

YOUR RIGHTS REGARDING YOUR PROTECTED HEALTH INFORMATION

If you obtained this Notice via email or website, you have the right to request and receive a paper copy. Also, you have the following additional rights regarding PHI we maintain about you:

To Inspect and Copy

You have the right to see and receive a copy of your PHI by submitting a written request. Original records will not leave the premises, will be available for inspection only during our regular business hours, and only if we are present at all times. You may ask us to provide copies in a format other than photocopies (and we will do so unless we determine that it is impractical) or ask us to prepare a summary in lieu of the copies. We may charge you a fee not to exceed state law to recover our costs (including postage, supplies, and time as applicable, but excluding time for search and retrieval) to duplicate or summarize your PHI. We will not condition release of the copies on payment of your outstanding balance for professional services (if you have one). We will comply with Federal and State Law to provide your PHI in an electronic format within 15 days, as the State of Texas specifies, when you provide us with proper written request. We may deny your request in certain limited circumstances (i.e. we do not have the PHI, it came from a confidential source, we assess it may be harmful to the client, etc.). If we deny your request, you may ask for a review of that decision. If required by law, we will select a licensed healthcare professional to review the denial and we will follow his or her decision. Texas law also gives the option for us to offer to release your medical record to another licensed healthcare professional for review if we deem direct release of the medical record to you is not in your/the client's best interest.

To Request Amendment / Correction

If another healthcare professional involved in your care requests in writing for us to change your PHI, we will do so as expeditiously as possible upon receipt of the changes and will send you written confirmation that we have made the changes. If you think PHI we have is incorrect, or that something important is missing from your records, you may ask us to amend or correct it by submitting a "Request for Amendment / Correction" form. We will act on your request within 30 days from receipt but we may extend our response time (within the 30-day period) no more than once and by no more than 30 days, or as per Federal Law allowances, in which case we will notify you in writing why and when we will be able to respond. If we grant your request, we will let you know within five business days, make the changes by noting (not deleting) what is incorrect or incomplete and adding to it the changed language, and send the changes within 5 business days to persons you ask us to and persons we know may rely on incorrect or incomplete PHI to your detriment. We may deny your request under certain circumstances (i.e. it is not in writing, it does not give a reason why you want the change, we did not create the PHI you want changed, it was compiled for use in litigation, or we determine it is accurate and complete). If we deny your request, we will (in writing within 5 business days) tell you why and how to file a complaint with us if you disagree, that you may submit a written disagreement with our denial (and we may submit a written rebuttal and give you a copy of it), that you may ask us to disclose your initial request and our denial when we make future disclosure of PHI pertaining to your request, and that you may complain to us and the U.S. Department of Health and Human Services.

To an Accounting of Disclosures

You may ask us for a list of those who received your PHI from us by submitting a "Request for Accounting of Disclosures" form. The list will not cover some disclosures such as PHI given to you, given to your legal representative, given to others for treatment, payment or health-care-operations purposes. Your request must state in what form you want the list (i.e. paper or electronically) and the time period you want it to cover, which may be up to but not more than the last six years. If you ask us for this list more than once in a 12-month period, we may charge you a reasonable, cost-based fee to respond, in which case we will tell you the cost before we incur it and let you choose if you want to withdraw or modify your request to avoid the cost.

To Request Restrictions

You may ask us to limit how your PHI is used and disclosed (i.e. in addition to our rules as set forth in this Notice) by submitting a written "Request for Restrictions on Use, Disclosure" form to us (i.e. you may not want us to disclose details of your treatment to family members or friends involved in paying for services). If we agree to these additional limitations, we will follow them except in an emergency where we will not have time to check for limitations. Also, in some circumstances we may be unable to grant your request (i.e. we are required by law to use or disclose your PHI in a manner that you want restricted, you signed an Authorization Form, which you may revoke, that allows us to use or disclose your PHI in the manner you want restricted; in an emergency).

To Request Alternative Communications

You may ask us to communicate with you in a different way or at a different place by submitting a written "Request for Alternative Communication" Form. We will not ask you why and we will accommodate all reasonable requests which may include: to send your PHI to a post office box instead of your home address, to communicate with you at a telephone number other than your home number. You must tell us the alternative means or location you want us to use and explain to our satisfaction how payment to us will be made if it pertains to the method of communication requested.

To Complain or Receive More Information

We will follow our rules as set forth in this Notice. If you want more information or if you believe your privacy rights have been violated, we want to correct. We never will penalize you for filing a complaint. To do so, please file a formal, written complaint within 180 days with:

The U.S. Department of Health & Human Services
Office of Civil Rights
200 Independence Ave., S.W.
Washington, DC 20201
877.696.6775

Or, submit a written Complaint form to us at the office address listed on the first page of this form.

You may obtain a "HIPAA Complaint" form by calling your provider, as we are each our own privacy officer.

These privacy practices are in accordance with the original HIPAA enforcement effective April 14, 2003, and undated to Omnibus Rule effective March 26, 2013, and will remain in effect until we replace them as specified by Federal and/or State Law.

Texas Health and Safety Code Sec 181.154 Requires

NOTICE AND AUTHORIZATION FOR ELECTRONIC DISCLOSURE OF PROTECTED HEALTH INFORMATION;

a) A covered entity shall provide a notice to an individual for whom the covered entity creates or receives protected health information if the individual's protected health information is subject to electronic disclosure. A covered entity may provide general notice by: (1) posting a written notice in the covered entity's place of business;

b) May not electronically disclose an individual's protected health information to any person without a separate authorization for the individual or the individual's legally authorized representative for each disclosure. An authorization for disclosure under this subsection may be made in written or electronic form or in oral form if it is documented in writing by the covered entity.

c) The authorization for electronic disclosure of protected health information described by Subsection (b) is not required if the disclosure is made: to another covered entity, as that term is defined by 181.001, or to a covered entity, as that term is defined by Section 602.001, Insurance Code, for the purpose of:

A) Treatment;

B) Payment;

C) Healthcare operations; or

D) Performing an insurance or health maintenance organization function described by Section 602.053, Insurance Code; or as otherwise authorized or required by state or federal law