

Michael D. Ruch, Ph.D.

Licensed Psychologist

Knollcrest Professional Building
3300 Burton SE, Suite B
Grand Rapids, MI 49546

Phone: (616) 957-2576
Fax: (616) 957-2576

PATIENT RECORDS PRIVACY POLICIES AND PROCEDURES

Use and Disclosure of 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. However, state or federal law may supercede, limit, or prohibit these uses and disclosures.

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)
- Health research
- Marketing or fundraising.

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 disclosure requirement, as appropriate.

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.

I always review patient Authorizations personally prior to any information being sent out. I then direct what gets disclosed from a patient's record. This insures compliance with all HIPAA guidelines.

Use and Disclosure of PHI—Psychotherapy Notes Authorization

While a patient may authorize the release of any of his PHI, the Privacy Rule specifically requires patient authorization for the release of Psychotherapy Notes. Psychotherapy Notes authorization is different from patient consent or authorization of other PHI, because a health plan or other covered entity may not condition treatment, payment, enrollment, or eligibility for benefits on obtaining such authorization.

As defined by the Privacy Rule, "Psychotherapy Notes" means "notes recorded (in any medium) by a mental health professional, documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separate from the rest of the individual's medical record." The term "excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: Diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date."

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 separate from other PHI and are recorded as such in our office to minimize any confusion between the two.

Patient Rights—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 am the Privacy Officer in my practice. I provide a Notice of Privacy Practices to my patients (or their parent/guardian) on the first date of treatment. In an emergency situation, I provide notice "as soon as reasonably practicable." There is a Notice of HIPAA guidelines posted in our office.

Patient Rights—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. I inform patients that all such requests be in writing directly to me.

Patient Rights—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.

Patient Rights—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. I have a form to handle such requests and another form to document patient disclosures.

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

If I develop business associates who will access patient PHI, I will follow appropriate guidelines and have them sign agreements to comply with all standards and laws. I have no such associates at this time.

Administrative Requirement—Training

As required by the Privacy Rule, I have trained the one contractual secretary I use, as necessary and appropriate to carry out their functions, on the policies and procedures to protect PHI.

Administrative Requirement—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.

Administrative Requirement—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.

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

- a. In person, using the Privacy Complaint form.
- b. By mail, either on the Privacy Complaint form or in a letter containing the necessary information.

All complaints should be given or mailed directly to me.

The complaint must include the following information:

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

When a privacy complaint is filed by a patient the following process should be followed:

- a. Validate the complaint with the individual.
- b. If appropriate, attempt to correct any apparent misunderstanding of the policies and procedures on the patient's part; if after clarification, the patient does not want to pursue the complaint any further, indicate that "no further action is required." Record the date and time and file under dismissed complaints.
- c. If not dismissed, log the complaint by placing a copy of the complaint form in both the complaint file and in the patient's record.
- d. Investigate the complaint by reviewing the circumstances with relevant staff (if applicable).
- e. If it is determined that the complaint is invalid, send a letter stating the reasons the complaint was found invalid. File a copy of the letter and form in an investigated complaints file.
- f. If the investigative findings are unclear, get a second opinion either from your lawyer, the APA Insurance Trust, or the APA Practice Organization.
- g. If it is determined that the complaint is valid and linked to a required process or an individual's rights, follow the office sanction policy to the extent that an individual is responsible. If the complaint involves compliance with the standards that do not involve a single individual, then begin the process to revise current policies and procedures.
- h. Once an appropriate sanction or action has been taken with respect to a complaint with merit, or if the response will take more than 30 days, send a letter explaining the findings and the associated response or intended response. Document the disposition of the complaint and file the letter and form in an investigated complaints file.
- i. Place a copy of the complaint form in the patient's record.

- j. Review both invalid and investigated complaint files periodically, to determine if there are any emerging patterns.

Administrative Requirement—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.

Administrative Requirement—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.

Administrative Requirement—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.

Administrative Requirement--Documentation

I meet applicable state laws and the Privacy Rule's requirements regarding documentation.