

Child and Family Counseling Center (CFCC)

Notification of Policies and Practices to Protect the Privacy of Your Health Information and Limits to Confidentiality (Revised March 8, 2017)

Overview

This notice provides you with information about how your mental health records at CFCC may be used, the rights you have as a patient, and our legal duties as providers of treatment. We are required to provide you with this notice under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, which took effect on April 14, 2003, and the Security Rule, which took effect March 1, 2014. This law is designed to protect the confidentiality of your treatment and records created as part of your treatment.

Please review this document carefully, as limits to confidentiality are listed and you need to know what they are, as Virginia law allows for multiple exceptions to confidentiality, as well as stricter protections for health records. Your rights as a patient are also included. Let us know if you have any questions or would like additional information. If you do not sign this consent form agreeing to what is in this notice, we cannot treat you.

I. Uses and Disclosures for Treatment, Payment, and Health Care Operations

As part of your treatment, we (your therapist or any staff member at CFCC acting on your behalf) will record, maintain, and use individually identifiable health care information about you. This may include information describing your history, symptoms, test results, diagnoses, treatment, treatment plan, billing, and health insurance information. This information is your “protected health information (PHI).”

We may disclose your *protected health information (PHI)* for *treatment, payment, and health care operations* purposes with your *consent*. *Treatment* is when we provide or coordinate your health care. An example of treatment would be when your therapist consults with another health care provider, such as your family physician or another therapist.

Your PHI may be disclosed in order to collect *payment* for services provided or to determine eligibility or coverage.

Health Care Operations are activities that relate to the performance and operation of our practice. Examples of health care operations include quality assessment and improvement activities, business-related matters such as audits and administrative services, care coordination, accreditation, certification, licensing or credentialing activities.

II. Uses and Disclosures Requiring Authorization

We will not use or disclose your medical information for any reason except those described in this Notice without your written consent. We may use or disclose PHI for purposes outside of treatment, payment, and health care operations when your appropriate written authorization is obtained.

We will also need to obtain a separate authorization before releasing your psychotherapy notes. *Psychotherapy notes* are notes that your therapist writes made about your conversations during a private,

group, joint, or family counseling sessions, which your therapist keeps separate from the rest of your medical record. These notes are given a greater degree of protection than other PHI. **However, it is our policy that we do not release copies of psychotherapy notes, including to patients. This also applies to parents of minor patients, as releasing such information is a violation of their confidentiality and can damage the therapeutic relationship.** Our therapists can also refuse release of records if in our professional opinion, release would reasonably be likely to cause substantial harm to the patient, including endangering his or her life and physical safety.

Any information you provide us, such as reports, letters, copies of emails, emails you send to your therapist, become part of the medical record. As such, we will keep them confidential; however, they are also subject to the limits of confidentiality noted below.

You have a right to refuse to authorize releasing your information to others, with certain exceptions which are listed below. You may revoke all such authorizations at any time, provided each revocation is in writing, but this will not affect prior authorized uses or disclosures.

Given the significant risks in faxing confidential patient information, we will no longer fax such information to workplaces and schools. Limited information, such as faxing requests for homebound education, may be permitted if urgent. We recognize that this is an inconvenience and ask that you give us as much advance notice as possible so that we can mail information to you or to others as you request.

Under Virginia law (32.1-127.1:03) regarding health records privacy, health records are the property of the health care entity (in this case, Child & Family Counseling Center) and your records shall not be removed from the premises without our approval. We do not allow such removal, to include copying, in order to protect your privacy.

However, upon request, we can provide a summary of treatment to you or another health care provider. Also, with an appropriate signed release of information form, we can disclose PHI to another health care professional, such as another treating therapist or physician. In the case of military recruitment, we can send a copy of your medical records directly to the medical official responsible for reviewing these records, though this may affect your eligibility for military service.

III. Uses and Disclosures with Neither Consent nor Authorization:

Limits/Exceptions to Confidentiality

We may use or disclose PHI without your consent or authorization in the following circumstances, as required by state and Federal law. **Please read this section carefully, as the circumstances listed below can prevent us from maintaining your confidentiality.**

- **Healthcare Operations:** If you request that we submit bills to an insurance company for payment, you are deemed to have consented to the disclosure of specific information, including dates of service, name, policy number, diagnosis, services offered, prognosis, progress, medications prescribed, and the patient's relationship to the subscriber of the insurance. Only the minimum information necessary to obtain reimbursement will be provided.
- **Child Abuse:** If we have reason to suspect that a child is abused or neglected, by you or anyone else, we are required by law to report the matter immediately to the Virginia Department of Social Services. We will discuss this with you as appropriate. For information on what constitutes abuse or neglect, please check out the Guide to Family Assessment on the following website: <http://www.dss.virginia.gov/family/cps/index2.cgi>.

- **Guardian ad Litem or CASA (Court Appointed Special Advocate) Workers.** If you or your child is involved the court system, and a Guardian ad Litem or CASA worker has been appointment to assist the court in determining a course of action, your consent is not required, as we are required by Virginia law to share information if required by the court system.
- **Abuse of Elderly or Incapacitated Adults.** When we have reason to suspect that an incapacitated adult (e.g. someone who is not able to advocate for himself or herself) is being abused, neglected or exploited, we are required by law to make a report and provide relevant information to the Virginia Department of Social Services. You will be notified of this action unless your therapist believes that it would put you at risk of serious harm.
- **Virginia Board of Health Professions Oversight:** The Virginia Board of Health Professions, including the Boards of Medicine, Psychology, Social Work, Counseling, and Dentistry have the power to subpoena relevant records should we be the focus of an inquiry. If you are a professional licensed by the Board of Health Professionals and we are treating you for mental disorders or substance abuse, we must report to your Board that you are in treatment unless we believe that you would not constitute a danger to yourself or your patients.
- **Judicial or Administrative Proceedings (Court Orders):** If you are involved in a court proceeding and a request is made for information about your treatment, we will not release information without your written authorization. If we receive a subpoena for your records (of which you have been served, along with the proper notice required by state law), we are required to respond. We will attempt to contact you first to see if you consent to such release. If you object, you may file a motion with the clerk of the court to move to quash (block) the subpoena. Notify your therapist as soon as possible; we are then required to place your records in a sealed envelope and provide them to the clerk of the court so that the court can determine whether the records should be released. In Virginia, judges have a great degree of latitude, known as “judicial discretion,” to obtain records in criminal proceedings.
- **Serious Threat to Health or Safety of Others:** If you communicate to us a specific and immediate threat to cause serious bodily injury or death to an identified or to a readily identifiable person, and we believe you have the intent and ability to carry out that threat immediately or imminently, we must take steps to protect the threatened person. In Virginia, we have a “duty to protect,” rather than a “duty to warn.” This means we will take action to prevent harm, which can mean talking with you or contacting authorities if needed.
- **Danger to Self:** Your therapist can break confidentiality if you (or your child) are in danger of hurting yourself, in order to keep you (or your child) safe. This may include notifying emergency personnel.
- **Worker’s Compensation:** If you file a worker's compensation claim, we are required by law, upon request, to submit your relevant PHI to you, your employer, the insurer, or a certified rehabilitation provider.
- **Supervision:** Your therapist may discuss your treatment with colleagues to improve the quality of your care. However, your name or other identifying information that could identify you will not be used.

- **Debt Collection:** Your name can be reported to a collection agency and/or a credit bureau if you fail to pay your bill. You will be notified before such a report is made.
- **Legal Defense:** Disclosure may be made if a therapist must arrange for legal consultation if a patient takes legal action against a therapist.
- **Quality Assurance:** If you are using insurance to pay for part or all of your treatment, an insurance company can periodically review records to insure quality care.
- **Death.** In the event of your death, the Coroner's Office may request records to assist in conducting an investigation. Records may also be released to your personal representative or executor.

IV. Patient'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, we are not required to agree to a restriction you request.
- *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. For example, we can send your bills to an address other than your home if you request this.
- *Right to Review/Inspect Records* – You have the right to inspect your records, including PHI and billing records for as long as the PHI is maintained in the record. We generally keep records for seven years after your last visit here (or until age 25 for minor patients). Because these are professional records, they can be misinterpreted and/or upsetting to untrained readers. For this reason, we require that you initially review them with your therapist or have them forwarded to another mental health professional so you can discuss the contents. We may deny your access to PHI, but in some cases you may have this decision reviewed. One reason for denial is if your therapist believes that releasing such information would likely cause substantial harm to you (or your child if your child is the patient). On your request, we will discuss with you the details of the request and denial process.

Under HIPAA, patients and their parents do not have a right to inspect or obtain a copy of psychotherapy notes. Under Virginia law (32.1-127.1:03), health records are the property of the health care entity maintaining them (CFCC) and may not be removed from the premises, to include releasing copies to patients. Upon request, we can release copies to other health care entities.

- *Right to Amend* – You have the right to request an amendment of PHI for as long as the PHI is maintained in the record. We may deny your request; if so, we will provide you with a written explanation.
- *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). We must provide you with the accounting within 60 days of your written request.
- *Right to a Paper Copy of Our Policies* – You have the right to request a copy of the CFCC Privacy/Security Policy from us. It is also available on our website: <http://cfcc.info>.

- *Right to Restrict Certain Disclosures of PHI*—If you pay out-of-pocket in full for your therapy sessions, you can restrict certain disclosures of PHI to your health plan.
- *Right to Be Notified of a Breach*—You have the right to be notified if there is a breach of your unsecured PHI. Examples include stolen or improperly accessed PHI, PHI inadvertently sent to the wrong provider, and unauthorized viewing of your PHI by employees in our practice. We must notify you within 60 days after discovery. If a theft occurs and the information was secured via password protection or encryption, we may conclude that the probability that your PHI has been breached is low. In this instance, we are not required to notify you. We will conduct an updated risk assessment should such a breach occur to minimize such breaches in the future.

V. Privacy and Security Safeguards

CFCC has developed appropriate administrative, technical, and physical safeguards to protect the privacy and security of your Protected Health Information. These including placing locks on file cabinets, shredding documents with identifying information, using passwords and/or encryption on computers and portable devices, requiring the use of encrypted email, as well as other safeguards. We also have policies in place with regard to our dictation service, answering service, billing personnel, and file shredding service.

VII. Uses and Disclosures Involving Personal Representatives

Where an incapacitated patient has a guardian or legal representative with authority to make health care decisions for the patient, we must treat the guardian or legal representative as the patient with respect to PHI. If the patient is a minor child, the therapist must treat the parent (or legal guardian) as the patient with respect to PHI. However, if the therapist has reasonable belief that a parent, guardian, or legal representative has subjected or may subject the patient to abuse or neglect or otherwise endanger the patient, and believes that it is not in the patient's best interest to release such information, the therapist may elect not to treat the parent or guardian as the patient and hence not disclose confidential information. A parent or guardian may allow a confidentiality agreement between the minor patient and the therapist.

VIII. Complaints

If you are concerned that we have violated your privacy rights, or you disagree with a decision made about access to your records, you may contact our HIPAA Privacy/Security Officer, James J. Crist, Ph.D., to register a complaint or to obtain further information. A form to make the complaint will be provided upon request. You may also send a written complaint to the Secretary of the U.S. Department of Health and Human Services. We will not retaliate if you file a complaint.

VI. Effective Date, Restrictions and Changes to Privacy Policy

This notice will go into effect on April 14, 2003. It was updated in April 2013, January 2014, April 2014, and March 2017. We may revise our privacy policies, as permitted or required by law. These revisions, which may be retroactive, will apply to all PHI that we maintain. We will provide you with a revised notice upon request or you may download it from our website: <http://cfcc.info>

**Acknowledgement of Receipt of Information
Regarding My Care at Child & Family Counseling Center**

Patient Name: _____

By signing this document, I _____ hereby acknowledge that I have received and have read the information contained in the following documents:

Notice of Child and Family Counseling Center (CFCC) Policies and Practices to Protect the Privacy of Your Health Information

CFCC Office Procedures

I have been advised of my rights under the HIPAA Privacy and Security Rule, as well as Virginia law. I understand the limits to confidentiality as required by State and Federal law. I give my consent for treatment for myself and/or my child.

I agree to the terms described in these documents. I understand that if I have any questions about therapy or about my rights as a client, I can ask at any time and CFCC staff will do their best to provide answers in a timely manner.

Client Signature (or if a minor, Parent Signature)

Date

Witness Signature

Date

(Revised 3/17)