

## HIPAA NOTICE OF PRIVACY PRACTICES

### Dr. Messina & Associates, Inc.

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**I. This notice describes how medical information about you may be used and disclosed and how you can get access to this information. Please review it carefully.**

**II. It is your therapist's legal duty to safeguard your protected health information (PHI).** By law, your therapist is required to ensure that your PHI is kept private. The PHI constitutes information created or noted by your therapist that can be used to identify you. It contains data about your past, present, or future health or condition, the provision of health care services to you, or the payment for such health care. Your therapist is required to provide you with this Notice about our privacy procedures. This Notice must explain when, why, and how your therapist would use and/or disclose your PHI. Use of PHI means when your therapist shares, applies, utilizes, examines, or analyzes information within our practice; PHI is disclosed when your therapist releases, transfers, gives, or otherwise reveals it to a third party outside our practice. With some exceptions, your therapist may not use or disclose more of your PHI than is necessary to accomplish the purpose for which the use or disclosure is made; however, your therapist is always legally required to follow the privacy practices described in this Notice.

Please note that Dr. Messina & Associates, Inc. reserves the right to change the terms of this Notice and privacy policies at any time as permitted by law. Any changes will apply to PHI already on file. Before important changes are made to our policies, Dr. Messina & Associates, Inc. will immediately change this Notice and post a new copy of it on the website, [www.drmessina.com](http://www.drmessina.com), or you may request a copy from your therapist.

### **III. How your therapist may use and disclose your PHI.**

Your therapist may and disclose your PHI for many different reasons. Some of the uses or disclosures will require your prior written authorization; others, however, will not. Below you will find the different categories of uses and disclosures, with some examples.

- A. Uses and disclosures related to treatment, payment, or health care operations do not require your prior written consent. Disclosure of your PHI without your consent may occur for the following reasons:
1. For treatment. Your therapist may disclose your PHI to physicians, psychiatrists, psychologists, and other licensed health care providers who provide you with health care services or are otherwise involved in your care.
  2. For health care operations. To facilitate the efficient and correct operation of our practice.
  3. To obtain payment for treatment. To bill and collect payment for the treatment and services provided to you.
  4. Other disclosures. Medical emergencies.
- B. Certain other uses and disclosures do not require your consent. Your therapist may use and/or disclose your PHI without your consent or authorization for the following reasons:
1. When disclosure is required by federal, state, or local law; judicial, board, or administrative proceedings; or, law enforcement.
  2. If disclosure is compelled by a party to a proceeding before a court of an administrative agency pursuant to its lawful authority.
  3. If disclosure is required by a search warrant lawfully issued to a governmental law enforcement agency.
  4. If disclosure is compelled by the patient or the patient's representative pursuant to state Health and Safety Codes or to corresponding federal statutes of regulations, such as the Privacy Rule that requires this Notice.
  5. To avoid harm.
  6. If disclosure is compelled or permitted by the fact that you are in such mental or emotional condition as to be dangerous to yourself or the person or property of others, and if your therapist determines that disclosure is necessary to prevent the threatened danger.
  7. If disclosure is mandated by child abuse and neglect reporting law.
  8. If disclosure is mandated by elder/dependent adult abuse reporting law.

9. If disclosure is compelled or permitted by the fact that you tell your therapist of a serious/imminent threat of physical violence by you against a reasonably identifiable victim or victims.
  10. For public health activities
  11. For health oversight activities.
  12. For specific government functions.
  13. For Workers' Compensation purposes.
  14. Appointment reminders and health related benefits or services.
  15. If an arbitrator or arbitration panel compels disclosure, when arbitration is lawfully requested by either party, pursuant to subpoena *duces tectum* (e.g., a subpoena for mental health records) or any other provision authorizing disclosure in a proceeding before an arbitrator or arbitration panel.
  16. If disclosure is required or permitted to a health oversight agency for oversight activities authorized by law.
  17. If disclosure is otherwise specifically required by law.
- C. Certain uses and disclosures require you to have the opportunity to object.
1. Disclosures to family, friends, or others. Retroactive consent may be obtained in emergency situations.
- D. Other uses and disclosures require your prior written authorization. In any other situation not described in Sections IIIA, IIIB, and IIIC above, your therapist will request your written authorization before using or disclosing any of your PHI. Even if you have signed an authorization to disclose your PHI, you may later revoke that authorization, in writing, to stop any future uses and disclosures of your PHI.

#### **IV. What rights you have regarding your PHI.**

- A. The right to see and get copies of your PHI. In general, you have the right to see or make copies of your PHI that is in your therapist's possession after making a request in writing. You will receive a response within 15 days of the receipt of your written request. Parts of your PHI may not be disclosed, as explained in the *Informed Consent* form. Under certain other circumstances, your therapist may feel they must deny your request, and if so, will give you the reasons for the denial in writing. Your therapist will also explain your right to have the denial reviewed. If you ask for copies of your PHI, you may be charged not more than \$.25 per page. Your therapist may also see fit to provide you with a summary or explanation of the PHI, but only if you agree to it, and to the cost, in advance.
- B. The right to request limits on uses and disclosures of your PHI. You have the right to ask that your therapist limits the use and disclosure of your PHI. While your therapist will consider your request, he or she is not legally bound to agree. If your therapist agrees, he or she will put those limits in writing and abide by them except in emergency situations. You do not have the right to limit the uses and disclosures that are legally required or permitted.
- C. The right to choose how your PHI is sent to you. It is your right to ask that your PHI be sent to you at an alternate or method. Your therapist is obliged to agree to your request providing that he or she can give you the PHI, in the format requested, without undue inconvenience. Your therapist may not require an explanation from you as to the basis of your request as a condition of providing communications on a confidential basis.
- D. The right to get a list of the disclosures made. You are entitled to a list of disclosures of your PHI made by your therapist. The list will not include uses or disclosures to which you have already consented (e.g., those for treatment, payment, or health care operations, sent directly to you, or to your family; neither will the list include disclosures made for national security purposes, to corrections or law enforcement personnel, or disclosures made before April 15, 2003. After April 15, 2003, disclosure records will be held for six years. Your therapist will respond to your request for an accounting of disclosures within 60 days of receiving your request. The list given to you will include disclosures made in the previous six years unless you indicate a shorter period. The list will include the date of the disclosure, to whom PHI was disclosed (including their address, if known), a description of the information disclosed, and the reason for the disclosure. The list will be provided to you at no cost, unless you make more than one request in the same year, in which case you will charge you a reasonable sum based on a set fee for each additional request.
- E. The right to amend your PHI. If you believe that there is some error in your PHI or that important information has been omitted, it is your right to request correction of the existing information or add the missing information. Your request and the reason for the request must be made in writing. You will receive a response within 60 days of the receipt of your request. Your therapist may deny your request, in writing, if he or she find that: the PHI is (a) correct and complete, (b) forbidden to be disclosed, (c) not part of the

therapist's records, or (d) written by someone other than the therapist. The denial must state the reasons for the denial. It must also explain your right to file a written statement objecting to the denial. If you do not file a written objection, you still have the right to ask that your request and the denial be attached to any future disclosures of your PHI. If your therapist approves your request, he or she will make the change(s) to your PHI. Additionally, your therapist will tell you that the changes have been made, and will advise all others who need to know about the change(s) to your PHI.

F. The right to get this notice by email. You have the right to receive this notice by email and/or receive a paper copy.

**V. How to complain about our privacy practices.** If you believe your therapist has violated your privacy rights, or if you object to a decision made about access to your PHI, you are entitled to file a complaint (see Section VI below). You may also send a written complaint to the Secretary of the Department of Health and Human Services at 200 Independence Avenue S.W. Washington, D.C. 20201.

**VI. Person to contact for information about this notice or to complain about Dr. Messina & Associates, Inc. or your therapist's privacy practices.** If you have any questions about this notice or any complaints about the privacy practices of Dr. Messina & Associates, Inc., or your therapist, or would like to know how to file a complaint with the Secretary of the Department of Health and Human Services, please contact Dr. Messina & Associates, Inc. at 1500 Corporate Circle, Suite 7, Southlake, TX 76092, (817) 818-6445, or [info@drmessina.com](mailto:info@drmessina.com). Dr. Messina & Associates, Inc. and your therapist can take no retaliatory action against you for filing a complaint about the privacy practices.

**VII. Notifications of breaches.** In the case of a breach, Dr. Messina & Associates, Inc., is required directly, or via your therapist, to notify each affected individual whose unsecured PHI has been compromised. If the breach involves more than 500 persons, the Office for Civil Rights (OCR) must be notified in accordance with instructions posted on its website. Dr. Messina & Associates, Inc. bears the ultimate burden of proof to demonstrate that all notifications were given or that the impermissible use or disclosure of PHI did not constitute a breach and must maintain supporting documentation, including documentation pertaining to the risk assessment.

**VIII. PHI after death.** Generally, PHI excludes any health information of a person who has been deceased for more than 50 years after the date of death. Your therapist may disclose deceased individuals' PHI to non-family members, as well as family members, who were involved in the care or payment for healthcare of the decedent prior to death; however, the disclosure must be limited to PHI relevant to such care or payment and cannot be inconsistent with any prior expressed preference of the deceased individual.

**IX. Individuals' right to restrict disclosures; right of access.** To implement the 2013 HITECH Act, the Privacy Rule is amended. Your therapist is required to restrict the disclosure of PHI about you, the patient, to a health plan, upon request, if the disclosure is for the purpose of carrying out payment or healthcare operations and is not otherwise required by law. The PHI must pertain solely to a healthcare item or service for which you have paid the covered entity in full. (OCR clarifies that the adopted provisions do not require that covered healthcare providers create separate medical records or otherwise segregate PHI subject to a restrict healthcare item or service; rather, providers need to employ a method to flag or note restrictions of PHI to ensure that such PHI is not inadvertently sent or made accessible to a health plan.) The 2013 Amendments also adopt the proposal in the interim rule requiring your therapist to provide you, the patient, a copy of PHI if you, the patient, requests it in electronic form. The electronic format must be provided to you if it is readily producible. OCR clarifies that your therapist must provide you only with an electronic copy of their PHI, not direct access to their electronic health record systems. The 2013 Amendments also give you the right to direct your therapist to transmit an electronic copy of PHI to an entity or person designated by you. Furthermore, the amendments restrict the fees that your therapist may charge you for handling and reproduction of PHI, which must be reasonable, cost-based and identify separately the labor for copying PHI (if any). Finally, the 2013 Amendments modify the timeliness requirement for right of access, from up to 90 days currently permitted to 30 days, with a one-time extension of 30 additional days.

**X. Notice of Privacy Practices.** Your therapist's Notice of Privacy Practices must contain a statement indicating that most uses and disclosures of psychotherapy notes, marketing disclosures and sale of PHI do require prior authorization by you, and you have the right to be notified in case of a breach of unsecured PHI.

**XI. Effective date of this notice.** This notice went into effect on January 30, 2013.