

## Policies and Procedures for Privacy Rules

The Health Insurance Portability and Accountability Act of 1996 covers the following areas:

- Privacy standards
- Electronic transaction standards
- Unique health identifier standards
- Other security and enforcement standards

Robert S. White, MD is a covered provider, since I do use electronic transmission. Referred below by RSW. The compliance date: 4/14/03.

### I. Privacy Official – Dr. Robert S. White, MD

1. Responsible for development and implementation of privacy policies and procedures
2. Responsible for training of partners and staff
3. Available for patient complaints and grievances
4. Investigation of complaints of privacy violations

### II. A Privacy Notice

1. Written in plain language
2. Mandatory disclosures if asked – to the Secretary of Health and Human Services and to the patient
3. What disclosures are permitted by consent

Consent – Patient consent is optional but it is highly recommended to obtain consent. Consent permits the release of Protected Health Information (PHI) for the purposes of payment, treatment, and health care operations.
3. What disclosures require authorization.

Authorization – Needed for other disclosures and must be in writing. Providers must make reasonable efforts to disclose only the minimum amount of PHI to achieve the stated purpose.
4. Individual rights of patients
5. Duties of RSW
6. The Privacy Notice will be posted on the RSW website and a copy given to each patient at the time of their first visit. The patient will be asked to give written acknowledgement of receipt of notice.

### III. Connecticut State Law (Title 52, Chapter 899)

1. Privileged communication between psychiatrist and patient (Sec. 52-146d), between psychologist and patient (Sec. 52-146c), between social worker and patient (Sec. 52-146q) and disclosure by physician, surgeon and health care provider (Sec. 52-146o). Over-rides HIPAA sections.
  - All records and communications are confidential. Consent is required in writing by the patient or authorized representative. Any consent must specify to what person or agency the information is to be disclosed and for what use.

- For psychiatrists and social workers only, consent is not required for disclosure to other persons engaged in diagnosis or treatment of the patient, or to another mental health facility to which the patient is admitted.
- If there is substantial risk of physical injury by the patient to himself or others or risk of imminent injury to the property of other individuals, consent is not required.

#### IV. First visit of patient

1. Discuss general office policies concerning payments, insurance, cancellations, etc.
2. The patient is also asked to sign consent for release of PHI to the insurance company. (form: Robert S. White, MD-Patient Information).
3. Patient is given the Privacy Policy and asked to sign acknowledgement of receipt (form: Robert S. White, MD – Consent for Evaluation and Treatment).
4. Patient may request alternative means of communication, ie where to call, times, who to speak to.
5. Any authorizations for disclosure are discussed with the patient and signed. We would routinely ask for signed authorizations to talk to the primary physician, and the therapist or psychiatrist. The patient may request a copy of the authorization (form: Authorization for Disclosure/Use of Protected Health Information).

#### V. Authorization for disclosure

1. Written in plain language
2. It contains a description of the information to be used or disclosed.
3. The form will authorize release of psychiatric records, drug and alcohol treatment and HIV/AIDS information.
4. It contains the name of the person or class of persons authorized to make the requested use or disclosure.
5. It contains the name of the person or class of persons to whom RSW may make the requested use or disclosure.
6. It contains a description of each purpose of the requested use or disclosure.
7. It contains an expiration date.
8. It contains the signature of the individual and the date.
9. If the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual is described.
10. The individual has the right to revoke the authorization in writing
11. RSW may not condition treatment on whether the individual signs the authorization
12. RSW must provide the individual with a copy of the signed authorization when requested.
13. The signed authorization must be retained in the medical record for 6 years.

#### VI. Requests for psychiatric records from RSW

1. Records can be released only if there is appropriate consent/authorization, or a court order or law.
2. All disclosures must be recorded by keeping the authorization/consent in the chart.
3. Only the minimum necessary is released.

## VII. Accounting

1. Patients have the right to receive an accounting of disclosures of PHI for the 6 years preceding the request. The accounting consists of :
  - Date of disclosure
  - Name and address of recipient
  - Brief description of the information disclosed
  - Brief description of the purpose of disclosure
2. What is not required in the accounting:
  - Carrying out treatment, payment and health care operations
  - To persons involved in the patient's care
  - To law enforcement

## VIII. Patient access to the medical record

1. RSW is required to allow patients to access and obtain copies of their records. These requests will be in writing. This requested access will be reviewed by the patient's therapist or psychiatrist.
2. RSW must act on this request within 30 days.
3. RSW may impose a reasonable cost-based fee.
4. RSW may provide a summary of PHI if the patient agrees.
5. If RSW denies access in part or all, it must provide a written denial in plain language. The patient may request the RSW privacy officer to review the denial. If the patient is not satisfied, he or she may request that RSW arrange for a review by a licensed health care professional who did not participate in the original decision to deny.
6. What the patient cannot access:
  - Psychotherapy notes
  - Information compiled in anticipation of a civil, criminal or administrative action
  - PHI obtained from someone other than a health provider under a promise of confidentiality
  - A licensed health care professional has determined, in the exercise of his or her professional judgement that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person.
  - The PHI makes reference to another person, and a licensed health care professional has determined, in the exercise of his or her professional judgement that the access requested is reasonably likely to cause substantial harm to such other person
  - The request is made by the patient's personal representative and a licensed health care professional has determined, in the exercise of his

or her professional judgement that the access requested by the personal representative is reasonably likely to cause substantial harm to the patient or another person.

#### IX. Amendment

1. Patients have the right to request an amendment or clarification to their medical record.
2. RSW may deny a request if they consider the record accurate and complete.
3. The denial must be in writing and provide the basis for the denial. The patient may submit a written statement of disagreement, which will be included in the medical record. RSW may prepare a written rebuttal, which is given to the patient and included in the medical record.
4. In general, it is best to be cautious in amending the record.

#### X. Psychotherapy notes

1. Notes recorded by a mental health care provider documenting or analyzing a therapy session. These notes must be kept separate from the medical record.
2. These notes should not contain (this information should be kept in the medical record):
  - Medication prescribing
  - Start and stop times
  - Modalities of treatment
  - Results of clinical tests
  - Summary of diagnosis, functional status, treatment plan, symptoms, prognosis or progress
3. While these notes are protected by Federal law, they are still potentially discoverable in litigation. Authorization to release psychotherapy notes requires a separate authorization

#### XI. Staff

1. Access to records
  - Only RSW has access to medical records.
  - Billing secretaries have complete access to billing records, daily billing sheets and payment invoices and remittances. They may request copies of the face sheet to enter billing information. They may be authorized by a clinical staff to copy sections of the medical record.
  - No other staff have access to the medical record.
2. Telephone contacts
  - No information should be given out over the telephone concerning a patient, including acknowledgement that we treat any patient, without proper consent or authorization. Only clinical staff should discuss any protected health information over the phone (except billing information).
  - In discussing any information over the phone, any staff must verify the identity of the intended recipient. If the recipient calls us and we do not have a secure recognition, then we may need to call him or her back.

- The billing secretaries may, under the consent section, call and receive inquiries about billing and insurance. Proper consent must be signed in the chart and the identity of the recipient must be verified (see above).
- 3. Faxes
  - Transmitting PHI via fax is allowable, as long as care is taken to confirm the receiver's fax number. Any fax sent with PHI is sent with a cover sheet that contains a confidentiality warning and a request to notify the sender if the fax is not sent to the intended recipient.
- 4. E-mail
  - PHI should not be transmitted by e-mail except to set up or verify appointments.
- 5. Procedures for unauthorized disclosures of PHI
  - The privacy officer will investigate any complaints of unauthorized disclosures and issue a written report.
- 4. Training
  - The privacy officer will provide training in privacy issues and the HIPAA law to all partners and staff.
  - Each trained partner and staff will acknowledge in writing receiving the training.
- 7. Sanctions for Privacy Violations
  - If the privacy officer finds a violation of unauthorized disclosure by a member of the RSW staff, he or she may provide informal counseling, a verbal warning, a written warning, or, for repeated violations, termination of employment.
  - If the privacy officer finds a violation of unauthorized disclosure by a partner, the partners will discuss the report and decide on appropriate action.

## XII. Business Associates

1. RSW has no business associates at this time

## XIII. Physical Storage of PHI

1. Medical records
  - All medical records will be kept in locked storage
  - Locations
    - a) 27 Elm St. New Haven- in file cabinets in a locked room
2. Computer billing files
  - All billing files and any computerized patient files will be password protected