

**NOTICE  
PRIVACY OF PROTECTED  
HEALTH INFORMATION**

**THIS NOTICE DESCRIBES HOW PSYCHOLOGICAL AND MEDICAL INFORMATION ABOUT  
YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS  
INFORMATION.  
PLEASE REVIEW IT CAREFULLY.**

In December 2000, the Federal Government published the "final" Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164). These Standards are a result of the "Health Insurance Portability and Accountability Act of 1996." There continued to be revisions of these into August of 2002. Though I was not required to comply with the Standards until April 14, 2003, I am a strong advocate to help you maintain privacy for the care you have with me. I am proud to have been among the first to implement these Standards as a mental health therapist in Wisconsin.

The Standards are intended to help you have more privacy and control over your health information. But they are complicated and there is no widely accepted language or information for professionals or for health care consumers to help you understand your privacy rights. I have done my best to understand the Standards and to inform you of your rights, limits to privacy, and my obligations, with this Notice.

**Definitions:** When I use 'I,' 'me,' 'we' and 'us' in this Notice, I mean me as a Wisconsin-licensed psychologist. 'You' and 'your' mean you and/or any one who is legally allowed to act on your behalf.

**"Protected health information (PHI)"** means information I create or receive about you that relates to your past, present or future health or payment for your health care and that identifies you, or for which there is a reasonable basis to believe the information can be used to identify you.

**"Treatment"** means providing, coordinating, or managing your care and related services including managing your care with a third party; consulting with other health care professional relating to your care; or receiving a referral from another health care professional to us for your care or our making a referral for your care to another health care provider. An example might be if I provide information about your care to the doctor who referred you or to another health care professional involved in your care.

**"Payment"** means activities I undertake to obtain reimbursement for your care. Examples include my billing and collection activities, or providing information about your care to an insurance company which may be covering all or part of the cost of your services.

**"Health care operations"** means activities such as evaluating the quality of my services and client outcomes, reviewing the competence or qualifications of my staff or students, arranging for my legal, accounting and similar services, and business planning and development and administrative activities of my practice. For example, I may compile overall statistics about patients who come to my practice, and treatment outcomes.

**"Use"** applies only to activities within my practice such as sharing, employing, applying, utilizing, examining, and analyzing information that identifies you.

**"Disclosure"** applies to activities outside of my practice such as releasing, transferring, or providing access to information about you to other parties.

In general, I may not use or disclose protected health information (PHI) except:

- To you
- With your consent for treatment, payment and health care operations
- With your written authorization in other circumstances when an authorization is required.

This applies particularly to **psychotherapy notes**, which may not be used or disclosed without your specific authorization except

- For my use
- For use by students, trainees or practitioners in mental health who are under my supervision
- By me to defend a legal action or other proceeding brought by you.

Under these Regulations, "Psychotherapy notes" means ". . . notes recorded (in any medium) by a health care provider who is 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 separated from the rest of the individual's medical record.**" Psychotherapy notes **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."

Any "psychotherapy notes" I may maintain are not part of your medical record, are for my use only, and I may deny you access to these. Otherwise, medication prescription and monitoring, counseling session start and stop times, modalities and frequencies of treatment furnished, results of clinical tests, and any summary of diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date **are** maintained in your medical record. As allowed by the Regulations and Wisconsin Law, you may request access to and disclosure of this PHI.

I am **required** to disclose PHI **to you** when your request meets the requirements of a proper request, and to the Secretary of Health and Human Services when required to investigate or determine my compliance with these Regulations.

I have a specific form to be used for your written authorization to use or disclose your health information. Just ask me for this form if you want information disclosed to you or to another person, or call or write to me if you want to authorize disclosure after you have finished with your treatment here.

When I use or disclose information, I must make reasonable efforts to limit the disclosure to the **minimum information necessary** to accomplish the purpose of the use, disclosure or request.

If Wisconsin State law or other applicable laws or regulations are more stringent than these Regulations (which means, your privacy is more protected or you have greater access to your health records), I must follow the more stringent rules about use and disclosure. If these Regulations are more stringent than State law(s), I must follow these Regulations.

If you authorize me to, I may use or disclose otherwise protected information in order to contact you to provide appointment reminders. I will discuss this specifically with you and obtain your written authorization about how you want to be contacted or have contact limited.

You have the right to request restrictions on the use or disclosures of your PHI when I

- Carry out treatment, payment, or health care operations
- Use information when I usually may use or disclose the information without your specific authorization including
  - ❖ To maintain a directory of clients my clients which includes your name
  - ❖ In Emergencies or disaster relief efforts
  - ❖ To a family member, other relative or close personal friend of yours or any person identified by you such information that is directly relevant to that person's involvement in your care or payment related to your care or information about your location, your general condition or if you die

If you are present or otherwise available to authorize a use or disclosure of your information in any of these circumstances I may use the information if I obtain your agreement, provided you have an opportunity to object and you do not object, or I reasonably infer from the circumstances that you do not object.

If you are not present or available or the opportunity to agree or object cannot practicably be provided because of your incapacity or an emergency, I may disclose without your authorization to the person involved in your health care

only the PHI directly relevant that person's involvement.

There are some circumstances in which I may use or disclose your PHI **without** your written consent or authorization or without providing an opportunity for you to agree or object. These include:

➤ Disclosures about **child abuse, adult and domestic abuse**. If I have reasonable cause to suspect that a child seen in the course of my professional duties has been abused or neglected, or have reason to believe that a child seen in the course of my professional duties has been threatened with abuse or neglect, and that abuse or neglect of the child will occur, I must report this to the relevant county department, child welfare agency, police, or sheriff's department. If I believe that an elder person has been abused, or neglected, I may report such information to the relevant county department or state official of the long-term care ombudsman.

➤ For **health oversight activities**. If the Wisconsin Department of Regulation and Licensing asks me to release records to them in order for the Psychology Examining Board to investigate a complaint, I must comply with such a request.

➤ For **judicial and administrative proceedings**. If you are involved in a court proceeding and a request is made for information about your diagnosis and treatment and the records of those, such information is privileged under Wisconsin law and I will not release the information without written authorization from you or your personal or legally-appointed representative, or a court order. The privilege does not apply when you are being evaluated for a third party or where the evaluation is court ordered. You will be informed in advance, if this is the case.

➤ To avert a **serious threat to health or safety**. If I have reason to believe, exercising my professional care and skill, that you may cause harm to yourself or another person, I must warn the third party and/or take steps to protect you, which may include instituting commitment proceedings.

➤ **Workers' compensation**. If you file a worker's compensation claim, I may be required to release records relevant to that claim to your employer or its insurer and may be required to testify.

➤ For specialized government functions such as military and veterans activities

➤ For law enforcement purposes

➤ To coroners, medical examiners, organ donation and similar entities in the event of your death

➤ Research purposes if other required reviews are obtained

➤ When otherwise required by law

Each of these possible areas of disclosure has specific rules and requirements which are too elaborate to detail here but will be discussed with you as needed if and when these apply to you.

### **Your Rights**

You may ask me to restrict my use or disclosure of your PHI

➤ To carry out treatment, payment, or health care operations

➤ For my directory, in emergencies, or to family members as described above.

If I agree to a restriction, I must document this and abide by it unless the information is needed by another health care professional to provide you emergency treatment. I am not required to agree to every restriction you request.

You may make and I must accommodate reasonable requests by you to receive communications of PHI from me by alternative means or at alternative locations. For instance, you may not want me to leave messages on your home or office answering machine, or you may not want to receive bills at home.

You have the right to inspect and obtain a copy (or both) of PHI in my mental health and billing records used to make decisions about you for as long as the PHI is maintained in the record except for:

➤ Psychotherapy notes

➤ Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding. On your request, I will discuss the details of the request process with you. You must make all such requests in writing.

In rare circumstances, I may deny you access to PHI if:

➤ I have determined that access is reasonably likely to endanger your life or physical safety or someone else's life or physical safety

➤ The information refers to another person (unless that person is a health care provider) and I have determined that access requested is reasonably likely to cause substantial harm to that other person or

➤ The request is made by your personal representative and I have determined that providing the information to that representative is reasonably likely to cause that person or another person substantial harm

Except for these exclusions, the situations in which I may deny you access to PHI without an opportunity to review the denial are rare and are likely not to occur or apply.

In most cases, if I deny you access to PHI, you may request a review of the denial. If you request a review, the review will be completed by a licensed health care professional I have designated for this purpose and who did not participate in the original decision to deny access. I must provide or deny access according to that person's determination.

Other uses and disclosures of your PHI will be made only with your written authorization. You may revoke such authorization at any time provided you do this in writing, I have not already acted on your prior authorization, or if the authorization was obtained as a condition of obtaining insurance coverage and other law provides the insurer with the right to contest a claim under the policy.

You have the right to have me amend your PHI for as long as I maintain the PHI. You must make such a request in writing. Under certain circumstances, I may deny your request. On your request, I will discuss the details of the amendment process with you.

You have the right to receive an accounting of disclosures I make of your PHI. On your request, I will discuss the details of the amendment process with you.

You have the right to receive a paper copy of this Notice from me on request, even if you have agreed to receive this Notice electronically, for example by email or at my web site. If you are no longer my patient, you may find out about any changes in my Notice and you may obtain a copy of this Notice by requesting it in writing from me at: Dr. Gordon Herz, Forward Psychology Group, LLC, 478 Commerce Drive, Suite 204, Madison, WI, 53719.

### **My Responsibilities**

I am required by law to maintain the privacy of your PHI and provide you with this Notice of my duties and privacy practices related to your PHI.

I am required to abide by the terms of this Notice currently in effect. This Notice is in effect as of April 14, 2003.

In order to apply a change in a privacy practice that is described in this Notice to PHI that I create(d) or receive(d) prior to the change, I reserve the right to change the terms of this Notice and to make new Notice provisions effective for all PHI I maintain. I will provide you with a Revised Notice at your next scheduled visit after the revision, by posting this to my web site, and by giving you a paper copy on your request. I reserve the right to change the terms of the Notice and to make the new Notice provisions effective for all PHI that I maintain, including identifiable health information I created or received before issuing a revised notice.

I am required to provide this Notice to you no later than the first date I provide service(s) to you (officially, the first date of service after 12/28/2002 when these Regulations go into effect).

I must have this Notice available at my office for you to take with you if you ask.

I must post this Notice in a clear and prominent area in my practice where it is reasonable to expect you to be able to read the Notice. I am required to prominently post this Notice on my web site and make this Notice available to you through my web site by printing the page or by email request.

I must implement policies and procedures related to this Notice and the Privacy Regulations and maintain those policies and procedures in written or electronic form for six years from the date the policies and procedures were created or the date these were last in effect, whichever is later.

You may file a complaint with me or with the Secretary of Health and Human Services if you believe your privacy rights have been violated. I will provide you with a form for filing this complaint with me, and you will not be retaliated against for filing such a complaint. To file a complaint, I am my designated privacy official and contact person. You may contact me at: Dr. Gordon Herz, Forward Psychology Group, LLC, 478 Commerce Drive, Suite 204, Madison, WI, 53719, (608) 833-7533 for further information and/or to request a "Violation of Privacy Rights Complaint Form."