



## Life Matters Counseling, PLLC

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### **Patient Notification of Privacy Rights**

**THIS NOTICE DESCRIBES HOW YOUR MENTAL HEALTH RECORDS MAY BE USED AND DISCLOSED AND HOW YOU CAN OBTAIN ACCESS TO THIS INFORMATION. PLEASE READ IT CAREFULLY.**

#### ***I. Preamble***

The mental health Licensing Laws provide extremely strong privileged communication protections for conversations between your clinician and you in the context of your established professional relationship with your clinician. There is a difference between privileged conversations and documentation in your mental health records. Records are kept documenting your care as required by law, professional standards, and other review procedures.

#### ***II. What is HIPAA?***

- HIPAA is the federal Health Insurance Portability and Accountability Act of 1996. The primary goal of the law is to make it easier for people to keep health insurance, protect the confidentiality and security of healthcare information and help the healthcare industry control administrative costs.
- HIPAA is divided into different titles, or sections, that address a unique aspect of health insurance reform: *Portability* and *Administrative Simplification*.

##### **a. Portability**

This section allows individuals to carry their health insurance from one job to another so that they do not have a lapse in coverage. It also restricts health plans from requiring pre-existing conditions on individuals who switch from one health plan to another. The Tennessee Department of Commerce and Insurance can assist you if you have any questions regarding the portability of your health plan if you change jobs. You may call them at (615) 741-2218 or 1-800-342-4029 (inside Tennessee)

##### **b. Administrative Simplification**

This section is the establishment of a set of standards for receiving, transmitting and maintaining healthcare information and ensuring the privacy and security of individual identifiable information.

- The HIPAA electronic data requirements are meant to encourage the health care industry to move the handling and transmission of patient information from manual to electronic systems in order to improve security, lower costs, and lower the error rate. However, the main focus on this page is the **Privacy** provisions of HIPAA.
- HIPAA provides for the protection of individually identifiable health information that is transmitted or maintained in any form or medium. The privacy rules affect the day-to-day business operations of all organizations that provide medical care and maintain personal health information.
- HIPAA defines that any provider of medical or other health Services that bills or is paid for healthcare in the normal course of business is designated a “Health Care Provider.” Healthcare includes preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, services, assessment, or procedure with respect to the physical or mental condition, or functional status of an individual. Therefore, Life Matters Counseling, PLLC is considered to be a health care provider.

#### ***III. Uses and Disclosures of Protected Health Information Requiring Authorization***

- HIPAA protects an individual’s health information and his/her demographic information. This is called “protected health information” or “PHI”. Information meets the definition of PHI if, even without the patient’s name, if you look at certain information and you can tell who the person is then it is PHI. The PHI can relate to past, present or future physical or mental health of the individual. PHI describes a disease, diagnosis, procedure, prognosis, or condition of the individual and can exist in any medium – files, voice mail, email, fax, or verbal communications.

- HIPAA defines information as PHI if it contains the following information about the patient, the patient’s household members, or the patient’s employers:
  - Names
  - Dates relating to a patient , i.e. birthdates, dates of medical treatment, admission and discharge dates, and dates of death
  - Telephone numbers, addresses (including city, county, or zip code) fax numbers and other contact information
  - Social Security numbers
  - Medical records numbers
  - Photographs
  - Finger and voice prints
  - Any other unique identifying number
- Life Matters Counseling, PLLC clinicians and their support staff may use or disclose your protected health information (PHI), for treatment, payment, and health care operations purposes with your consent. To help clarify these terms, here are some definitions:
  - **PHI** refers to information in your health record that could identify you.
  - **Clinician** refers to any mental health professional who provides clinical services. At Life Matters Counseling, PLLC this includes Psychologists and Licensed Professional Counselors.
  - **Treatment** refers to activities in which clinicians provide, coordinate, or manage your mental health care or other services related to your mental health care. Examples include a psychotherapy session, psychological testing, or talking to your primary care physician about your medication or overall medical condition.
  - **Payment** is when Life Matters Counseling, PLLC obtains reimbursement for your mental health care. The clearest example of this parameter is collecting fees to cover the costs of the mental health services provided you when you use a credit card or check authorizing.
  - **Health care operations** are activities related to the performance of our practice such as quality assurance.
  - The **use** of your PHI refers to activities our office conducts for scheduling appointments, keeping records, and other tasks within our office related to your care.
  - **Disclosures** refer to activities you authorize which occur outside our office such as the sending of your PHI to other parties (e.g., your physician, pastor, attorney, etc.).
- As stated above Tennessee requires authorization and consent for treatment, payment, and health care operations. HIPAA does nothing to change this requirement by law in Tennessee. In order to be seen as a client at Life Matters Counseling, PLLC, you must sign this general consent to care and authorization to conduct payment and health care operations, authorizing us to provide treatment and to conduct the administrative steps associated with your care.
- If at any time you request that we send any of your PHI of any sort to anyone outside our office, you will always first sign a specific authorization to release information to this outside party. A copy of that authorization form is available upon request. This requirement of signing an additional authorization form is an added protection to help insure your PHI is kept strictly confidential. An example of this type of release of information might be your request that your clinician talk to your primary care physician, or psychiatrist in order to coordinate regarding your care. Before your clinician talks to your physician, you will have first signed the proper authorization for him/her to do so. Your “designated medical record” includes: all identifying paperwork you completed when you first started your care here, all billing information, a summary of your first appointment, your mental status examination, your individualized comprehensive treatment plan, your discharge summary, progress notes, results of psychological testing, and any authorization letters or summaries of care you have authorized your clinician to release on your behalf. Please note that the actual test questions or raw data of psychological tests, which are protected by copyright laws and the need to protect patients from unintended, potentially harmful use, are not part of your “designated mental health record”.
- There is another special authorization provision potentially relevant to the privacy of your records: your counselor’s “psychotherapy notes.” In recognition of the importance of the confidentiality of conversations between clinicians and patient in treatment settings, HIPAA permits keeping “psychotherapy notes” separate from the overall “designated medical record.”

- “Psychotherapy notes” cannot be secured by insurance companies nor can insurance companies insist upon their release for payment of services as has unfortunately occurred over the last two decades of managed mental health care.
- “Psychotherapy notes” are your clinician’s notes “recorded in any medium by a mental health provider documenting and analyzing the contents of a conversation during a private, group, or joint family counseling session and that are separated from the rest of the individual’s medical record.”
- “Psychotherapy notes” are necessarily more private and contain much more personal information about you hence, the need for increased security of the notes. “Psychotherapy notes” are not the same as your “progress notes” which provide the following information about your care each time you have an appointment at Life Matters Counseling, PLLC: medication prescriptions and monitoring, assessment/treatment start and stop times, the modalities of care, frequency of treatment furnished, results of clinical tests, any summary of your diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.
- You may, in writing, revoke all authorizations to disclosure PHI at any time. You cannot revoke an authorization for an activity already done, that you instructed your clinician to do, or if the authorization was obtained as a condition for obtaining insurance and Tennessee law provides the insurer the right to contest the claim under the policy.

#### ***IV. Uses and Disclosures Not Requiring Consent nor Authorization***

By law, PHI may be released without your consent or authorization concerning:

- **Child abuse:** If the clinician has knowledge of any child who is suffering from or has sustained any wound, injury, or disability, or physical or mental condition of such a nature as to reasonably indicate that it has been caused by brutality, abuse, or neglect, the clinician is required by law to report such harm immediately to Tennessee Child Protective Services or to the judge having juvenile jurisdiction, or to the office of the sheriff or the chief law enforcement official of the municipality where the child resides. Also, if the clinician has reasonable cause to suspect that a child has been sexually abused, the clinician must report such information, regardless of whether the child has sustained any injury.
- **Adult and domestic abuse:** If the clinician has reasonable cause to suspect that an adult who is vulnerable physically, mentally, or emotionally has suffered abuse, neglect, or exploitation, the clinician is required by law to report such information to the Tennessee Department of Human Services.
- **Health oversight:** If a complaint is filed against the clinician with the Tennessee Health Related Board of Examiners in Psychology, or Board of Licensed Professional Counselors, Licensed Marital and Family Therapists and Licensed Pastoral Therapists, these Boards have the authority to subpoena confidential mental health information from us relevant to that complaint.
- **Judicial or administrative proceedings:** If you are involved in a court proceeding and a request is made for information about the professional services that a clinician at Life Matters Counseling, PLLC has provided you and/or the records thereof, such information is privileged under state law, and the clinician must not release this information without your written authorization or a court order. This privilege does not apply when you are being evaluated for a third party or where the evaluation is court ordered. The clinician at Life Matters Counseling, PLLC must inform you in advance if this is the case.
- **Serious threat to health or safety:** If you communicate to your clinician an actual threat of bodily harm against a clearly identified victim, and the clinician has determined or reasonably should have determined that you have the apparent ability to commit such an act and are likely to carry out the threat unless prevented from doing so, the clinician is required to take reasonable care to predict, warn of, or take precautions to protect the identified victim from your violent behavior.
- **Workers’ compensation:** If you file a worker’s compensation claim, and the clinician is seeing you for treatment relevant to that claim, the clinician must, upon request, furnish to your employer or insurer, and to you, a complete report as to the claimed injury, the effect upon you, the prescribed treatment, and estimate of duration of hospitalization, if any, and a statement of charges. (*NOTE: Life Matters Counseling, PLLC does not engage in treatment or evaluation for worker’s compensation claims.*)

#### ***V. Business Associates Disclosures***

HIPAA requires that Life Matters Counseling, PLLC train and monitor the conduct of those performing ancillary administrative services for our practice and refers to these people as “Business Associates.” In our practice, “business associates” are our practice software providers, our computer consultants, and our telephone answering service. In compliance with HIPAA regulations, Life Matters Counseling, PLLC has signed a formal contract with these business associates that very clearly defines the importance of the protection of your mental health information as an absolute condition for engaging their services. Life Matters Counseling, PLLC has only contracted with people who are experienced

in providing services that are HIPAA-compliant in their privacy practices. Life Matters Counseling, PLLC monitors their compliance, and corrects any errors, if they should occur. **No PHI data is stored directly on our office computers.** Our practice software provides a very high level of encryption, and all office computers are also encrypted with a very high level of protection.

## **VI. Patient's Rights and Our Duties**

As a patient you have a right to the following:

- The right to request restrictions on certain uses and disclosures of your PHI to which your clinician may or may not agree; but, if he or she does, such restrictions shall apply unless our agreement is changed in writing;
- The right to receive confidential communications by alternative means and at alternative locations. For example, you may not want your bills sent to your home address so Life Matters Counseling, PLLC will send them to another location of your choosing;
- The right to inspect and copy your PHI in your clinician's designated mental health record set and any billing records for as long as PHI is maintained in the record;
- The right to amend material in your protected health information, although your clinician may deny an improper request and/or respond to any amendment(s) you make to your record of care;
- The right to an accounting of non-authorized disclosures of your protected health information;
- The right to a paper copy of notices/information from Life Matters Counseling, PLLC even if you have previously requested electronic transmission of notices/information; and
- The right to revoke your authorization of your PHI except to the extent that action has already been taken.

*For more information on how to exercise each of these aforementioned rights, please do not hesitate to ask your clinician for further assistance on these matters.*

As clinicians we have the following duties:

- Life Matters Counseling, PLLC is required by law to maintain the privacy of your PHI and to provide you with a notice of your Privacy Rights and our duties regarding your PHI.
- Our duties as clinicians include maintaining the privacy of your protected health information, to provide you this notice of your rights, and our privacy practices with respect to your PHI, and to abide by the terms of this notice unless it is changed and you are so notified. If for some reason you desire a copy of our internal policies for executing privacy practices, please let your clinician know and we will get you a copy of these documents. We keep them on file for auditing purposes.

## **VII. Complaints**

Chris Pekary LPC-MHSP is the appointed "Privacy Officer" for our practice, per HIPAA regulations. If you have any concerns of any sort that our office may have somehow compromised your privacy rights, please do not hesitate to speak to him and/or your clinician immediately about this matter. You may contact us at 901-737-9533. We are always willing to talk to you about preserving the privacy of your PHI. You may send your written complaint to:

Privacy Officer, Life Matters Counseling, PLLC,  
65 Germantown Court, Suite 205, Cordova, TN 38018-4257.

You may also send a written complaint to the Secretary of the U.S. Department of Health and Human Services.  
[www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa)

You have specific rights under the Privacy Rule. Life Matters Counseling, PLLC will not retaliate against you for exercising your right to file a complaint.

## **VIII. Effective Date and Changes to Privacy Policy**

This notice shall go into effect April 14, 2003, and remain so unless new notice provisions effective for all PHI are enacted accordingly. Life Matters Counseling, PLLC reserves the right to change the terms of this notice and to make the new notice provisions effective for all PHI maintained by Life Matters Counseling, PLLC. We will notify you by mail, phone, fax, or email of the revision of notice and make the revised notice available at any of its offices. If needed, Life Matters Counseling, PLLC will also provide a revised notice by mail, e-mail, or fax. Additionally, this notice will be made available on Life Matters Counseling, PLLC's website ([www.lifemattersmemphis.com](http://www.lifemattersmemphis.com)).