



## OMNIBUS Rule HIPAA NOTICE OF PRIVACY PRACTICES

**THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION UNDER THE HIPAA OMNIBUS RULE OF 2013.**

### **PLEASE REVIEW IT CAREFULLY**

For purposes of this Notice “us” “we” and “our” refers to the Name of this practice, Michael P. Giunta, PsyD and “you” or “your” refers to my patients (or their legal representatives as determined in accordance with state informed consent law). When you receive healthcare services from me, I will obtain access to your medical information (i.e. your health history). I am committed to maintaining the privacy of your health information and have implemented numerous procedures to ensure that I do so.

The State law and The Federal Health Insurance Portability & Accountability Act of 2013, HIPAA Omnibus Rule, (formally HIPAA 1996 & HI TECH of 2004) require me to maintain the confidentiality of all your healthcare records and other identifiable patient health information (PHI) used by or disclosed to me in any form, whether electronic, on paper, or spoken. HIPAA is a federal law that gives you significant new rights to understand and control how your health information is used. Federal HIPAA Omnibus Rule and state law provide penalties for covered entities, business associates, and their subcontractors and records owners, respectively that misuse or improperly disclose PHI.

Starting April 14, 2003, HIPAA requires me to provide you with the Notice of my legal duties and the privacy practices I am required to follow when you first come into my office for healthcare services. If you have any questions about this Notice, please let me know.

### **RULES ON HOW I MAY USE AND DISCLOSE YOUR PROTECTED HEALTH INFORMATION**

Under the law, I must have your signature on a written, dated Consent Form and/or an Authorization Form of Acknowledgement of this Notice, before I will use or disclose your PHI for certain purposes as detailed in the rules below.

**Documentation** – You will be asked to sign an Authorization/Acknowledgement form when you receive this Notice of Privacy Practices. If you did not sign such a form or need a copy of the one you signed, please let me know. You may take back or revoke your consent or authorization at any time (unless I already have acted based on it) by submitting a Revocation Form in writing to me at my address listed above. Your revocation will take effect when I actually receive it. I cannot give it retroactive effect, so it will not affect any use or disclosure that occurred in my reliance on your Consent or Authorization prior to revocation (i.e. if after I provide services to you, you revoke your authorization/acknowledgement in order to prevent me billing or collecting for those services, your revocation will have no effect because I relied on your authorization/acknowledgement to provide services before you revoked it).

**General Rule** – If you do not sign my authorization/acknowledgement form or if you revoke it, as a general rule (subject to exceptions described below under “Healthcare Treatment, Payment and Operations Rule” and



“Special Rules”), I cannot in any manner use or disclose to anyone (excluding you, but including payers and Business Associates) your PHI or any other information in your medical record. By law, I am unable to submit claims to payers under assignment of benefits without your signature on our authorization/acknowledgment form. You will however be able to restrict disclosures to your insurance carrier for services for which you wish to pay “out of pocket” under the new Omnibus Rule. I will not condition treatment on you signing an authorization/acknowledgement, but I may be forced to decline you as a new patient or discontinue you as an active patient if you choose not to sign the authorization/acknowledgement or revoke it.

### **Healthcare Treatment, Payment and Operations Rule**

With your signed consent, I may use or disclose your PHI in order:

- To provide you with or coordinate health-care treatment and services. For example, I may review your health history form to form a diagnosis and treatment plan, consult with other doctors about your care, delegate tasks to ancillary staff, call in prescriptions to your pharmacy, disclose needed information to your family or others so they may assist you with home care, arrange appointments with other health-care providers, schedule lab work for you, etc.
- To bill or collect payment from you, an insurance company, a managed-care organization, a health benefits plan or another third party. For example, I may need to verify your insurance coverage, submit your PHI on claim forms in order to get reimbursed for my services, or obtain pre-treatment estimates or prior authorizations from your health plan; remember, you will be able to restrict disclosures to your insurance carrier for services for which you wish to pay “out of pocket” under this new Omnibus Rule.
- To run my office, assess the quality of care my patients receive and provide you with customer service. For example, to improve efficiency and reduce costs associated with missed appointments, I may contact you by telephone, mail or otherwise remind you of scheduled appointments, I may leave messages with whomever answers your telephone or email to contact me (but I will not give out detailed PHI), I may call you by name from the waiting room, I may ask you to put your name on a sign-in sheet, (I will cover your name just after checking you in), I may tell you about or recommend health-related products and complementary or alternative treatments that may interest you. If you prefer that I not contact you with appointment reminders or information about treatment alternatives or health-related products and services, please notify me in writing at my address listed above and I will not use or disclose your PHI for these purposes.
- New HIPAA Omnibus Rule does not require that I provide the above notice regarding Appointment Reminders, Treatment Information or Health Benefits, but I am including these as a courtesy so you understand my business practices with regards to your (PHI) protected health information.

Additionally you should be made aware of these protection laws on your behalf, under the new HIPAA Omnibus Rule:

That **Health Insurance plans** that underwrite cannot use or disclose genetic information for underwriting purposes (this excludes certain long-term care plans). Health plans that post their NOPPs on their web sites must post these Omnibus Rule changes on their sites by the effective date of the Omnibus Rule, as well as notify you by US Mail by the Omnibus Rules effective date. Plans that do not post their NOPPs on their Web sites must provide you information about Omnibus Rule changes within 60 days of these federal revisions.

**Psychotherapy Notes** maintained by the healthcare provider, must state in their NOPPs that they can allow “use and disclosure” of such notes only with your written authorization.



## Special Rules

Notwithstanding anything else contained in this Notice, only in accordance with applicable HOPAA Omnibus Rule, and under strictly limited circumstances, I may use or disclose your PHI without your permission, consent or authorization for the following purposes:

- When required under federal, state or local law
- When necessary in emergencies to prevent a serious threat to your health and safety or the health and safety of other persons
- When necessary for public health reasons (i.e. prevention or control of disease, injury or disability, reporting information such as adverse reactions to anesthesia, ineffective or dangerous medications or products, suspected abuse, neglect or exploitation of children, disabled adults or the elderly, or domestic violence)
- For federal or state government health-care oversight activities (i.e. civil rights laws, fraud and abuse investigations, audits, investigations, inspections, licensure or permitting, government programs, etc.)
- For judicial and administrative proceedings and law enforcement purposes (i.e. in response to a warrant, subpoena or court order, by providing PHI to coroners, medical examiners and funeral directors to locate missing persons, identify deceased persons or determine cause of death)
- For intelligence, counterintelligence or other national security purposes (i.e. Veterans Affairs, U.S. military command, other government authorities or foreign military authorities may require us to release PHI about you)
- For organ and tissue donation (i.e. if you are an organ donor, I may release your PHI to organizations that handle organ, eye or tissue procurement, donation and transplantation)
- For research projects approved by an Institutional Review Board or a privacy board to ensure confidentiality (i.e. if the researcher will have access to your PHI because involved in your clinical care, we will ask you to sign an authorization)
- To create a collection of information that is "de-identified" (i.e. it does not personally identify you by name, distinguishing marks or otherwise and no longer can be connected to you)
- To family members, friends and others, but only if you are present and verbally give permission. I will give you an opportunity to object and if you do not, I will reasonably assume, based on my professional judgment and the surrounding circumstances, that you do not object (i.e. you bring someone with you into the doctors office or group room for therapy session when we are discussing your PHI); I reasonably infer that it is in your best interest (i.e. to allow someone to pick up your records because they knew you were my patient and you asked them in writing with your signature to do so); or it is an emergency situation involving you or another person because you are incapable of doing so or you cannot consent to the other person's care because, after a reasonable attempt, I have been unable to locate you. In these emergency situations I may, based on my professional judgment and the surrounding circumstances, determine that disclosure is in the best interests of you or the other person, in which case I will disclose PHI, but only as it pertains to the care being provided and I will notify you of the disclosure as soon as possible after the care is completed. **As per HIPAA law 164.512 (j) (i)...(A) is necessary to prevent or lessen a serious or imminent threat to the health and safety of a person or the public and (B) Is to person or persons reasonably able to prevent or lessen that threat.**



### **Minimum Necessary Rule**

My staff will not use or access your PHI unless it is necessary to do their jobs (i.e. doctors uninformed in your care will not access your PHI; ancillary clinical staff caring for you will not access your billing information; billing staff will not access your PHI except as needed to complete the claim form for the latest visit; janitorial staff will not access your PHI). All of my team members are trained in HIPAA Privacy Rules and sign strict Confidentiality Contracts with regards to protecting and keeping private your PHI. So do my Business Associates and their Subcontractors. Know that your PHI is protected several layers deep with regards to our business relations. Also, I disclose to others outside our staff, only as much of your PHI as is necessary to accomplish that recipient's lawful purposes. Still in certain cases, I may use and disclose the entire contents of your medical record:

- To you (and your legal representatives as stated above) and anyone else you list on a Consent or Authorization to receive a copy of your records
- To health-care providers for treatment purposes (i.e. making diagnosis and treatment decisions or agreeing with prior recommendations in the medical record)
- To the U.S. Department of Health and Human Services (i.e. in connection with a HIPAA complaint)
- To others as required under federal or state law

In accordance with HIPAA law, I presume that requests for disclosure of PHI from another Covered Entity (as defined in HIPAA) are for the minimum necessary amount of PHI to accomplish the requestor's purpose. I will individually review unusual or non-recurring requests for PHI to determine the minimum necessary amount of PHI and disclose only that. For non-routine requests or disclosures, I will make a minimum necessary determination based on, but not limited to, the following factors:

- The amount of information being disclosed
- The number of individuals or entities to whom the information is being disclosed
- The importance of the use or disclosure
- The likelihood of further disclosure
- Whether the same result could be achieved with de-identified information
- The technology available to protect confidentiality of the information
- The cost to implement administrative, technical and security procedures to protect confidentiality

If I believe that a request from others for disclosure of your entire medical record is unnecessary, I will ask the requestor to document why this is needed, retain that documentation and make it available to you upon request.

### **Incidental Disclosure Rule**

I will take reasonable administrative, technical and security safeguards to ensure the privacy of your PHI when I use or disclose it (i.e. I shred all paper containing PHI, require employees to speak with privacy precautions when discussing PHI with you, I use computer passwords and change them periodically, I use firewall and router protection to the federal standard, I back up our PHI data off-site and encrypted to federal standard, I do not allow unauthorized access to areas where PHI is stored or filed and/or I have any unsupervised business associates sign Business Associate Confidentiality Agreements). However, in the event that there is a breach in protecting your PHI, I will follow Federal Guide lines to HIPAA Omnibus Rule Standard to first evaluate the breach situation using the Omnibus Rule, 4-Factor Formula for Breach



Assessment. Then I will document the situation, retain copies of the situation on file, and report all breaches (other than low probability as prescribed by the Omnibus Rule) to the US Department of Health and Human Services at:

<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brinstruction.html>

I will also make proper notification to you and any other parties of significance as required by HIPAA law.

### **Business Associate Rule**

Business Associates and other third parties (if any) that receive your PHI from me will be prohibited from re-disclosing it unless required to do so by law or you give prior express written consent to the re-disclosure. Nothing in my Business Associate agreement will allow my Business Associate to violate this re-disclosure prohibition. Under Omnibus Rule, Business Associates will sign a strict confidentiality agreement binding them to keep your PHI protected and report any compromise of such information to me, you and the United States Department of Health and Human Services, as well as other required entities. My Business Associates will also follow Omnibus Rule and have any of their Subcontractors that may directly or indirectly have contact with your PHI, sign Confidentiality Agreements to Federal Omnibus Standard.

### **Super-confidential Information Rule**

If I have PHI about you regarding communicable diseases, disease testing, alcohol or substance abuse diagnosis and treatment, or psychotherapy and mental health records (super-confidential information under the law), I will not disclose it under the General or Health-care Treatment, Payment and Operations Rules (see Above) without your first signing and properly completing my Consent form (i.e. you specifically must initial the type of super-confidential information I are allowed to disclose). If you do not specifically authorize disclosure by initialing the super-confidential information, I will not disclose it unless authorized under the Special Rules (see above) (i.e. we are required by law to disclose it). If I disclose super-confidential information (either because you have initialed the consent form or the Special Rules authorize me to do so), I will comply with state and federal law that requires me to warn the recipient in writing that re-disclosure is prohibited.

### **Changes to Privacy Policies Rule**

I reserve the right to change my privacy practices (by changing the terms of this Notice) at any time as authorized by law. The changes will be effective immediately upon me making them. They will apply to all PHI I create or receive in the future, as well as to all PHI created or received by me in the past (i.e. to PHI about you that I had before the changes took effect). If I make changes, I will post the changed Notice, along with its effective date, in my office. Also, upon request, you will be given a copy of my current Notice.

### **Authorization Rule**

I will not use or disclose your PHI for any purpose or to any person other than as stated in the rules above without your signature on our specifically worded, written Authorization/Acknowledgement form (not a Consent or an Acknowledgement). If I need your Authorization, I must obtain it via a specific Authorization Form, which may be separate from any Authorization/Acknowledgement I may have obtained from you. I will not condition your treatment here on whether you sign the Authorization (or not). The disclosure or sale of



your PHI without authorization is prohibited. Under the new HIPAA Omnibus Rule, this would exclude disclosures for public health purposes, for treatment/payment for health care, for the sale, transfer, merger, or consolidation of all or part of this facility and for related due diligence, to any of our Business Associates, in connection with the business associate's performance of activities for this facility, to a patient or beneficiary upon request, and as required by law.

## **YOUR RIGHTS REGARDING YOUR PROTECTED HEALTH INFORMATION**

### **To Inspect and Copy**

You have the right to see and get a copy of your PHI including, but not limited to, medical and billing records by submitting a written request. Original records will not leave the premises, will be available for inspection only during our regular business hours, and only if I am present at all times. You may ask me to give you the copies in a format other than photocopies (and I will do so unless we determine that it is impractical) or ask me to prepare a summary in lieu of the copies. I may charge you a fee not to exceed state law to recover my costs (including postage, supplies, and staff time as applicable, but excluding staff time for search and retrieval) to duplicate or summarize your PHI. I will not condition release of the copies on summary of payment of your outstanding balance for professional services if you have one. I will comply with Federal Law to provide your PHI in an electronic format within the 30 days, to Federal specification, when you provide me with proper written request. Paper copy will also be made available. I will respond to requests in a timely manner, without delay for legal review, or, in less than thirty days if submitted in writing, and in ten business days or less if malpractice litigation or pre-suit production is involved. I may deny your request in certain limited circumstances (i.e. I do not have the PHI, it came from a confidential source, etc.). If I deny your request, you may ask for a review of that decision. If required by law, I will select a licensed health-care professional (other than the person who denied your request initially) to review the denial and I will follow his or her decision. If I select a licensed health-care professional who is not affiliated with me, I will ensure a Business Associate Agreement is executed that prevents re-disclosure of your PHI without your consent by that outside professional.

### **To Request Amendment/Correction**

If another doctor involved in your care tells me in writing to change your PHI, I will do so as expeditiously as possible upon receipt of the changes and will send you written confirmation that I have made the changes. If you think PHI I have about you is incorrect, or that something important is missing from your records, you may ask me to amend or correct it (so long as I have it) by submitting a **"Request for Amendment/Correction"** form. I will act on your request within 30 days from receipt but I may extend our response time (within the 30-day period) no more than once and by no more than 30 days, or as per Federal Law allowances, in which case I will notify you in writing why and when we will be able to respond. If I grant your request, I will let you know within five business days, make the changes by noting (not deleting) what is incorrect or incomplete and adding to it the changed language, and send the changes within 5 business to persons you ask me to and persons I know may rely on incorrect or incomplete PHI to your detriment (or already have). I may deny your request under certain circumstance (i.e. it is not in writing, it does not give a reason why you want the change, I did not create the PHI you want changed (and the entity that did can be contacted). If I deny your request, I will (in writing within 5 business days) tell you why and how to file a complaint with me if you disagree, that you may submit a written disagreement with my denial (and I may submit a written rebuttal and give you a copy of it), that you may ask me to disclose your initial request and my denial when I make future disclosure



of PHI pertaining to your request, and that you may complain to me and the U.S. Department of Health and Human Services.

### **To an Accounting of Disclosures**

You may ask me for a list of those who got your PHI from me by submitting a **“Request for Accounting of Disclosures”** form to me. The list will not cover some disclosures (i.e. PHI given to you, given to your legal representative, given to others for treatment, payment or health-care-operations purposes). Your request must state in what form you want the list (i.e. paper or electronically) and the time period you want me to cover, which may be up to but not more than the last six years (excluding dates before April 14, 2003. If you ask me for this list more than once in a 12-month period, I may charge you a reasonable, cost-based fee to respond, in which case I will tell you the cost before I incur it and let you choose if you want to withdraw or modify your request to avoid the cost.

### **To Request Restrictions**

You may ask me to limit how your PHI is used and disclosed (i.e. in addition to our rules as set forth in this Notice) by submitting a written **“Request for Restrictions on Use, Disclosure”** form. If I agree to these additional limitations, I will follow them except in an emergency where I will not have time to check for limitations. Also, in some circumstances I may be unable to grant your request (i.e. I am required by law to use or disclose your PHI in a manner that you want restricted, you signed an Authorization form, which you may revoke, that allows me to use or disclose your PHI in the manner you want restricted; in an emergency).

### **To Request Alternative Communications**

You may ask me to communicate with you in a different way or at a different place by submitting a written **“Request for Alternative Communication”** form. I will not ask you why and I will accommodate all reasonable requests (which may include: to send appointment reminders in closed envelopes rather than by postcards, to send your PHI to a post office box instead of your home address, to communicate with you at a telephone number other than your home number). You must tell me the alternative means or location you want me to use and explain to my satisfaction how payment to me will be made if I communicate with you as you request.

### **Faxing and Emailing Rule**

When you request me to fax or email your PHI as an alternative communication, I may agree to do so, but only after I review that request. For this communication, I will confirm that the fax number or email address is correct before sending the message and ensure that the intended recipient has sole access to the fax machine or computer before sending the message; confirm receipt, locate our fax machine or computer in a secure location so unauthorized access and viewing is prevented; use a fax cover sheet so the PHI is not the first page to print out (because unauthorized persons may view the top page); and attach an appropriate notice to the message. My emails are all encrypted per Federal Standard for your protection.

### **Practice Transition Rule**

If I sell my practice, my patient records (including but not limited to your PHI) may be disclosed and physical custody may be transferred to the purchasing healthcare provider, but only in accordance with the law. The



healthcare provider who is the new records owner will be solely responsible for ensuring privacy of your PHI after the transfer and you agree that I will have no responsibility for (or duty associated with) transferred records. If I should die, my patient records (including but not limited to you PHI) must be transferred to another healthcare provider within 90 days to comply with State & Federal Laws. Before I transfer records in either of these two situations, I will obtain a Business Associate Agreement from the purchaser and review your PHI for super-confidential information, which will not be transferred without your express written authorization (indicated by your initials on our Consent Form).

### **Inactive Patient Records**

I will retain your records for seven years from your last treatment or examination, at which point you will become an inactive patient in my practice and I may destroy your records at that time (but records of inactive minor patients will not be destroyed until they reach three years past the age of majority). I will do so only in accordance with the law.

### **Collections**

If I use or disclose your PHI for collections purposes, I will do so only in accordance with the law.

### **To Complain or Get More Information**

I will follow the rules as set forth in this Notice. If you want more information or if you believe your privacy rights have been violated (i.e. you disagree with a decision about inspection/copying, amendment/correction/accounting of disclosures/restrictions or alternative communications) I want to make it right. I never will penalize you for filing a complaint. To do so please file a formal, written complaint within 180 days with:

The U.S. Department of Health & Human Services  
Office of Civil Rights  
200 Independence Ave., S.W.  
Washington, DC 20201  
(877) 696-6775

Or, submit a written complaint form to me at the following address:

Office Name:  
PsyClear, LLC

Office Address:  
5055 West Park Boulevard, Suite 400  
Plano, TX 75093

Office Phone:  
(972) 762-1602

You may get your "**HIPAA Complaint**" form by requesting one directly from me.

These privacy practices are in accordance with the original HIPAA enforcement effective April 14, 2003, and undated to Omnibus Rule effective March 26, 2013 and will remain in effect until I replace them as specified by Federal and/or State Law.