



PATIENT NOTIFICATION OF PRIVACY RIGHTS

# HIPAA

(THE HEALTH INSURANCE PORTABILITY  
AND ACCOUNTABILITY ACT)

*Updated January 1, 2022*

Please do not remove from the office.

## PATIENT NOTIFICATION OF PRIVACY RIGHTS

The Health Insurance Portability and Accountability Act (HIPAA) has created new patient protections surrounding the use of protected health information. Commonly referred to as the "medical records privacy law," HIPAA provides patient protections related to the electronic transmission of data ("the transaction rules"), the keeping and use of patient records ("privacy rules"), and storage and access to health care records ("the security rules"). HIPAA applies to all health care providers, including mental health care, and providers and health care agencies throughout the country are now required to provide patients a notification of their privacy rights as it relates to their health care records. You may have already received similar notices such as this one from your other health care providers.

As you might expect, the HIPAA law and regulations are extremely detailed and difficult to grasp if you don't have formal legal training. This Patient Notification of Privacy Rights is my attempt to inform you of your rights in a simple yet comprehensive fashion. Please read this document, as it is important you know what patient protections HIPAA affords all of us. In mental health care, confidentiality and privacy are central to the success of the therapeutic relationship and as such, you will find we make every effort to do all we can to protect the privacy of your mental health records. If you have any questions about any of the matters discussed in this document, please do not hesitate to ask for further clarification.

By law, The Elbow Tree Group (ETG) [Elbow Tree Christian Counseling LLC, Christian Counselor Cooperative LLC, Elbow Tree Counseling and Neurofeedback LLC and Foxhole Strategic Life Coaching LLC] required to secure your signature indicating you have received this Patient Notification of Privacy Rights Document. You will have an opportunity to sign on the Professional Disclosure and Counseling Agreement. Thank you for your thoughtful consideration of these matters.

Greg Seymour, M.A. LPC-MHSP  
Licensed Professional Counselor  
Mental Health Service Provider  
HIPAA Compliance Officer

### I. Preamble

The Psychology Licensing Law provides extremely strong privileged communication protections for conversations between your Counselor and you in the context of your established professional relationship with your Counselor. There is a difference between privileged conversations and

documentation in your mental health records. Records are kept documenting your care as required by law, professional standards, and other review procedures. HIPAA very clearly defines what kind of information is to be included in your "designated medical record" as well as some material, known as "Psychotherapy Notes and Raw Test Data and Protocols" which is not accessible to insurance companies and other third-party reviewers and in some cases, not to the patient himself/herself.

HIPAA provides privacy protections about your personal health information, which is called "protected health information" which could personally identify you. PHI consists of three (3) components: *Treatment, Payment, and health care Operations (TPO)*.

*Treatment* refers to activities in which the Counselor provides, to coordinate or manage your mental health care or other services related to your mental health care. Examples include a psychotherapy session, psychological testing, or talking to your primary care physician about your medication or overall medical condition.

*Payment* is when ETG obtains reimbursement for your mental health care. The clearest example of this parameter is filing insurance on your behalf to help pay for some of the costs of the mental health services provided you.

*Health care operations (O)* are activities related to the performance of ETG clinicians such as quality assurance. In mental health care, the best example of health care operations is when utilization review occurs, a process in which your insurance company reviews our work together to see if your care is "really medically necessary".

The use of your protected health information refers to activities our office conducts for filing your claims, scheduling appointments, keeping records and other tasks *within* our office related to your care. *Disclosures* refers to activities you authorize which occur *outside* my office such as the sending of your protected health information to other parties (i.e., your primary care physician, the school your child attends).

## II. Uses and Disclosures of Protected Health Information Requiring Authorization

Tennessee requires authorization and consent for treatment, payment and healthcare operations. HIPAA does nothing to change this requirement by law in Tennessee. HMS may disclose PHI for the purposes of treatment, payment and healthcare operations with your consent. You have signed this general consent to care and authorization to conduct payment and health care operations, authorizing ETG to provide treatment and to conduct the administrative steps associated with your care (i.e., file insurance for you).

Additionally, if you ever want ETG to send any of your protected health information of any sort to anyone outside the ETG office, you will always first sign a specific authorization to release information to this outside party. A copy of that authorization form is available upon the request. The requirement of you signing an additional authorization form is an added protection to help insure that your protected health information is kept strictly confidential. An example of this type

of release of information might be your request that a ETG clinician talk to your child's schoolteacher about his/her ADHD condition and what this teacher might do to be of help to your child. Before a ETG clinician talks to that teacher, you will have first signed the proper authorization for the ETG clinician to do so.

There is a third, special authorization provision potentially relevant to the privacy of your records: the clinician's psychotherapy notes. In recognition of the importance of the confidentiality of conversations between psychologist-patient in treatment settings, HIPA permits keeping separate "psychotherapy notes." Psychotherapy notes are kept separate from the overall "designated medical record." "Psychotherapy notes and test forms and raw data-working notes" cannot be secured by insurance companies, nor can they insist upon their release for payment of services as has unfortunately occurred over the last two decades of managed mental health care. "Psychotherapy notes" are the clinician's notes "recorded in any medium by a mental health provider documenting and analyzing the contents of a conversation during a private, group or joint family counseling session and that separated from the rest of the individual's medical record". "Psychotherapy notes" are necessarily more private and contain much more personal information about you hence, the need for increased security of the notes. "Psychotherapy notes" are not the same as your "progress notes," which provide the following information about your care each time you have an appointment at ETG offices: medication prescriptions and monitoring, assessment/ treatment length of service, the modalities of care, frequency of treatment furnished, *results* of clinical tests (not raw data and test protocols-copyrighted test materials), and any summary of your diagnosis, functional status, treatment plan, symptoms, prognosis and progress to date.

Certain payors of care, such as Medicare and Workers Compensation, require the release of both your progress notes and psychotherapy notes in order to pay for your care. If forced to submit your psychotherapy notes in addition to your progress notes for reimbursement for services rendered, you will sign an additional authorization directing the release the clinician's psychotherapy notes. Most of the time release of the information in your record will be limited to only your "designated record set" which includes the following: all identifying paperwork you completed when you first started your care here, all billing information, a summary of our first appointment, your mental status examination, your individualized, comprehensive treatment plan, your discharge summary, progress notes, reviews of your care by managed care companies, results of psychological testing (not raw data or protocols), and any authorization letters or summarizes of care you have authorized to be released on your behalf. Please note that the actual test questions or raw data of psychological tests which are protected by copyright laws and the need to protect patients from unintended, potentially harmful use are not part of your "designated mental health record".

You may, in writing, revoke all authorizations to disclosure protected health information at any time. You cannot revoke an authorization for an activity already done through your previously signed authorization or if the authorization was obtained as a condition for obtaining insurance and Tennessee law provides the insurer the right to contest the claim under the policy.

### III. Business Associates Disclosures

HIPAA requires that ETG train and monitor the conduct of those performing ancillary

administrative services for the practice and refers to these people as "Business Associates". In ETG, "business associates" includes our secretaries who provide services such as typing, making phone calls, and filing insurance claims – all activities which bring them into some measure of contact with your protected health information. Transcriptionist services are also contracted as well as telephone answering service. Bookkeeping services are also provided. Only the treating clinician and medical records staff have access to your designated medical record. Cleaning staff also have a signed agreement and do not have access to medical records, which are kept locked in filing cabinets in a locked room in a locked building. In compliance with HIPAA, regulations HMS has signed a formal contract with these business associates, which very clearly spells out to them the importance of protecting your mental health information as an absolute condition for employment. Greg Seymour, M.A., LPC-MHSP, HIPAA Compliance Officer, trains them in privacy practices, monitors their compliance, and corrects any errors, if they should occur.

#### IV. Uses and Disclosures Not Requiring Consent nor Authorization

By law, protected health information *may* be released without your consent or authorization for:

- . Child abuse
- . Suspected sexual abuse of a child
- . Health Oversight Activities (i.e., licensing board for Professional counselors in Tennessee)
- . Judicial or administrative proceedings (i.e., if you or I are ordered by the court)
- . Serious Threat to Health or Safety (i.e., our "Duty to Warn" Law, national security threats)
- . Workers Compensation Claims (if you seek to have your care reimbursed under Workers Compensation, all of your care is automatically subject to review by your employer and/or insurer(s)).

ETG never releases any information of any sort for marketing purposes.

#### V. Patient's Rights and Clinician Duties

You have a right to the following:

- . *The right to request restrictions* on certain uses and disclosures of your protected health information which the clinician may or may not agree to, but if the clinician does, such restrictions shall apply unless our agreement is changed in writing;
- . *The right to receive confidential communications by alternative means and at alternative locations.* For example, you may not want your bills sent to your home address so ETG will send them to another location of your choosing;
- . *The right to inspect and copy* of your protected health information in the clinician's designated mental health record set and any billing records for as long as protected health information is maintained in the record;

. *The right to amend* material in your protected health information, although the clinician may deny an improper request and/or respond to any amendment(s) you make to your record of care.

. *The right to an accounting of non-authorized disclosures* of your protected health information;

. *The right to a paper copy* of notices/information from me, even if you have previously requested electronic transmission of notices/information; and

. *The right to revoke your authorization* of your protected health information except to the extent that action has already been taken.

For more information on how to exercise each of these aforementioned rights, please do not hesitate to ask the clinician for further assistance on these matters. The clinician is required by law to maintain the privacy of your protected health information and to provide you with a notice of your Privacy Rights and the clinician's duties regarding your PHI. The clinician reserves the right to change privacy policies and practices as needed with these current designated practices being applicable unless you receive a revision of ETG policies when you come for your future appointment(s). The clinician's duties as a Counseling Professional on these matters include maintaining the privacy of your protected health information, to provide you this notice of your rights and the clinician's privacy practices with respect to your PHI, and to abide by the terms of this notice unless it is changed and you are so notified. These rules constitute the internal policies for executing privacy practices at ETG.

## VI. Complaints

Greg Seymour, M.A., LPC-MHSP, is the appointed "Privacy Officer" for ETG regarding HIPAA regulations. If you have any concerns of any sort concerning how ETG might have somehow compromised your privacy rights, please do not hesitate to speak to Greg Seymour immediately about this matter. You will always find him willing to talk to you about preserving the privacy of your protected mental health information. You may also send a written complaint to the Secretary of the U.S. Department of Health and Human Services.

VII. This notice shall go into effect April 1, 2003 and remain so unless new notice provisions effective for all protected health information are enacted accordingly.