

## Notice of Privacy Practices HIPAA

- I. This notice describes how medical information about you may be used and disclosed and how you can get access to this information. Please review it carefully.
- II. It is a health practitioner's legal duty to safeguard your Protected Health Information (PHI). By law they are required to insure that your PHI is kept private. The PHI constitutes information created or noted by them that can be used to identify you. It contains data about your past, present, or future health or condition, the provision of health care services to you, or the payment for such health care. Health practitioners are required to provide you with this Notice about privacy procedures. This Notice must explain when, why, and how a health practitioner would use and/or disclose your PHI. Use of PHI means when a health practitioner shares, applies, utilizes, examines, or analyzes information within their practice; PHI is disclosed when a health practitioner releases, transfers, gives, or otherwise reveals it to a third party outside their practice. With some exceptions, a health practitioner may not use or disclose more of your PHI than is necessary to accomplish the purpose for which the use or disclosure is made. A health practitioner is legally required to follow the privacy practices described in this Notice. Health practitioners reserve the right to change the terms of this Notice and their privacy policies at any time. Any changes will apply to PHI already on file with the health practitioner. Before a health practitioner makes any important changes to policies, they will immediately change this Notice and post a new copy of it in the office. You may also request a copy of this Notice from your health practitioner, or you can view a copy of it in this office.
- III. How a health practitioner will use and disclose your PHI.

A health practitioner will use and disclose your PHI for many different reasons. Some of the uses or disclosures will require your prior written authorization, others will not. Below you will find the different categories of uses and disclosures.

  - A. Uses and disclosures related to treatment, payment or health care operations that do not require your prior written consent. A health practitioner may use and disclose your PHI without your consent for the following reasons:
    1. For treatment. A health practitioner may disclose your PHI to physicians, psychiatrists, psychologists, and other licensed health care providers who provide you with health care services or are otherwise involved in your care.
    2. For health care operations. A health practitioner may disclose your PHI to facilitate the efficient and correct operation of their practice. A health practitioner may also provide your PHI to their attorneys, accountants, consultants, and others to make sure that they are in compliance with applicable laws.
    3. To obtain payment for treatment. A health practitioner may use and disclose your PHI to bill and collect payment for the treatment and services provided you.
    4. Other disclosures. Your consent isn't required if you need emergency treatment provided that a health practitioner attempts to get your consent after treatment is rendered. In the event that a health practitioner tries to get your consent but you are unable to communicate with them, e.g., you are unconscious or in severe pain, but they think that you would consent to such treatment if you could, they may disclose your PHI.
  - B. Certain other uses and disclosures that do not require your consent. A health practitioner may use and/or disclose your PHI without your consent or authorization for the following reasons:
    1. When federal, state, or local law; judicial board, or administrative proceedings; or, law enforcement requires disclosure.
    2. If disclosure is compelled by a party to a proceeding before a court of an administrative agency pursuant to its lawful authority.
    3. If disclosure is required by a search warrant lawfully issued to a governmental law enforcement agency.
    4. If the patient compels disclosure or the patient's representative pursuant to CA Health and Safety Codes or to corresponding federal statutes of regulations, such as the Privacy Rule that requires this Notice.
    5. To avoid harm. A health practitioner may provide PHI to law enforcement personnel or persons able to prevent or mitigate a serious threat to the health or safety of a person or the public.

6. If disclosure is compelled or permitted by the fact that you are in such mental or emotional condition as to be dangerous to yourself or the person or property of others, and if I determine that disclosure is necessary to prevent the threatened danger.
7. If disclosure is mandated by the California Child Abuse and Neglect Reporting law.
8. If disclosure is mandated by the California Elder/Dependent Adult Abuse Reporting law.
9. If disclosure is compelled or permitted by the fact that you tell a health practitioner of a serious/imminent threat of physical violence by you against a reasonably identifiable victim or victims.
10. For Public Health activities, e.g., in the event of your death, if a disclosure is permitted or compelled, a health practitioner may need to give the county coroner information about you.
11. For health oversight activities, e.g., a health practitioner may be required to provide information to assist the government in the course of an investigation or inspection of a health care organization or provider.
12. For specific government functions, e.g., a health practitioner may disclose PHI of military personnel and veterans under certain circumstances. Also, a health practitioner may disclose PHI in the interests of national security, such as protecting the President of the United States or assisting with intelligence operations.
13. For research purposes. In certain circumstances, a health practitioner may provide PHI in order to conduct medical research.
14. For Workers' Compensation purposes. A health practitioner may provide PHI in order to comply with Workers' Compensation laws.
15. Appointment reminders and health related benefits or services. A health practitioner is permitted to contact you, without your prior authorization, to provide appointment reminders or information about alternative or other health-related benefits and services that may be of interest to you.
16. If an arbitrator or arbitration panel compels disclosure, when arbitration is lawfully requested by either party, pursuant to subpoena *duces tecum* (e.g., subpoena for mental health records) or any other provision authorizing disclosure in a proceeding before an arbitrator or arbitration panel.
17. If disclosure is required or permitted to a health oversight agency for oversight activities authorized by law.
18. If disclosure is otherwise specifically required by law.
19. In the instance where a patient discloses they have accessed, streamed, or downloaded material where a child is engaged in an obscene sexual act.

C. Certain uses and disclosures require you to have the opportunity to object.

1. Disclosures to family, friends, or others. A health practitioner may provide your PHI to a family member, friend, or other individual who you indicate is involved in your care or responsible for the payment for your health care, unless you object in whole or in part. Retroactive consent may be obtained in emergency situations.

D. Other uses and disclosures require your prior written authorization. In any other situation not described in Sections IIIA, IIIB, and IIIC above, the health practitioner will request your written authorization before using or disclosing any of your PHI. Even if you have signed an authorization to disclose your PHI, you may later revoke that authorization, in writing, to stop any future uses and disclosures (assuming that the health practitioner hasn't taken any action subsequent to the original authorization) of your PHI by them.

IV. What rights you have regarding your PHI.

These are your rights with respect to your PHI:

- A. The right to view and obtain copies of Your PHI. In general, you have the right to view your PHI that is in the health practitioner's possession or to obtain copies of it. You must request it in writing. If the health practitioner does not have your PHI, but knows who does, they will advise you how you can obtain it. You will receive a response from them within 30 days of receiving your written request. Under certain circumstances, they may deny your request. If your request is denied, you will be given in writing the reasons for the denial. The health practitioner will also explain your right to have the denial reviewed. If you ask for copies of your PHI, they will charge you not more than \$0.25 per page. They may see fit to provide you with a summary or explanation of the PHI, but only if you agree in advance to it, as well as to the cost.
- B. The right to request limits on uses and disclosures of your PHI. You have the right to ask that they limit how they use and disclose your PHI. While they will consider your request, they are not legally bound to agree. If the health practitioner does agree to your request, they will put those limits in writing and abide

by them except in emergency situations. You do not have the right to limit the uses and disclosures that they legally require or are permitted to make.

- C. The right to choose how a health practitioner sends your PHI to you. It is your right to ask that your PHI be sent to you at an alternate address or by an alternate method. The health practitioner is obliged to agree to your request providing that they can give you the PHI in the format you requested, without undue inconvenience.
- D. The right to get a list of the disclosures they have made. You are entitled to a list of disclosures of your PHI that the health practitioner has made. The list will not include uses or disclosures to which you have already consented, e.g., those for treatment, payment, or health care operations, sent directly to you or to your family; neither will the list include disclosures made for national security purposes, to corrections or law enforcement personnel, or disclosures made before April 15, 2003. After April 15, 2003, disclosure records will be held for six years. The health practitioner will respond to your request for an accounting of disclosures within 60 days of receiving your request. The list provided to you will include disclosures made in the previous six years (the first six-year period being 2003-2009) unless you indicate a shorter period. The list will include the date of the disclosure, to whom the PHI was disclosed (including their address if known), a description of the information disclosed, and the reason for the disclosure. They will provide the list to you at no cost, unless you make more than one request in the same year, in which case they will charge you a reasonable sum based on a set fee for each additional request.
- E. The right to amend Your PHI. If you believe that there is some error in your PHI or that important information has been omitted, it is your right to request that the health practitioner corrects the existing information or adds the missing information. Your request and the reason for the request must be made in writing. You will receive a response within 60 days of receipt of your request. The health practitioner may deny your request in writing if they find that: the PHI is (a) correct and complete, (b) forbidden to be disclosed, (c) not part of the records, or (d) written by someone other than them. The denial must be in writing and must state the reasons for the denial. It must also explain your right to file a written statement objecting to the denial. If you do not file a written objection, you still have the right to ask that your request and the denial be attached to any future disclosures of your PHI. If your request is approved, the health practitioner will make the change(s) to your PHI. Additionally, they will tell you that the changes have been made, and will advise all others who need to know about the change(s) to your PHI.
- F. The right to get this notice by email. However, this health practitioner is not required by law to use email and does not do so. You have the right to request a paper copy of it, and this health practitioner will provide it to you at your request.

V. How to complain about privacy practices.

If, in your opinion, the health practitioner may have violated your privacy rights, or if you object to a decision that was made about access to your PHI, you are entitled to file a complaint with the person listed in Section VI below. You may also send a written complaint to the Secretary of the Department of Health and Human Services at, 200 Independence Avenue S.W., Washington, D.C., 20201. If you file a complaint about privacy practices, the health practitioner will take no retaliatory action against you.

VI. Person to contact for information about this notice or to complain about privacy practices.

If you have any questions about this notice or any complaints about privacy practices, or would like to know how to file a complaint with the Secretary of the Department of Health and Human Services, please contact your health practitioner at 2011 Palomar Airport Road, Ste. 205, Carlsbad, CA 92011.

VII. Notifications of breaches.

In the case of a breach, the health practitioner is required to notify each affected individual whose unsecured PHI has been compromised. Even if such a breach was caused by a business associate, the health practitioner is ultimately responsible for providing the notification directly or via the business associate. If the breach involves more than 500 persons, OCR must be notified in accordance with instructions posted on its website. The health practitioner bears the ultimate burden of proof to demonstrate that all notifications were given or that the impermissible use or disclosure of PHI did not constitute a breach and must maintain supporting documentation, including documentation pertaining to the risk assessment.

VIII. PHI after death.

Generally, PHI excludes any health information of a person who has been deceased for more than 50 years after the date of death. The health practitioner may disclose deceased individuals' PHI to non-family members, as well as family members, who were involved in the care or payment for healthcare of the decedent prior to death; however, the disclosure must be limited to PHI relevant to such care or payment and cannot be inconsistent with any prior expressed preference of the deceased individual.

IX. Individuals' right to restrict disclosures; right of access

To implement the 2013 HITECH Act, the Privacy Rule is amended and the health practitioner is required to restrict the disclosure of PHI about you, the patient, to a health plan, upon request, if the disclosure is for the purpose of carrying out payment or healthcare operations and is not otherwise required by law. The PHI must pertain solely to a healthcare item or service for which you have paid the covered entity in full. (OCR clarifies that the adopted provisions do not require that covered healthcare providers create separate medical records or otherwise segregate PHI subject to a restrict healthcare item or service; rather, providers need to employ a method to flag or note restrictions of PHI to ensure that such PHI is not inadvertently sent or made accessible to a health plan.)

The 2013 Amendments also adopt the proposal in the interim rule requiring the health practitioner to provide you, the patient, a copy of PHI to any individual patient requesting it in electronic form. The electronic format must be provided to you if it is readily producible. Please be aware that in this office, records are not stored electronically, therefore, they are not readily producible in electronic format. The 2013 Amendments also give you the right to direct the health care practitioner to transmit an electronic copy of PHI to an entity or person designated by you. Furthermore, the amendments restrict the fees that the health care practitioner may charge you for handling and reproduction of PHI, which must be reasonable, cost-based and identify separately the labor for copying PHI (if any). Finally, the 2013 Amendments modify the timeliness requirement for right of access, from up to 90 days currently permitted to 30 days, with a one-time extension of 30 additional days.

X. NPP

The health practitioner NPP must contain a statement indicating that most uses and disclosures of psychotherapy notes, marketing disclosures and sale of PHI do require prior authorization by you, and you have the right to be notified in case of a breach of unsecured PHI.

XI. Effective date of this notice.  
This notice went into effect on September, 2013.

I acknowledge receipt of this notice.

*#1 Patient Name:* \_\_\_\_\_

*Signature:* \_\_\_\_\_

*Date:* \_\_\_\_\_

*#2 Patient Name:* \_\_\_\_\_

*Signature:* \_\_\_\_\_

*Date:* \_\_\_\_\_