

# NOTICE OF PRIVACY PRACTICES AND PATIENT RIGHTS & RESPONSIBILITIES

MINDFUL MENTAL HEALTH COUNSELING

*Shannon J. Davidenko, LMHC*

*Phone: 508-205-9983*

*Email: shannond.lmhc@gmail.com*

THIS NOTICE DESCRIBES HOW PSYCHOLOGICAL AND MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW THIS NOTICE CAREFULLY.

Your health record contains personal information about you and your health. This information about you that may identify you and that relates to your past, present or future physical or mental health or condition and related health care services is referred to as Protected Health Information ("PHI"). This Notice of Privacy Practices describes how your mental health counselor may use and disclose your PHI in accordance with applicable law, including the Health Insurance Portability and Accountability Act ("HIPAA"), regulations promulgated under HIPAA including the HIPAA Privacy and Security Rules, the AMHCA and ACA Code of Ethics and Massachusetts statutes and regulations. It also describes your rights regarding how you may gain access to and control your PHI. Your mental health counselor is required by law to maintain the privacy of PHI and to provide you with notice of providers legal duties and privacy practices with respect to PHI. Your mental health counselor is required to abide by the terms of this Notice of Privacy Practices. Your mental health counselor reserves the right to change the terms of this Notice of Privacy Practices at any time. Any new Notice of Privacy Practices will be effective for all PHI that your mental health counselor maintains at that time. Your mental health counselor will provide you with a copy of the revised Notice of Privacy Practices by sending a copy to you in the mail upon request, sending you a copy through your patient portal, or by sending it as an attachment in an email.

## I. **USES AND DISCLOSURES FOR TREATMENT, PAYMENT AND HEALTH CARE OPERATIONS, REQUIRING CONSENT**

Your mental health counselor may use or disclose your PHI for treatment, payment and health care operations purposes with your consent as discussed below:

- a. **For Treatment**. Your PHI may be used and disclosed by those who are involved in your care for the purpose of providing, coordinating, or managing your health care treatment and related services. This includes consultation with clinical supervisors or other treatment team members. An example of treatment would be when your mental health counselor consults with another health care provider, such as a family physician or another mental health provider. Your mental health counselor may disclose PHI to any other consultant only with your authorization.

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- b. **For Payment.** Your mental health counselor may use and disclose PHI so that your mental health counselor can receive payment for the treatment services provided to you. This will only be done with your consent. Examples of payment-related activities are: sharing your health insurance information with Alma and/or Headway to make a determination of eligibility or coverage for insurance benefits, processing claims with your insurance company, reviewing services provided to you to determine medical necessity, or undertaking utilization review activities. If it becomes necessary to use collection processes due to lack of payment for services, your mental health counselor will only disclose the minimum amount of PHI necessary for purposes of collection.
- c. **For Health Care Operations.** Your mental health counselor may use or disclose, as needed, your PHI in order to support business activities including, but not limited to, quality assessment activities, employee review activities, licensing, and conducting or arranging for other business activities. For example, your mental health counselor may share your PHI with third parties, such as Alma and/or Headway, that perform various business activities (e.g., billing or typing services) provided your mental health counselor have a written contract with the business that requires it to safeguard the privacy of your PHI. For training or teaching purposes PHI will be disclosed only with your authorization.

### II. **USES AND DISCLOSURES REQUIRING AUTHORIZATION**

Uses and disclosures not specifically permitted by applicable law will be made only with your written authorization, which may be revoked at any time, except to the extent that your mental health counselor have already made a use or disclosure based upon your authorization. The following uses and disclosures will be made only with your written authorization:

- a. most uses and disclosures of psychotherapy notes which are separated from the rest of your medical record;
- b. most uses and disclosures of PHI for marketing purposes, including subsidized treatment communications;
- c. disclosures that constitute a sale of PHI; and
- d. other uses and disclosures not described in this Notice of Privacy Practices.

### III. **USES AND DISCLOSURES WITH NEITHER CONSENT NOR AUTHORIZATION**

Your mental health counselor may use or disclose PHI without your consent or authorization in the following circumstances:

- a. **Child Abuse.** If your mental health counselor, in our professional capacity, have reasonable cause to believe that a minor child is suffering physical or emotional injury resulting from abuse inflicted upon him or her which causes harm or substantial risk of harm to the child's health or welfare (including sexual abuse), or from neglect, including malnutrition, your

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mental health counselor must immediately report such condition to the Massachusetts Department of Children and Families

- b. **Elder Abuse**. If your mental health counselor has reasonable cause to believe that an elderly person (age 60 or older) is suffering from or has died as a result of abuse, your mental health counselor must immediately make a report to the Massachusetts Department of Elder Affairs.
- c. **Abused of a Disabled Person**. If your mental health counselor has reasonable cause to suspect abuse of an adult (ages 18-59) with mental or physical disabilities, your mental health counselor must immediately make a report to the Massachusetts Disabled Persons Protection Commission.
- d. **Health Oversight**. The Board of Registration of Allied Mental Health and Human Service Professions has the power, when necessary, to subpoena relevant records should your mental health counselor be the focus of an inquiry.
- e. **Judicial or Administrative Proceedings**. If you are involved in a court proceeding and a request is made for information about your diagnosis and treatment and the records thereof, such information is privileged under state law and your mental health counselor will not release information without written authorization from you or your legally-appointed representative, or a court order. The privilege does not apply when you are being evaluated for a third party or where the evaluation is court-ordered. You will be informed in advance if this is the case.
- f. **Serious Threat to Health or Safety**. If you communicate to me an explicit threat to kill or inflict serious bodily injury upon an identified person and you have the apparent intent and ability to carry out the threat, I must take reasonable precautions. Reasonable precautions may include warning the potential victim, notifying law enforcement, or arranging for your hospitalization. I must also do so if I know you have a history of physical violence and I believe there is a clear and present danger that you will attempt to kill or inflict bodily injury upon an identified person. Furthermore, if you present Page 3 of 4 a clear and present danger to yourself and refuse to accept further appropriate treatment, and I have a reasonable basis to believe that you can be committed to a hospital, I must seek said commitment and may contact members of your family or other individuals if it would assist in protecting you.
- g. **Worker's Compensation**. If you file a workers' compensation claim, your records relevant to that claim will not be confidential to entities such as your employer, the insurer and the Division of Worker's Compensation.
- h. **Specialized Government Functions**. Your mental health counselor may review requests from U.S. military command authorities if you have served as a member of the armed forces, authorized officials for national security and intelligence reasons and to the Department of State for medical suitability determinations, and disclose your PHI based on your written consent, mandatory disclosure laws and the need to prevent serious harm.
- i. **Public Health**. If required, your mental health counselor may use or disclose your PHI for mandatory public health activities to a public health authority authorized by law to collect or

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receive such information for the purpose of preventing or controlling disease, injury, or disability, or if directed by a public health authority, to a government agency that is collaborating with that public health authority.

### IV. **ELECTRONIC COMMUNICATION & SOCIAL MEDIA POLICIES**

- a. **Email**. If you choose to communicate with your mental health counselor by email, please be aware that email is not completely confidential. Your mental health counselor will do their best to encrypt emails when responding to you and sending appointment invitations and links. Please note that all emails are retained in the logs of your or my internet service provider. While under normal circumstance no one looks at these logs, they are, in theory available to be read by the system administrator(s) of the internet service provider. Any email I receive from, and any response that I send to you will be saved and kept in your treatment record.
- b. **Texting**. If you choose to communicate with your provider by text, please be aware that text messages are not completely confidential. Your mental health counselor will give you the option to accept a secure texting line at the start of treatment with them to help ensure confidentiality and decrease the risk of breaches. If you choose not to accept the secure line, remember that all texts are retained in the logs of your or my mobile phone service provider(s). While under normal circumstance no one looks at these logs, they are, in theory available to be read by the system administrator(s) of the phone service provider(s). Any text I receive from and any response that I send to you will be saved and kept in your treatment record.
- c. **Social Media**. Your mental health counselor will not use social media accounts (e.g., Facebook, Twitter, LinkedIn, Twitter, Google) to communicate with you because it can compromise your right to confidentiality and your counselor's right to privacy.
- d. **Business Review Sites**. While you may find Shannon Davidenko, LMHC on business review sites (e.g., Yelp, Healthgrades, Bing, Google) that allow users to rate businesses and add reviews, please note that these listings are automatically added to the sites by sites' staff combing search engines for business listings, without the business's consent. Therefore, if you should find Shannon J. Davidenko, LMHC on any of these business review sites, this listing is not a request for a testimonial, rating, or endorsement from you as a client. The American Counseling Association's Ethics Code prohibits clinicians from requesting testimonials for marketing purposes. If you do choose to write something on a business review site, please keep in mind that you may be sharing personally revealing information in a public forum.

### V. **SUPPORTING VENDORS:**

- a. In the course of operating her telemental health private practice, Shannon J. Davidenko, LMHC contracts with various external vendors. In all these cases your mental health counselor has a HIPAA business associate contract in place with the vendors. This means the vendors understand the federal HIPAA guidelines for confidentiality and agree to abide by

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those regulations set forth and maintain the same level of confidentiality that healthcare professionals are bound to in the event they should encounter patient information.

Currently, your mental health counselor uses the following vendors

- i. Headway and/or Alma for insurance verification, billing and claims.
- ii. iPlum for voice calls and texting.
- iii. SimplePractice for maintaining electronic health records and client portal access.

### VI. CLIENT RIGHTS & RESPONSIBILITIES

#### **PATIENT'S RIGHTS:**

You have the following rights regarding PHI your mental health counselor maintain about you:

- a. **Right of Access to Inspect and Copy.** You have the right to inspect or obtain a copy (or both) of PHI and psychotherapy notes in our mental health and billing records used to make decisions about you for as long as the PHI is maintained in the record. Your access may be denied in certain circumstances, but in some cases, you may be able to have this decision reviewed. On your request, your mental health counselor will discuss with you the details of the request and denial process. Your mental health counselor may charge a reasonable, cost-based fee for copies. If your records are maintained electronically, you may also request an electronic copy of your PHI. You may also request that a copy of your PHI be provided to another person.
- b. **Right to Amend.** If you feel that the PHI your mental health counselor has about you is incorrect or incomplete, you may ask us to amend the information although your mental health counselor is not required to agree to the amendment. If your mental health counselor denies your request for amendment, you have the right to file a statement of disagreement with us. Your mental health counselor may prepare a rebuttal to your statement and will provide you with a copy. On your request, your mental health counselor will provide you with details of the amendment process.
- c. **Right to an Accounting of Disclosures.** You have the right to request an accounting of PHI for which you have neither provided authorization nor consent. On request, your mental health counselor will discuss with you the details of the accounting process. Your mental health counselor may charge you a reasonable fee if you request more than one accounting in any 12-month period.
- d. **Right to Request Restrictions.** You have the right to request a restriction or limitation on the use or disclosure of your PHI for treatment, payment, or health care operations. Your mental health counselor is not required to agree to your request unless the request is to restrict disclosure of PHI to a health plan for purposes of carrying out payment or health care operations, and the PHI pertains to a health care item or service that you paid for out of pocket. In that case, your mental health counselor is required to honor your Page 4 of 4 request for a restriction.
- e. **Right to Receive Confidential Communications by Alternative Means and at Alternative Locations.** You have the right to request that your mental health counselor communicate

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with you about health matters in a certain way or at a certain location. Your mental health counselor will accommodate reasonable requests. (For instance, you may not want a family member to know you are seeing us. Upon your request, your mental health counselor will send your bills to another address.) Your mental health counselor may require information regarding how payment will be handled or specification of an alternative address or other method of contact as a condition for accommodating your request. Your mental health counselor will not ask you for an explanation of why you are making the request.

- f. **Breach Notification.** If there is a breach of unsecured PHI concerning you, your mental health counselor may be required to notify you of this breach, including what happened and what you can do to protect yourself.
- g. **Right to a Paper Copy of this Notice.** You have the right to a paper copy of this notice upon request, even if you have agreed to receive the notice electronically.
- h. Right to be treated with dignity and respect in a caring and compassionate manner.
- i. Right to fair treatment - regardless of their race, color, religion, gender identity or expression, sexual orientation, ethnicity, age, disability or source of payment.
- j. Right to their treatment and other client information to be kept private. Only where permitted by law may records be released without client's permission.
- k. Right to easily access timely care in a timely fashion.
- l. Right to know about their treatment choices. This is regardless of cost or coverage by the client's insurance plan.
- m. Right to share in developing their plan of care.
- n. Right to information in a language they can understand.
- o. Right to a clear explanation of their condition and treatment options.
- p. Right to information about their insurance, services, and role in the treatment process.
- q. Right to information about clinical guidelines used in providing and managing their care.
- r. Right to ask their provider about their work history and training.
- s. Right to give input on the Client Rights and Responsibilities policy.
- t. Right to know about advocacy and community groups and prevention services.
- u. Right to freely file a complaint or appeal and to learn how to do so.
- v. Right to know of their rights and responsibilities in the treatment process.
- w. Right to receive services that will not jeopardize their employment.
- x. Right to request certain preferences in a provider.
- y. Right to have provider decisions about their care made without regard to financial incentives.

### **CLINET RESPONSIBILITIES:**

You have the following responsibilities to:

- a. Treat those giving them care with dignity and respect in a caring and compassionate manner.

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- b. Give provider(s) information they need, so provider(s) can deliver the best possible care.
- c. Ask questions about their care to help them understand their care.
- d. Follow the treatment plan, which is to be agreed upon by the client and the provider.
- e. Tell their provider and primary care physician about medication changes, including medication given to them by others.
- f. Keep their appointments. Clients should call their provider as soon as they know they need to cancel visits.
- g. Let their provider know when the treatment plan isn't working for them.
- h. Let their provider know about problems with paying fees.
- i. Report abuse and fraud.
- j. Openly report concerns about the quality of care they receive.

### **VII. COMPLAINTS**

If you believe your mental health counselor has violated your privacy rights or you disagree with a decision your mental health counselor made about access to your records, you may contact Shannon Davidenko, LMHC at 508-205-9983 for further information. You may also send a written complaint to the Secretary of Health and Human Services at 200 Independence Avenue, S.W. Washington, D.C. 20201 or by calling (202) 619- 0257. **Your mental health counselor will not retaliate against you for filing a complaint.**

### **VIII. EFFECTIVE DATE OF PRIVACY PRACTICES**

This notice originated on 07.01.2022, was updated on 10.05.2022 and will go into effect on 10.05.2022

I hereby acknowledge that I have received and have been given an opportunity to read a copy of Shannon Davidenko's Notice of Privacy Practices. I understand that if I have any questions regarding the Notice or my privacy rights, I can contact Shannon Davidenko, LMHC by phone at 508-205-9983 or by email at [shannond.lmhc@gmail.com](mailto:shannond.lmhc@gmail.com).