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Privacy Policies and Procedures

This document contains important information about the ways in which I protect the health information provided to me. It also contains information about the limitations of privacy. Please read this document thoroughly, and contact me with any questions.

Use and Disclosure of Protected Health Information (PHI)

Protected Health Information (“PHI”) may not be used or disclosed in violation of the Health Insurance Portability and Accountability Act (“HIPAA”) Privacy Rule (45 C.F.R. parts 160 and 164) (hereinafter, the “Privacy Rule”) or in violation of state law.

I am permitted, but not mandated, under the Privacy Rule to use and disclose PHI without patient consent or authorization in limited circumstances.

Under the Privacy Rule, these permitted uses and disclosures include those made:

- To the patient
- For treatment, payment, or health care operations purposes, or
- As authorized by the patient.

Additional permitted uses and disclosures include those related to or made pursuant to:

- Reporting on victims of domestic violence or abuse, as required by law
- Court orders
- Workers’ compensation laws
- Serious threats to health or safety
- Government oversight (including disclosures to a public health authority, coroner or medical examiner, military or veterans’ affairs agencies, an agency for national security purposes, law enforcement)

I do not use or disclose PHI in ways that would be in violation of the Privacy Rule or state law. I use and disclose PHI as permitted by the Privacy Rule and in accordance with state or other law. In using or disclosing PHI, I meet the Privacy Rule’s “minimum necessary requirement,” as appropriate.

Minimum Necessary Requirement

When using, disclosing or requesting PHI, I make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request. I recognize that the requirement also applies to covered entities that request my patients’ records and require that such entities

meet the standard, as required by law.

The minimum necessary requirement does not apply to disclosures for treatment purposes or when I share information with a patient. The requirement does not apply for uses and disclosures when patient authorization is given. It does not apply for uses and disclosures as required by law or to uses and disclosures that are required for compliance with the Privacy Rule.

Psychotherapy Notes Authorization

I abide by the Psychotherapy Notes authorization requirement of the Privacy Rule, unless otherwise required by law. In addition, authorization is not required in the following circumstances--

- For my use for treatment
- For use or disclosure in supervised training programs where trainees learn to practice counseling
- To defend myself in a legal action brought by the patient, who is the subject of the PHI
- For purposes of HHS in determining my compliance with the Privacy Rule
- By a health oversight agency for a lawful purpose related to oversight of my practice
- To a coroner or medical examiner
- In instances of permissible disclosure related to a serious or imminent threat to the health or safety of a person or the public.

I recognize that a patient may revoke an authorization at any time in writing, except to the extent that I have, or another entity has, taken action in reliance on the authorization.

Psychotherapy notes are kept in a locked cabinet in my office, separate from other PHI. They are released only for the above reasons, unless you sign a special form to authorize their release. You will be provided with a copy of this form.

A valid authorization--

- Must be completely filled out with no false information.
- May not be combined with another patient authorization.
- Must be written in plain language.
- Must contain a statement adequate to put the patient on notice of his or her right to revoke the authorization in writing and either exceptions to such right and a description of how to revoke, or a reference to revocation in the notice provided to the patient.
- Must contain a statement adequate to put the patient on notice of the inability to condition treatment, payment, enrollment, or eligibility for benefits on the authorization.
- Must contain a statement adequate to put the patient on notice of the potential for information to be redisclosed and no longer protected by the rule.

Further, a valid authorization must contain the following information—

- A description of the information to be used and disclosed that identifies the information in a specific and meaningful fashion.
- The name or other specific identification of the person(s), or class of persons, authorized to make the requested use and disclosure.
- The name or other specific identification of the person(s), or class of persons, to whom the requested use and disclosure will be made.
- A description of each purpose of the requested use or disclosure. The statement “at the request of the individual” is a sufficient description of the purpose when a patient initiates the authorization and does not, or elects not to, provide a statement of the purpose.
- An expiration date that relates to the individual or the purpose of the use or disclosure.
- A signature (or if signed by a personal representative, a description of authority to sign) and date.

Patients are provided a copy of the authorization.

Notice

As required under the Privacy Rule, and in accordance with state law, I provide notice to patients of the uses and disclosures that may be made regarding their PHI and my duties and patient rights with respect to notice. I make a good faith effort to obtain written acknowledgment that my patient receives this notice.

- I provide notice to my patient on the first date of treatment. In an emergency situation, I provide notice “as soon as reasonably practicable.”
- Except in emergency situations, I make a good faith effort to obtain from a patient written acknowledgment of receipt of the notice. If the patient refuses or is unable to acknowledge receipt of notice, I document why acknowledgment was not obtained.
- I promptly revise and distribute notice whenever there is a material change to uses and disclosures, patient’s rights, my legal duties, or other privacy practices stated in the notice.

Restrictions and Confidential Communications

The Privacy Rule permits patients to request restrictions on the use and disclosure of PHI for treatment, payment, and health care operations, or to family members. While I am not required to agree to such restrictions, I will attempt to accommodate a reasonable request. Once I have agreed to a restriction, I may not violate the restriction; however, restricted PHI may be provided to another health care provider in an emergency treatment situation.

A restriction is not effective to prevent uses and disclosures when a patient requests access to his or her records or requests an accounting of disclosures. A restriction is not effective for any uses and disclosures authorized by the patient, or for any required or permitted uses recognized by law.

The Privacy Rule also permits patients to request receiving communications from me through alternative means or at alternative locations. As required by the Privacy Rule, I will accommodate all reasonable requests.

All requests for restrictions must be made in writing, signed and dated. Once received, this request is attached to your release of information form. If it is not possible, to meet your request for legal or ethical reasons, I will discuss these reasons with you before releasing any information,

I am not required to accommodate requests to restrict the use and disclosure of information, but once agreed upon, I may not violate the agreement.

Restricted PHI may be provided to another health care provider in an emergency treatment situation.

A restriction is not effective to prevent uses and disclosures when a patient requests access to his or her records or requests an accounting of disclosures.

A restriction is not effective for any uses and disclosures authorized by the patient, or for any required or permitted uses recognized by law.

I permit patients to request receiving communications through alternative means or at alternative locations and I accommodate reasonable requests. I may not require an explanation for a confidential communication request, and reasonable accommodation may be conditioned on information on how payment will be handled and specification of an alternative address or method of contact.

If you wish to terminate a restriction, I must receive the request in writing.

Access to and Amendment of Records

In accordance with state law, the Privacy Rule, and other federal law, patients have access to and may obtain a copy of the medical and billing records that I maintain. Patients are also permitted to amend their records in accordance with such law.

Accounting of Disclosures

I provide my patients with an accounting of disclosures upon request, for disclosures made up to six years prior to the date of the request. While I may, I do not have to provide an accounting for disclosures made for treatment, payment, or health care operations purposes, or pursuant to patient authorization. I also do not have to provide an accounting for disclosures made for national security purposes, to correctional institutions or law enforcement officers, or that occurred prior to April 14, 2003.

Patients may request an account of disclosures by submitting a request in writing. The request must state the time period for which the accounting is to be supplied, which may not be longer than six years. The request must state whether the patient wishes to be sent the accounting via postal or electronic mail.

A written accounting will be provided. For each disclosure in the accounting--the date, name and address (if known) of the entity that received the PHI, a brief description of the PHI disclosed, and a brief statement of the purpose of the disclosure that "reasonably informs" the patient of the basis of the disclosure—is provided. In lieu of the statement of purpose, a copy of a written request for disclosure for any of the permitted disclosures in the Privacy Rule or by HHS for compliance purposes may be provided.

I keep a copy of the accounting, and am responsible for receiving and processing accounting requests.

If multiple disclosures have been made for a single purpose for various permitted disclosures under the Privacy Rule or to HHS for compliance purposes, the accounting also includes the frequency, periodicity, or number of disclosures made and the date of the last disclosure.

I provide an accounting within 60 days of a request, and that I may extend this limit for up to 30 more days by providing the patient with a written statement of the reasons for the delay and the date that the accounting will be provided.

The first accounting is provided without charge. For each subsequent request I may charge a reasonable, cost-based fee. I will inform the patient of this fee and provide the patient the option to withdraw or modify his or her request.

I must temporarily suspend providing an accounting of disclosures at the request of a health oversight agency or law enforcement official for a time specified by such agency or official. The agency or official should provide a written statement that such an accounting would be "reasonably likely to impede" activities and the amount of time needed for suspension. However, the agency or official statement may be made orally, in which case I will document the statement, temporarily suspend the accounting, and limit the temporary suspension to no longer than 30 days, unless a written statement is submitted.

Business Associates

I may rely on certain persons or other entities, who or which are not my employees, to provide services on my behalf. These persons or entities may include accountants, lawyers, billing services, and collection agencies. Where these persons or entities perform services, which require the disclosure of individually identifiable health information, they are considered under the Privacy Rule to be my business associates.

I enter into a written agreement with each of my business associates to obtain satisfactory assurance that the business associate will safeguard the privacy of the PHI of my patients. I rely on my business associate to abide by the contract but will take reasonable steps to remedy any breaches of the agreement that I become aware of. If such steps are unsuccessful, you will terminate the contract, or if termination is not feasible, you will report the problem to HHS.

Privacy Officer

Azmaira H. Maker, Ph.D. is designated the privacy officer, who is responsible for the development and implementation of the policies and procedures to protect PHI, in accordance with the requirements of the Privacy Rule. As the contact person for my practice, the privacy officer receives complaints and fulfills obligations as set out in notice to patients.

Training

As required by the Privacy Rule, I train all members of my staff, as necessary and appropriate to carry out their functions, on the policies and procedures to protect PHI. I have the discretion to determine the nature and method of training necessary to ensure that staff appropriately protects the privacy of my patients' records.

Safeguards

To protect the privacy of the PHI of my patients, I have in place appropriate administrative, technical, and physical safeguards, in accordance with the Privacy Rule.

Complaints

The privacy of my patients' PHI is critically important for my relationship with my patients and for my practice. I provide a process for my patients to make complaints concerning my adherence to the requirements of the Privacy Rule.

Procedure Guidance

Patients may file privacy complaints by submitting them in one of the following ways:

- In person, using the Privacy Complaint form.
- By mail, either on the Privacy Complaint form or in a letter containing the necessary information. All complaints should be mailed to:
Azmaira H. Maker, Ph.D.
12625 High Bluff Drive
Suite 215
San Diego, CA 92130
- All privacy complaints should be directed to Azmaira H. Maker, Ph.D.

The complaint must include the following information:

- The type of infraction the complaint involves
- A detailed description of the privacy issue
- The date the incident or problem occurred, if applicable
- The mailing/email address where formal response to the complaint may be sent.

Sanctions

I have and apply appropriate sanctions against a member of my staff who fails to comply with the requirements of the Privacy Rule or my policies and procedures. I may not apply sanctions against an individual who is testifying, assisting, or participating in an investigation, compliance review, or other proceeding.

Mitigation

I mitigate, to the extent possible, any harmful effect that I become knowledgeable of regarding my use or disclosure, or my business associate's use or disclosure, of PHI in violation of policies and procedures or the requirements of the Privacy Rule.

Retaliatory Action and Waiver of Rights

I believe that patients should have the right to exercise their rights under the Privacy Rule. I do not take retaliatory action against a patient for exercising his or her rights or for bringing a complaint. Of course, I will take legal action to protect myself, if I believe that a patient undertakes an activity in bad faith.

I will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against a patient for exercising a right, filing a complaint or participating in any other allowable process under the Privacy Rule.

I will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against a patient or other person for filing an HHS compliance complaint, testifying, assisting, or participating in a compliance review, proceeding, or hearing, under the Administrative Simplification provisions of HIPAA.

I will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against a patient or other person for opposing any act or practice made unlawful under the Privacy Rule, provided that the patient or other person has a "good faith belief" that the practice is unlawful and the manner of opposition is reasonable and does not involve disclosure of PHI.

I will not require a patient to waive his or her rights provided by the Privacy Rule or his or her right to file an HHS compliance complaint as a condition of receiving treatment.

Procedure Guidance

The following provides guidance concerning the documentation requirements of the Privacy Rule.

- I maintain policies and procedures in written or electronic form.
- All written communication required by the Privacy Rule is maintained as documentation.
- If an action, activity, or designation is required by the Privacy Rule to be documented, a written or electronic copy is maintained as documentation.
- Documentation is maintained for a period of six years from the date of creation or the date when it last was in effect, whichever is later.