

PHI USE AND DISCLOSURE POLICY

1. Your client record or PHI (Personal Health Information) is confidential. Client information can only be released pursuant to a signed release, a court order, or if one of the exceptions to confidentiality discussed below applies. If you are in individual therapy and are an adult, I will generally not release any PHI except pursuant to your written authorization, a subpoena, a court order, or one of the exceptions to confidentiality discussed below. If you are in conjoint therapy, then I will not release information about any participant in therapy without the written consent of all the participants, unless one of the exceptions to confidentiality set out below applies.

If a minor child is my client, generally I will require the signature of the parent or parents who have legal custody of the child. Depending on the child's age, I may also obtain a release from the child. If a minor's counsel has been appointed for the child, then under California Family Code §3151, only the minor's counsel can release the child's privilege. Under California Health and Safety Code §123115, I may withhold information or records if I determine producing them would have a detrimental effect on my relationship with the child or would have a detrimental effect on the child's physical safety or psychological wellbeing.

In such a circumstance I will use my clinical judgment to protect your child's therapeutic interests.

2. If you have insurance which is being billed for our professional services, some information regarding you may be requested by the carrier. The amount of information varies depending upon the kind of plan you have. (HMOs for example often want periodic written reports and will contact the providers directly.) Insurance plans may make use of and/or require electronic communications by fax or computer. While I will make every reasonable effort in this office to protect your privacy, I have no control of, and am not responsible for, any problems which occur once the information has left our office. If you have any questions about this or your particular insurance plan, please contact me to discuss it.
3. In most instances I use a therapist HIPAA compliant computer software program to store most clinical files. I also use a laptop to store some clinical information that is file related. This laptop is protected by encryption software, password, and several levels of passcodes and has a regular backup procedure. I do not allow third parties to have access to this computer. In addition, I maintain some patient files in locked storage cabinets.
4. I am legally required to protect the privacy of your PHI which includes information which includes information that can be used to identify you that I have created or received about your past, present, or future health or condition, the provision of health care to you, or the payment for this healthcare. I am required to provide you with this notice about my privacy practices which explains how, when and why I will "use" and "disclose" your PHI. A "use" of PHI occurs when I share, examine, utilize, apply, and analyze such information within my practice. A disclosure of PHI happens when it is released, transferred, is given to or is otherwise divulged to a third party who is outside of my practice. With some exceptions, I may not use or disclose any more of your PHI than is reasonably necessary to accomplish the purpose for which the use or disclosure is made.

I am legally required to follow the privacy practices described in this notice.

5. I reserve the right to change the terms of this notice and my privacy policies at any time and any such changes will apply to PHI which is on file with me already. If I change this notice, I will post a new one in my office. You can request a copy of this notice from me if you like.
6. I keep treatment notes in client files. These are generally not disclosed directly to clients in order to protect the emotionally charged nature of such. A summary can be provided, or with client authorization these can be shared with a qualified medical or psychological professional deemed by the client and/or legal representative.

6 .A. USES AND DISCLOSURES OF PHI THAT DON'T REQUIRE YOUR CONSENT

Uses and disclosures relating to treatment, payment or healthcare operations do not require your prior written consent. I can use and disclose your PHI without your consent for the following reasons:

- 1) **For treatment.** I can disclose your PHI to licensed health care providers who provide you with healthcare services or involved in your care. For example, if you are being treated by a psychiatrist, I can disclose your PHI to your psychiatrist in order to coordinate your care. However, I would not be able to disclose your PHI to a healthcare provider who is not involved in providing care to you.
- 2) **To obtain payment for treatment.** I can use and disclose your PHI to bill and collect payment for treatment and services provided by me to you. For example, I might send your PHI to your insurance

company or health plan to either get paid for the health care services or have you reimburse for health care services that I have provided to you. I may also provide your PHI to my business associates such as billing companies or others that help process my claims for care provided to you.

- 3) **For health care operations.** I can disclose your PHI to operate my practice. For example, I might use your PHI to evaluate the quality of health care services that you received or to evaluate the performance of another health care professional who provided services to you in our office. I may also provide your PHI to our accountants, attorneys, or consultants to make sure that I am complying with the laws that are applicable.
- 4) **Other disclosures.** I may also disclose your PHI to others without your consent in certain situations. For example, if you need emergency treatment or you're unable to communicate with me due to being unconscious or severe pain and I think it is likely that you would consent to treatment if you were able to do so.

6. B. USE AND DISCLOSURES THAT DO NOT REQUIRE YOUR CONSENT

There are certain circumstances where I can use and disclose your PHI without your consent because of federal or state law which authorizes such disclosures to be made or requires them to be made.

- 1) **Child or elder abuse reporting.** If you report information to me that gives me a reasonable suspicion that child abuse, elder abuse or abuse of a dependent adult has occurred, then I am required by law to report such abuse to the appropriate governmental agency. This reporting will be by telephone and in writing and, in addition, I may be required to have discussions with government employees who are investigating the abuse report.
- 2) **Threats.** If you make a threat that I believe to be a serious threat of bodily harm or death to another person, or if I am advised that you have made such a threat by a member of your family or a significant other, I am required by law to notify the person who you have expressed the threat regarding and law enforcement.
- 3) **Danger to Self.** If I determine that you pose an imminent risk of harm to yourself, I may disclose information to the necessary authorities to try and protect you from harming yourself.
- 4) **Subpoenas.** If I receive a subpoena from a Federal or State court or an administrative agency concerning you, then I may be required to disclose PHI in response to the subpoena. If I do receive such a subpoena, I will make reasonable efforts to notify you in advance to discuss it. Under California law, if a subpoena is served for psychotherapy records, the person issuing the subpoena is required to give you notice that your records are being sought and you have the opportunity to both object, and file a motion to prevent the disclosure. The issuance of a subpoena by itself is not sufficient to compel me to disclose information about you without your consent. Of course, if you choose to consent to comply with the subpoena and provide me with an appropriate written release, I will comply with the subpoena.
- 5) **Minors.** As noted above with regards to patients who are minors, generally the consent of both parents will be required as well as a minor who is mature enough to consent before I can release information, records or testify. In some instances, the court will have appointed a minor's counsel who by operation of law is the sole person who can make decisions on the child's privilege.
- 6) **Health oversight activities.** I may have to provide information to governmental agencies when conducting an investigation or inspection of health care provider organization.
- 7) **For specific government functions.** I may disclose PHI of military personnel and veterans in certain situations as required by law. I may disclose PHI for national security purposes such as protecting the President of the United States or conducting intelligence operations.
- 8) **For workers compensation purposes.** I may provide PHI in order to comply with Workers Compensation laws and orders from the Workers Compensation Appeals Board.
- 9) **Appointment reminders and health related benefits of services.** I may use PHI to provide appointment reminders or give you information about treatment alternatives or other health care services or benefits I offer.

6. C. USES AND DISCLOSURES WHICH REQUIRE YOU TO HAVE THE OPPORTUNITY TO OBJECT

I may provide your PHI to a family member, friend, or other person that you indicate is involved in your care or the payment for your health care unless you object in full or in part. The opportunity to consent may be obtained retroactively in an emergency situation.

6. D. MINIMUM NECESSARY DISCLOSURES

When using or disclosing PHI and was requesting PHI from another therapist, hospital or facility, I will make reasonable efforts to use, disclosure or request the minimum amount of PHI reasonably necessary to accomplish the intended purpose of the use, disclosure, or request.

However, among the uses, disclosures and requests, which the minimum necessary standard does not apply to, are:

- 1) Disclosures to a request by a healthcare provider for treatment purposes;
- 2) Disclosures to you as the patient who is the subject of the information
- 3) Uses or disclosures made pursuant to a valid authorization signed by you
- 4) Uses or disclosures that are required for compliance with the HIPPA privacy standards;
- 5) Disclosures to the Department of Health and Human Services when required by them for compliance and enforcement purposes; and
- 6) Uses or disclosures that are otherwise required by law.

7. YOUR RIGHTS REGARDING YOUR PHI

You have the following rights with respect to your PHI:

- A. **The right to request limits on uses and disclosures of your PHI.** You have the right to ask that I limit how I use and disclose your PHI. I will consider your request, but I am not legally required to accept it. If I accept your request, I will put any limits in writing and abide by them except in emergency situations. You may not limit the uses and disclosures in ways that prevent me from doing things I am legally required to do or allowed to do.
- B. **The right to choose how I send PHI to you.** You have the right to ask that I send information to you at an alternate address. For example, sending information to your work address rather than your home address or by alternate means. For example, email instead of regular mail. I must agree with your request as long as I can easily provide the PHI to you in the format you requested.
- C. **The right to see and get copies of your PHI.** In most cases, you have the right to look at or get copies of your PHI that I have but you must make the request in writing. Depending on whether your request is made under federal or state law, the length of time in which I have to respond will vary. I will respond to you within the period of time the law allows me to respond. In some situations, I may be required and in use of my clinical judgment, to deny your request. If I do, I will explain in writing my reasons for the denial and your right to have my denial reviewed. The amount of costs you can be charged for copying a PHI is governed by different statutes and I will charge you the statutorily set rate for such copies. I may elect to provide you with a summary or explanation of the PHI.
- D. **The right to get a list of disclosures I have made.** You have the right to get a list of instances in which I have disclosed your PHI. The list will not include uses or disclosures that you have already consented to such as those made for treatment, payment or health care operations, directly to you or to your family. The list also won't include uses and disclosures made for national security purposes, to corrections or law enforcement personnel. I will respond to your request for an accounting of disclosures within 60 days of receiving your request. The list I will give you will include disclosures made in the last six years unless you request a shorter time. The list will include the date of disclosure, to whom PHI was disclosed, including their address if known, a description of the information disclosed and the reason for the disclosure. I will provide the list to you at no charge but if you make more than one request in the same year, I will charge you a reasonable cost for the additional request.

- E. **The right to correct or update your PHI.** If you believe that there is a mistake in your PHI or that a piece of important information is missing, you have the right to update or correct information. You must provide the request and the reason for the request in writing. I will respond within 60 days of receiving your request to correct or update your PHI. I may deny your request in writing. PHI is (i) correct and complete, (ii) not created by me, (iii) not allowed to be disclosed, or (iv) not part of my record. My written denial will state the reason for the denial; explain your right to file a written statement of disagreement with the denial. If you don't file one, you have the right to request at your request to my denial be attached to all future disclosures of your PHI. If I approve your request, I will make the change to your PHI, will you I have done it, and tell others that need to know about the change to your PHI.
- F. **The right to get this notice by email.** You have the right to get a copy this notice by email. Even if you have agreed to receive notice by email, you also have the right to request a paper copy of it.
- G. **How to complain about my privacy practices.** If you think I may have violated your privacy rights or you disagree with the decision I have made about access to your PHI, you may file a complaint with the Secretary of the Department of Health and Human Services at 200 Independence Avenue, Southwest Washington D.C. 20201. I will not take any retaliatory action against you if you file a complaint about my privacy practice.
- H. **Notification of breach of unsecured PHI.** You will receive notification of any breach of unsecured PHI.
- I. **Clients have the right** to restrict disclosures of PHI to health plans for certain payment or health care operations purposes, assuming the PHI pertains solely to a health care item or service that clients have paid for out-of-pocket in full.
- J. **PHI will not be sold** without client authorization.
- K. **PHI will not** be disclosed for marketing purposes.

8. PATIENT CONSENT and/or Parent/Guardian Signature(s) *ALL LEGAL PARENTS MUST SIGN*

I consent to the use or disclosure of my protected health information by Sean Susan Baker, MA, MFT, SEP for the purpose of diagnosing or providing services to me and/or my child, obtaining payment for my health care bills, or to conduct health operations of Baker& Richter Psychotherapy.

Client(s) Signature: _____ Date: _____

_____ Date: _____

Parent/Guardian Signature (if client is under 18 years of age)

_____ Date: _____

_____ Date: _____