

Notice of Privacy Practices and Record Retention

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.*

Privacy is a very important concern for all those who come to this office and who work here. It is also complicated, because of the many federal and state laws and our professional ethics. Because the rules are so complicated, some parts of this notice are very detailed and you probably will have to read them several times to understand them. If you have any questions, our employees will be happy to help you understand our procedures and your rights.

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A. Introduction: To our clients

This notice will tell you how we handle your medical information. It tells how we *use* this information here in this office, how we *disclose* (share) it with other healthcare professionals and organizations,

and how you can see it. We want you to know all of this so that you can make the best decisions for yourself and your family. If you have any questions or want to know more about anything in this notice, please ask our compliance officer for answers or explanations.

B. What we mean by your medical information

Each time you visit us or any doctor's office, hospital, clinic, or other health care provider, information is collected about you and your physical and mental health. It may be information about your past, present, or future health or conditions, or the tests or treatment you got from us or from others, or about payment for health care. All this information is called "PHI," which stands for "protected health information" which means its privacy must be protected. This information goes into your medical or health care records in our office.

In this office, your PHI is likely to include these kinds of information:

- Your history: Things that happened to you as a child; your school and work experiences; your marriage, relationships, and other personal histories.
- Your medical history of problems and treatments.
- Reasons you came for treatment: Your problems, complaints, symptoms, or needs.
- Diagnoses: These are the medical terms for your problems or symptoms.
- A treatment plan: This is a list of the treatments and other services that we think will best help you.
- Progress notes: Each time you come in, we write down some things about how you are doing, what we notice about you, and what you tell us.
- Records we get from others who treated you or evaluated you.
- Psychological test scores, school records, and other evaluations and reports.
- Information about medications you took or are taking.
- Legal matters.
- Billing and insurance information

There may also be other kinds of information that go into your health care records here.

We use PHI for many purposes. For example, we may use it here:

- To plan your care and treatment.
- To decide how well our treatments are working for you.
- When we talk with other health care professionals who are also treating you, such as your family doctor or the professional who referred you to us. When we do this, we will ask for your consent. Almost always, we will also ask you to sign a release-of-information form, which will explain what information is to be shared and why.
- For teaching and training other health care professionals or for medical or psychological research. If we do this, your name will never be shown, and there will be no way they can find

out who you are. Before we do this we will ask for your consent and ask you to sign an authorization, so that you will know what information will be shared and why.

- To show that you actually received services from us, which we billed to you or to your health insurance company.
- For public health officials trying to improve health care in this area of the country.
- To improve the way we do our job by measuring the results of our work.

When you understand what is in your record and what it is used for, you can make better decisions about what other persons or agencies should have this information, when, and why.

C. Privacy and the laws about privacy

We are required to tell you about privacy because of federal law, the *Health Insurance Portability and Accountability Act of 1996 (HIPAA)*, and the *HIPAA Omnibus Final Rule of 2013*. HIPAA requires us to keep your PHI private and to give you this notice about our legal duties and our privacy practices.

This form is not legal advice. It is just to educate you about your rights and our procedures. It is based on current federal and state laws and might change if those laws or court decisions change. If we change our privacy practices, they will apply to all the PHI we keep. We will also post the new “Notice of Privacy Practices” in our office where everyone can see. You or anyone else can also get a copy from our front office at any time. It is also posted on our website at www.franklinmn.org. We will obey the rules described in this notice.

D. How your protected health information (PHI) can be used and shared

Except in some special circumstances, when we use your PHI in this office or disclose it to others, we share only the *minimum necessary* PHI needed for those other people to do their jobs. The laws give you rights to know about your PHI, to know how it is used, and to have a say in how it is shared. So now we will tell you more about what we do with your information.

Mainly, we will use it here and disclose (share) your PHI for routine purposes to provide for your care, and we will explain more about these below. For other uses, we must tell you about them and ask you to sign a written “Release of Information” form. However, the HIPAA law also says that there are some uses and disclosures that don’t need your consent or authorization which we will explain below in Section 3. However, in most cases, we will explain the PHI and who it will go to and ask you to agree to this by signing a release-of-information form.

1. Uses and disclosures with your consent

We need information about you and your condition to provide care to you. In almost all cases, we intend to use your PHI here or share it with other people or organizations to provide treatment to you, arrange for payment for our services, or some other business function called “health care operations.” You have to agree to let us use and share your PHI in the ways that are described in this Notice of Privacy Practices. To agree, we will ask you to sign a separate consent form before

we begin to treat you. If you do not consent to this, we will not treat you because there is a risk of not helping you if we don't have some information.

a. The basic uses and disclosures: For treatment, payment, and health care operations

Here we will tell you more about how your information will be used for these purposes. For treatment. We use your information to provide you with psychological treatments or services. These might include individual, family, or group therapy; psychological, educational, or vocational testing; treatment planning; or measuring the benefits of our services.

We may share your PHI with others who provide treatment to you. We usually try to share your information with your personal physician, unless you tell us not to. If you are being treated by a team, we can share some of your PHI with the team members, so that these providers will work best together. The other professionals treating you will also enter their findings, the actions they took, and their plans into your medical record, so we all can decide what treatments work best for you and follow a treatment plan.

If we want to share your PHI with any other professionals outside this office, we will need your permission on a signed release-of-information form. For example, we may refer you to other professionals or consultants for services we cannot provide. When we do this, we need to tell them information about you and your conditions. Later we will get back their findings and opinions, and those will go into your records here. If you receive treatment in the future from other professionals, we can also share your PHI with them. We can do this only when you give your permission by signing a release-of-information form. This is so that you will know what information is being shared and with whom. These are some examples so that you can see how we use and disclose your PHI for treatment.

For payment. We may use your information to bill you, your insurance, or others, so we can be paid for the treatments we provide to you. We may contact your insurance company to find out exactly what your insurance covers. We may have to tell them about your diagnoses, what treatments you have received, and the changes we expect in your conditions. We will need to tell them about when we met, your progress, and other similar things. Insurers may also look into a few of our patient records to evaluate the completeness of our record keeping.

For health care operations. Using or disclosing your PHI for health care operations goes beyond our care and payment for services. For example, we may use your PHI to see where we can make improvements in the care and services we provide. We may be required to supply some information to some government health agencies, so they can study disorders and treatment and make plans for services that are needed. If we do, your name and all personal information will be removed from what we send.

b. Other uses and disclosures in health care

Appointment reminders. We may use and disclose your PHI to reschedule or remind you of appointments for treatment or other care. If you want us to call or write to you only at your

home or work, or you prefer some other way to reach you, we usually can arrange that. Just tell us.

Treatment alternatives. We may use and disclose your PHI to tell you about or recommend possible treatments or alternatives that may be of help to you.

Other benefits and services. We may use and disclose your PHI to tell you about health-related benefits or services that may be of interest to you.

Research. We may use or share your PHI to do research to improve treatments—for example, comparing two treatments for the same disorder, to see which works better or faster. In all cases, your name, address, and other personal information will be removed from the information given to researchers. We will discuss this with you, and we will not use your PHI unless you give your consent on an authorization form. If the researchers need to know who you are, we will discuss the research project with you, and we will not send any information unless you sign a special release-of-information form.

Business associates. We hire other businesses to do some jobs for us. In the law, they are called our “business associates.” Examples include a copy service to make copies of your health records, and a billing service to figure out, print, and mail our bills. These business associates need to receive some of your PHI to do their jobs properly. To protect your privacy, they have agreed in their contracts with us to safeguard your information just as we do.

2. Uses and disclosures that require your consent

If we want to use your information for any purpose besides those described above, we need your permission on a release-of-information form. If you do allow us to use or disclose your PHI, and then change your mind, you can cancel that permission in writing at any time. We will then stop using or disclosing your information for that purpose. Of course, we cannot take back any information we have used here already or disclosed to anyone with your permission.

As a member of the Minnesota Board of Social Work, I maintain your privacy more carefully than is required by HIPAA. The HIPAA rules are described below, but we will almost always discuss these with you and ask you to sign a release of information so that you are fully informed.

3. Uses and disclosures that don't require your consent or authorization

The HIPAA laws let us use and disclose some of your PHI without getting your consent or authorization in some cases. Here are some examples of when we might do this. We will almost always notify you if any of these situations occur.

a. When required by law

There are some federal, state, or local laws that require us to disclose PHI:

- We have to report suspected abuse [or neglect] of children [elders, frail/disabled persons, etc.] to a state agency.

- If you are involved in a lawsuit or legal proceeding, and we receive a subpoena, discovery request, or other lawful processes, we may have to release some of your PHI. We will only do so after telling you about the request and will suggest that you talk to your lawyer.
- We have to disclose some information to the government agencies that check on us to see that we are obeying the privacy laws, and to organizations that review our work for quality and efficiency.

b. For law enforcement purposes

We may release medical information if asked to do so by a law enforcement official to investigate a crime or criminal.

c. For public health activities

We may disclose some of your PHI to agencies that investigate diseases or injuries.

d. For matters relating to deceased persons

We may disclose PHI to coroners, medical examiners, or funeral directors, and to organizations relating to organ, eye, or tissue donations or transplants.

e. For specific government functions

We may disclose PHI of military personnel and veterans to government benefit programs relating to eligibility and enrollment. We may disclose your PHI to workers' compensation and disability programs, to correctional facilities if you are an inmate, or to other government agencies for national security reasons.

f. To prevent a serious threat to health or safety

If we come to believe that there is a serious threat to your health or safety or that of another person or the public, we can disclose some of your PHI. We will only do this to those people who can prevent the danger.

If it is an emergency, and we are unable to get your agreement, we can disclose information if we believe that it is what you would have wanted and if we believe it will help you. When we do share information in an emergency, we will tell you as soon as we can. If you don't approve, we will stop, as long as it is not against the law.

4. Uses and disclosures where you have an opportunity to object

We can share some information about you with your family and anyone else you choose, such as close friends or clergy. We will ask you which persons you want us to tell, and what information you want us to tell them about your condition or treatment. You can tell us what you want, and we will honor your wishes as long as it is not against the law.

5. An accounting of disclosures we have made

When we disclose your PHI, we will keep a record of whom we sent it to, when we sent it, and what we sent. You can get an accounting (a list) of many of these disclosures. We may charge you a reasonable fee if you request more than one accounting in any 12-month period. If the records were sent as electronic medical records, we will always record that, and there will be no charge for accounting.

E. Your rights about your protected health information

1. You can ask us to communicate with you about your health and related issues in a particular way or at a certain place that is more private for you. For example, you can ask us to call you at home, rather than at work, to schedule or cancel an appointment. We will try our best to do as you ask, and we don't need an explanation. Sending your information in emails has some risk that these emails could be read by someone. You may accept the risk of using emails just for simple messages like changing appointments, and not use them for any PHI or sensitive information. We ask that you be thoughtful before you put any information in an email and not use email for anything you want kept private. By signing the separate consent form, you agree to this use of email. Please note that anything you send us electronically becomes a part of your legal record, even if we do not place it in the chart. Be mindful of this, and please do not forward us emails from third parties or others in your life. It is better to print those out and bring them in to discuss them.
2. You have the right to ask us to limit what we tell people involved in your care or with payment for your care, such as family members and friends. You can ask us face to face, and we may then ask for your written permission. We don't have to agree to your request, but if we do agree, we will honor it except when it is against the law, when there is an emergency, or when the information is necessary to treat you.
3. You have the right to prevent our sharing your PHI with your insurer or payer for its decisions about your benefits or some other uses if you paid us directly ("out of pocket") for the treatment or other services and are not asking the insurer to pay for those services unless we are under contract with your insurer (on their panel of providers).
4. You have the right to look at the PHI we have about you, such as your medical and billing records. In some very unusual circumstances, if there is very strong evidence that reading this would cause serious harm to you or someone else, you may not be able to see all of the information.
5. You can get a copy of these records, but we may charge you a reasonable cost-based fee. If your records are in electronic form, not on paper, you can ask for an electronic copy of your PHI. Contact our compliance officer (Therapy Services Manager?) to arrange how to see your records. Generally, we do not recommend that you get a copy of your records, because the copy might be seen accidentally by others. We will be happy to review the records with you or provide a summary to you or work out any other method that satisfies you.
6. You have the right to add to (amend) your records to explain or correct anything in them. If you believe that the information in your records is incorrect or missing something important, you can

ask us to make additions to your records or to include your own written statements to correct the situation. You have to make this request in writing and send it to our compliance officer.

7. You have the right to a copy of this notice. If we change this notice, we will post the new one in our waiting area, and you can always get a copy from the compliance officer (Therapy Services Manager?).
8. If you have a problem with how your PHI has been handled, or if you believe your privacy rights have been violated, contact our compliance officer (Therapy Services Manager?). We will do our best to resolve any problems and do as you ask. You have the right to file a complaint with us and with the Secretary of the U.S. Department of Health and Human Services Licensing Division; the Office of Ombudsman for Mental Health and Developmental Disabilities; the Department of Health, Office of Health Facilities Complaints; and all applicable health-related licensing boards. The numbers are:

Ombudsman for Mental Health (OMHDD): 651-757-1800 or 1-800-657-3506

Department of Health, Office of Health Facilities Complaints: 651-201-4200

9. We will not in any way limit your care here or take any actions against you if you complain or request changes.

You may have other rights that are granted to you by the laws of our state, and these may be the same as or different from the rights described above. We will be happy to discuss these situations with you now or as they arise.

F. Record Retention and Storage

Retention of client records. All records on active clients should be maintained for the duration of the current admission. Records on clients who have been discharged from the program or who died while receiving services from the program should be retained for seven years from the date services are terminated or, if the client died, seven years from the date of the death. Client records are interchangeable with medical records and include information about the client such as name, gender, birth date, home address, telephone number where parents or legal guardians may be reached emergency numbers. Other types of client records include admission forms; health forms (records on immunizations, physicals, dental exams); assessments; individual service plans; education plans; abuse prevention plans, and in Minnesota, psychotherapy notes. ***Even if psychotherapy notes are kept in a separate file, in Minnesota, they are considered to be part of the medical record. This is to ensure that patients have full access to complete information about their health.***

1. Under HIPAA, psychotherapy notes are recorded by a health care provider who is a mental health professional that: 1) document or analyze the contents of conversations during a counseling session; and 2) are separated from the rest of the patient's medical records (45 C .F .R . § 164 .501).

2. If HIPAA and state law differ as to patient access to medical records, HIPAA says that the law that gives the patients more access is the law that the covered entities within the state should follow (45 C.F.R. § 160.203(b)). Minnesota allows a patient to access all of their medical records without any restrictions as to psychotherapy notes (Minn. Stat. § 144.292, subd. 2).
3. Minn. Stat. § 144.292, subd. 7 (provider can withhold records if detrimental to the physical or mental health of the patient, or is likely to cause the patient to inflict self-harm, or to harm another).
4. 45 C.F.R. § 164.524(a) and 45 C.F.R. § 164.508(a)(2) (HIPAA is silent, but may require that the provider allow a patient to view the psychotherapy notes before any authorization for disclosure). 5 Minn. Stat. § 144.292, subd. 2

Retention of staff records. Records on currently employed staff should be maintained for at least seven years. Records on staff no longer employed by the license holder should be retained for seven years from the employee's last day of employment. Staff records include information on staff qualifications (education and work experience); employment information (position description, work schedule, payroll information); and background study clearance forms.

Retention of program policies and procedures. Program policies and procedures should be maintained until no longer required or until the policy and procedure is replaced by a new policy or procedure. Program incident reports should be retained for seven years from the date of the incident.

Storage. All medical records and PHI are stored where there is controlled access. All records are stored electronically in our HER/EMR, EDI, and HIPAA compliant software, Empathic. Only authorized employees with logins and passwords can access the software. Client files may also be saved to our company's personal server, in secure folders that only required staff have access to. Hard copies of records will be scanned into the server and then shredded. If hard copies need to be stored, they will be stored in our main office, which can be twice locked when no one is supervising.

Transit. Medical records and PHI should not leave the work site unless there is an exception:

- **Exception:** medical records and PHI in transit between worksites
- **Exception:** inactive records and PHI stored in off-site archives

If in transit, medical records and PHI should be covered, so that no personal identifiers are visible when moving medical records and PHI in volume use procedures that minimize exposure.

In Use. If the medical record and PHI are in use, but not actively being viewed, they should be closed, covered, or placed in a position to minimize incidental disclosure. This is especially important in patient or research subject areas.

- Individual documents should not be separated from the medical record and PHI.
Exception: Pages can briefly be removed for administrative purposes, such as making copies.

- You must immediately report all incidents that may involve the loss or theft of any such papers records.

G. Procedures for Investigating, Reporting, and Acting on Violations of Data Privacy.

To obtain guidance on an ethics or compliance issue or to report a suspected violation, you may choose from several options. We encourage the resolution of issues at a program level whenever possible. It is an expected good practice when you are comfortable with it and think it appropriate under the circumstances, to raise concerns first with your supervisor. If this is uncomfortable or inappropriate, another option is to discuss the situation with the Human Resources Manager. In order for action to be taken, all formal complaints must be in writing, dated, and given to the Human Resource Manager directly or put in their mailbox. A copy of all complaints will be forwarded to the Human Resource Manager unless such a complaint involves the Human Resources Manager, in which case the Executive Director will be notified.

Anonymous reporting is possible by sending an anonymous letter to the Human Resources Manager via U.S. mail at 1001 Boone Ave North, Minneapolis, MN 55427 or it can be electronically written and put in an unmarked envelope in the Human Resources Manager's employee mailbox.

Franklin Therapy Therapy Services will make every effort to maintain, within the limits of the law, the confidentiality of the identity of any individual who reports possible misconduct. There will be no retribution or discipline for anyone who reports a possible violation in good faith. Any employee who deliberately makes a false accusation with the purpose of harming or retaliating against another employee, and/or abuses the system of anonymous reporting will be subject to discipline.

Personal Obligation to Report

We are committed to ethical and legal conduct that is compliant with all relevant laws and regulations and to correcting wrongdoing wherever it may occur in the organization. Each employee has an individual responsibility for reporting any activity by any employee, mental health professional, subcontractor, or vendor that appears to violate applicable laws, rules, regulations, or this Code.

Internal Investigations of Reports

We are committed to investigating all reported concerns promptly and confidentially to the extent possible. The Human Resource Manager will determine and document whether the impermissible use or disclosure constitutes a breach of unsecured PHI, or whether an exception applies. The Human Resource Manager will perform a risk assessment, which shall take into account the nature and extent of the PHI involved, the unauthorized person who used the PHI or to whom the disclosure was made, whether the PHI was actually acquired or viewed, and the extent to which the risk to the PHI has been mitigated. The Human Resources Manager shall appropriately document the risk assessment and make a recommendation to the Executive Director regarding whether notification of the potential breach would be required. Legal counsel may be consulted if necessary. We expect all employees to cooperate with investigation efforts. The Human Resource Manager will coordinate

any findings from the investigations and immediately recommend corrective action or changes that need to be made if the notice of the breach was warranted.

Corrective Action

Where an internal investigation substantiates a reported violation, it is the policy of the organization to initiate corrective action, including, as appropriate making prompt restitution of any overpayment amounts, notifying the appropriate governmental agency or state board, instituting whatever disciplinary action is necessary, and implementing systemic changes to prevent a similar violation from recurring in the future at any Franklin Therapy Therapy Services facility. Legal counsel will be involved in these decisions, as needed. Documentation regarding privacy and security incidents, breach assessments, and breach notification will be securely maintained for the purposes of tracking incidents currently under investigation and retrospective periodic review of incidents. These detailed records will be classified as confidential business materials. All supporting documentation associated with the potential breach shall be kept on file for a period of six years

Discipline

All violators of the Code will be subject to disciplinary action. The precise discipline utilized will depend on the nature, severity, and frequency of the violation and may result in any of the following disciplinary actions:

- Verbal warning – This involves a meeting with the employee, supervisor, and Human Resources Manager.
- Written warning- The 1st written warning can be issued within the period of time advised for monitoring after the verbal warning, provided there is no improvement in conduct or performance.
- If the required improvement is not happening then a final (2nd) written warning will be issued with a 12 month monitoring period.
- Termination - If there is no improvement after the final written warning or they have another violation then dismissal is the outcome.
- Gross or serious misconduct will be dealt with as an internal investigation done by the Human Resources Manager.

The investigation will be carried out as quickly as possible and started as soon as they receive the violation. The timescale and scope of the investigation first be determined by the Human Resources Manager (HR). Written records of all meetings will be kept confidential. HR will be able to interview any employee who may be able to assist the investigation. Once the investigation has completed a



written report setting out the investigator's decision, will be given to our Company Lawyer to review and then our Executive Director. If the allegation has been upheld, a termination meeting will be held with the employee.

Gross Misconduct includes but not limited to:

- Criminal Acts
- Theft
- Intentional damage to property
- Fraudulent behavior
- Falsification of records
- Abuse of company policies/procedures
- Abuse of trust
- Breaches of internet/email policy
- Breaches of data protection
- Sharing confidential information with unauthorized sources

The Human Resources Manager reserves the right to skip any of these steps if they deem it necessary.

Internal Audit and Other Monitoring

Franklin Therapy Services is committed to the aggressive monitoring of compliance with its policies. Much of this monitoring effort is provided by the Human Resource Manager who routinely conducts internal audits of issues that have regulatory or compliance implications. The organization also routinely seeks other means of ensuring and demonstrating compliance with laws, regulations, and Franklin Therapy Services' policy.

H. If you have questions or problems

If you have any questions or problems regarding our health information privacy policies, please contact our Therapy Services Manager, at therapyservices@franklinmn.org or 952-737-6933.

The effective date of this notice is _____. By initialing this you agree that you have received and read this policy.