



HIPAA NOTICE OF PRIVACY PRACTICES

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 OUR LEGAL DUTY TO SAFEGUARD YOUR PROTECTED HEALTH INFORMATION (PHI).

By law, Smarter Therapy, LLC (heretofore referred as Smarter Therapy) is required to ensure that your PHI remains private. PHI constitutes information created or noted by Smarter Therapy 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. Smarter Therapy is required to provide you with this Notice about our privacy procedures. This Notice must explain when, why, and how we would use and/or disclose your PHI. Use of PHI means sharing, applying, utilizing, examining, or analyzing information within our practice. Disclosure of PHI pertains to release, transfer, or other revelation to a third party outside of the practice. With some exceptions, we 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, Smarter Therapy is always legally required to follow the privacy practices described in this Notice.

Please note that Smarter Therapy reserves the right to change the terms of this Notice and our privacy policies at any time as permitted by law. Any changes will apply to PHI already on file. Before we make important changes to the policies, we will immediately change this Notice and post a new copy on the company website. You may also request a copy of the most current Notice from Smarter Therapy at any time and/or you can view a copy of it on the Smarter Therapy website.

III. HOW SMARTER THERAPY WILL USE AND DISCLOSE YOUR PHI.

Smarter Therapy will use 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 our uses and disclosures, with some examples.

A. Uses and Disclosures Related to Treatment, Payment, or Health Care Operations Do Not Require Your Prior Written Authorization. Smarter Therapy may use and disclose your PHI without your authorization for the following reasons:

1. For treatment. We may use your PHI to provide you with mental health treatment. We may disclose your PHI to physicians, psychiatrists, psychologists, and/or other licensed health care providers who provide you with health care services or are otherwise involved in your care. Example: If a psychiatrist is treating you, we may disclose your PHI to her/him to coordinate your care.

2. For health care operations. Smarter Therapy may disclose your PHI to facilitate the efficient and correct operation of the practice. Examples: Quality control - we may use your PHI in the evaluation of the quality of health care services that you have received or to evaluate the

performance of the health care professionals who provided you with these services. We may also provide your PHI to Smarter Therapy attorneys, accountants, consultants, and/or others to make sure that we are in compliance with applicable laws.

3. To obtain payment for treatment. We may use and disclose your PHI to bill and collect payment for the treatment and services provided to you. Example: Smarter Therapy might send PHI to your insurance company or health plan in order to collect payment for health care services provided. We may also provide PHI to business associates, such as billing companies, claims processing companies, and others that process healthcare claims for this practice.

4. Other disclosures. Examples: Your consent isn't required if you need emergency treatment provided that an attempt is made to obtain your consent after treatment is rendered. In the event that Smarter Therapy, or one of our providers, attempts to acquire your consent but you are unable to communicate (for example, if you are unconscious or in severe pain) and Smarter Therapy staff and/or one of our providers believes that you would consent to such treatment if you could, we may disclose your PHI.

B. Certain Other Uses and Disclosures Do Not Require Your Consent. Smarter Therapy 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.** Example: Smarter Therapy may make a disclosure to appropriate officials when a law requires reporting your information to government agencies, law enforcement personnel, and/or in an administrative proceeding.
- 2. If disclosure is compelled by a party to a proceeding before a court or an administrative agency pursuant to its lawful authority.**
- 3. If disclosure is required by a search warrant lawfully issued by a governmental law enforcement agency.**
- 4. If disclosure is compelled by the patient or the patient's representative pursuant to Ohio Health and Safety Codes or to corresponding federal statutes of regulations, such as the Privacy Rule that requires this Notice.**
- 5. To avoid harm.** Smarter Therapy may provide PHI to law enforcement personnel or persons able to prevent or mitigate a serious threat to the health or safety of a person or the public (i.e., adverse reaction to meds).
- 6. If disclosure is compelled or permitted by the fact that you are in such mental or emotional condition as to be imminently dangerous to yourself and/or another person and/or the property of others, and if Smarter Therapy or your provider determine that disclosure is necessary to prevent the threatened danger.**
- 7. If disclosure is mandated by the Ohio Child Abuse and Neglect Reporting law.** For example, if there is reasonable suspicion of child abuse or neglect.
- 8. If disclosure is mandated by the Ohio Elder/Dependent Adult Abuse Reporting law.** For example, if there is reasonable suspicion of elder abuse or dependent adult abuse.

- 9. If disclosure is compelled by Ohio law in response to your report of serious/imminent threat of physical violence by you against a reasonably identifiable victim or victims.**
- 10. For public health activities.** Example: In the event of your death, the county coroner may be entitled to information about you.
- 11. For health oversight activities.** Example: Information that assists government and regulatory entities in the course of an investigation or inspection of a health care organization or provider.
- 12. For Workers' Compensation purposes.** PHI released in compliance with Workers' Compensation laws.
- 13. Appointment reminders and health related benefits or services.** Examples: PHI released through appointment reminders and/or to provide clients with information about alternative treatment options, or other health care services or benefits offered by Smarter Therapy.
- 14. 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.
- 15. If disclosure is required or permitted to a health oversight agency for oversight activities authorized by law.** Example: When compelled by U.S. Secretary of Health and Human Services to investigate or assess compliance with HIPAA regulations.
- 16. If disclosure is otherwise specifically required by law.**

C. Most Uses and Disclosures Require Your Prior Written Authorization. In any other situation not described in Sections IIIA, IIIB, and IIIC, Smarter Therapy 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 (assuming that we have not already taken action subsequent to the original authorization).

IV. WHAT RIGHTS YOU HAVE REGARDING YOUR PHI

These are your rights with respect to your PHI:

A. The Right to See and Get Copies of Your PHI. In general, you have the right to see your PHI, or to get copies of it, at any time. However, you must request your PHI in writing using a form that we can provide upon request. You will receive requested information from Smarter Therapy within 30 days of our receipt of a written request. If you ask for more than one copy of your PHI, Smarter Therapy may charge you not more than \$.25 per page.

B. The Right to Request Limits on Uses and Disclosures of Your PHI. You have the right to ask that Smarter Therapy limit our use and disclose of your PHI. While Smarter Therapy will seriously consider all such requests, we are not legally bound to agree. If we do agree to your request, Smarter Therapy will outline those limits to which we agree in writing and abide by them except in emergency situations. You do not have the right to limit the uses and disclosures that Smarter Therapy is legally required or permitted to make.

C. The Right to Choose How We Send Your PHI to You. It is your right to ask that your PHI be sent to you at an address other than that which we have on file (for example, sending information to your work address rather than your home address) or by an alternate method (for example, via secure message instead of by regular mail). We are obliged to agree to your request providing that we can give you the PHI, in the format you requested, without undue inconvenience. Smarter Therapy may not require an explanation from you about 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 We Have Made. You are entitled to a list of disclosures of your PHI that we have made. The list will not include uses or disclosures to which you have already consented, i.e., 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, or to corrections or law enforcement personnel.

Smarter Therapy will respond to your request for an accounting of disclosures within 60 days of receiving the request. The list provided will include disclosures made in the previous seven years unless you request 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. We will provide the list to you at no cost, unless you make more than one request in the same year, in which case Smarter Therapy may charge you a fee of no more than \$0.25 per page.

E. The Right to Amend Your PHI. If you believe that there is an error in your PHI or that important information has been omitted, it is your right to request a correction. Your request and the reason for the request must be made in writing. You will receive a response within 60 days of receipt of your request. We may deny your request if we find that the PHI is (a) correct and complete, (b) forbidden to be disclosed, (c) not part of the records, and/or (d) written by someone other than one of our treatment providers. Denial of requests will be in writing and must state the reasons for the denial. They will 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 Smarter Therapy approves your request, we will make the change(s) to your PHI. Additionally, we will tell you that the changes have been made and will advise all others who need to know about the change(s).

F. The Right to Get This Notice by Email. You have the right to get this notice by email. You have the right to request a paper copy of it as well.

V. HOW TO COMPLAIN ABOUT OUR PRIVACY PRACTICES

If, in your opinion, Smarter Therapy has violated your privacy rights, or if you object to a decision we made about access to your PHI, you are entitled to file a complaint with the person listed in 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. If you file a complaint about our privacy practices, we will take no retaliatory action against you.

VI. PERSON TO CONTACT FOR INFORMATION ABOUT THIS NOTICE OR TO COMPLAIN ABOUT OUR PRIVACY PRACTICES

If you have any questions about this notice or any complaints about our privacy practices or would like to know how to file a complaint with the Secretary of the Department of Health and Human Services, please contact Peter Vernig at Peter.Vernig@smartertherapy.me.

VII. NOTIFICATIONS OF BREACHES

In the case of a breach of privacy, Smarter Therapy will notify each affected individual whose unsecured PHI has been compromised. Even if such a breach was caused by a business associate, Smarter Therapy is ultimately responsible for providing the notification directly or via the business associate. If the breach involves more than 500 persons, the Health and Human Services Office of Civil Rights must be notified in accordance with instructions posted on its website. Smarter Therapy 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. In the case where it has been less than 50 years since death, the legal executor of a deceased client of Smarter Therapy must provide written authorization to Smarter Therapy to release the deceased's PHI. With such authorization, any information specified by the executor in the authorization will be released to the parties specified in the same written authorization.

IX. Individuals' Right to Restrict Disclosures; Right of Access

Federal law requires Smarter Therapy to restrict the disclosure of PHI about you, the client, to a health plan, upon request, if the disclosure is not for the purpose of carrying out payment or healthcare operations and is not otherwise required by law. PHI must pertain solely to a healthcare item or service for which you have paid the covered entity in full. Smarter Therapy must also provide you, the client, a copy of PHI, when requested, in electronic form. The electronic format must be provided to you if it is readily producible. Smarter Therapy must provide you only with an electronic copy of your PHI, not direct access to the electronic health record system. You have the right to direct Smarter Therapy to transmit an electronic copy of PHI to an entity or person designated by you. Fees charged by Smarter Therapy for handling and reproduction of PHI must be reasonable and cost-based and identify separately the labor for copying PHI (if any).

X. NPP

Most uses and disclosures of psychotherapy notes, marketing disclosures, and/or sale of PHI do require prior authorization by you.

XI. EFFECTIVE DATE OF THIS NOTICE

This notice went into effect on June 15, 2018.