NOTICE OF THERAPISTS' POLICIES AND PRACTICES TO PROTECT THE PRIVACY OF YOUR HEALTH INFORMATION

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 it carefully.

Central DuPage Pastoral Counseling Center (CDPCC), its therapists, office staff, Board and associated contractors are in full agreement and compliance with the Health Insurance Portability and Accountability Act ("HIPAA") Privacy Rule (45 C.F.R. parts 160 and 164.

All HIPAA policies and procedures are described in this document.

Use and Disclosure of PHI

Protected Health Information ("PHI") may not be used or disclosed in violation of the Health Insurance Portability and Accountability Ace ("HIPAA") Privacy Rule (45 C.F.R. parts 160 and164) (hereinafter, the "Privacy Rule") or in violation of state law.

CDPCC is permitted, but not mandated, under the Privacy Rule to use and disclose PHI without client consent or authorization in limited circumstances. However, state or federal law may supersede, limit or prohibit these uses and disclosures.

Under the Privacy Rule, these permitted uses and disclosures include those made:

- To the client
- For treatment, payment or health care operations purposes, or
- As authorized by the client.

Additional permitted uses and disclosures include those related to or made pursuant to:

- Reporting on victims of domestic violence, abuse or neglect as required by law
- Court orders
- Workers' compensation laws
- Serious threats to health or safety
- Government oversight (including disclosures to a public health authority, coroner or medical examiner, military or veterans' affairs agencies, an agency for national security purposes, law enforcement)
- Health research.

CDPCC will not use or disclose PHI in ways that would be in violation of the Privacy Rule or state law. Instead, we will use and disclose PHI as permitted by the Privacy Rule and in accordance with state or other law. In using or disclosing PHI, we meet the Privacy Rule's "minimum necessary requirement," as appropriate.

Procedure Guidance

The procedures needed to protect PHI are included, consistent with this policy, in the next section, Minimum Necessary Disclosure.

Use and Disclosure of PHI—Minimum Necessary Requirement

When using, disclosing or requesting PHI, we make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request. We recognize that the requirement also applies to covered entities that request our clients' records and require that such entities meet the standard, as required by law.

The minimum necessary requirement does not apply to disclosures for treatment purposes or when therapists share information with a client. The requirement does not apply for uses and disclosures when client authorization is given. It does not apply for uses and disclosures as required by law or to uses and disclosures that are required for compliance with the Privacy Rule.

Procedure Guidance

- **Access to PHI:** Administrative Assistant, financial administrator, accountant, publicity manager, therapists and independent contractors with contracts.
- **Ensuring compliance with the Minimum Necessary Requirement:** Only that information listed on the CDPCC Authorization to Release Information will be disclosed. For example, financial information will not be disclosed if the request is only for the dates of service rendered.
- **Criteria to limit disclosure of PHI:** Disclosure of PHI is limited to that reasonable necessary to accomplish the purpose for which the request is made. *Each release will specify the content, duration, purpose and liability of releasing information (see CDPCC release of information). Non-routine disclosure requests require review on an individual basis in accordance with the criteria.*
- CDPCC may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose, if the PHI is requested by a member of my staff or business associate.
- CDPCC will not use, disclose, or request entire psychotherapy notes and PHI record, except when the entire PHI and psychotherapists notes record is justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request.

Use and Disclosure of PHI: Psychotherapy Notes Authorization

While a client may authorize the release of any of his PHI, the Privacy Rule specifically requires patient authorization for the release of Psychotherapy Notes. Psychotherapy notes authorization is different from client consent or authorization of other PHI, because a health plan or other covered entity may not condition treatment, payment, enrollment or eligibility for benefits on obtaining such authorization.

As defined by the Privacy Rule, "Psychotherapy Notes" means "notes recorded (in any medium) by a mental health professional, documenting or analyzing the contents of conversation during a private counseling session or group, joint, or family counseling session and that are separate from the rest of the individual's medical record." The term usually "excludes medication prescription and monitoring, counseling session start and stop times. the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis and progress to date." But since CDPCC is an outpatient-counseling center, psychotherapy notes will include this information.

CDPCC abides by the Psychotherapy Notes authorization requirement of the Privacy Rule, unless otherwise required by law. In addition, authorization is not required in the following circumstances—

- For my use for treatment
- For use or disclosure in supervised training programs where trainees learn to practice counseling
- To defend myself in a legal action brought by the patient, who is the subject of the PHI

- For purposes of HHS in determining my compliance with the Privacy Rule
- By a health oversight agency for a lawful purpose related to oversight of my practice
- To a coroner of medical examiner
- In instances of permissible disclosure related to a serious or imminent threat to the health or safety of a person or the public.

CDPCC recognizes that a client may revoke an authorization at any time in writing, except to the extent that we have, or another entity has, taken action in response to the authorization.

Procedure Guidance

The following provides guidance for writing procedures to meet the Psychotherapy Notes authorization requirement.

- Psychotherapy notes will be kept locked, when not in use, in therapist's offices or in the office file drawer for therapists who do not have locked files. Files are also kept locked-up in storage at our Public Storage area.
- **Procedures for the use of Authorization of Release of Information:** Authorization for release of information is used when the therapist or client deems it beneficial for the therapeutic process or in some way would benefit either party. For example, a client may desire reimbursement and may request a release to the therapist to verify the dates of counseling and diagnosis. Another example would be when counseling is beginning and the client and therapist both agree it could be beneficial for the therapist to talk with others (e.g. pastor, former therapist, psychiatrist or family doctor) to assist therapy. Clients will fill out forms (see attachment) completely, and will be given a copy. The therapist will then contact the individual (phone, fax or e-mail) and note on the form or psychotherapy notes when contact was made. The therapist will keep the release of information with the psychotherapy notes. If the client refuses to sign the release, the therapist cannot release the information (with legal exceptions of homicide, suicide child abuse, elder abuse, defense in court, supervision or peer consultation).
- Allows the client of his or her right to revoke the authorization in writing and a description of how to revoke. Furthermore, a reference to revocation is in the notice provided to the patient.
- Indicates the authorization will not be used as a condition of treatment, payment, enrollment or eligibility for benefits.
- Admits the potential information to be re-disclosed will no longer protected by the rule.
- Describes specific and information to be disclosed and its purpose (e.g. counseling).
- Specifically identifies the person making the request.
- Specifically identifies the person to whom the information is requested.
- Has an expiration date that relates to the individual or the purpose of the use or disclosure.
- A signature (or if signed by a personal representative, a description of authority to sign) and date.
- Witness verifying the client is authorized to request information.
- Note in your procedures that clients are provided a copy of the authorization.

CDPCC's Authorization

- Must be completely filled out with no false information.
- May not be combined with another patient authorization.
- Must be written in plain language

Patient Rights—Notice

As required under the Privacy Rule, and in accordance with state law, we provide notice to clients of the uses and disclosures that may be made regarding their PHI and my duties and client rights with respect to notice. We make a good faith effort to obtain written acknowledgment that clients receive this notice.

- **The privacy officer at CDPCC is the Systems Administrator.** She may be reached at 630-752-9750, x 18. Software security is the responsibility of the Systems Administrator. External security is the responsibility of the Executive Director.

- The process to secure a signed Notice Form from clients is as follows:

Therapists or office staff will offer notice to my client on the first date of treatment. In an emergency situation, we provide notice "as soon as reasonably practicable."

- Except in emergency situations, CDPCC will make a good faith effort to obtain from a client written acknowledgement of receipt of the notice. If the client refuses or is unable to acknowledge receipt of notice, staff will document why acknowledgement was not obtained.

- CDPCC staff will promptly revise and distribute notice whenever there is a material change to uses and disclosures, client's rights, our legal duties, or other privacy practices stated in the notice.

- CDPCC staff will make notice available in our office for clients to take with them and post the notice in a clear and prominent location.

- This notice will be prominently posted and available electronically. Notice may be made available by e-mail if agreed to by the client.

Client Rights: Restrictions and Confidential Communications

The Privacy Rule permits clients *to request* restrictions on the use and disclosure of PHI for treatment, payment, and health care operations or to family members. While the staff is not required to agree to such restrictions, we will attempt to accommodate a reasonable request.

Once we have agreed to a restriction, we may not violate the restriction; however, restricted PHI may be provided to another health care provider in an emergency treatment situation.

A restriction is not effective to prevent uses and disclosures when a client request access to his or her records or requests an accounting of disclosures. A restriction is not effective for any uses and disclosure authorized by the client or for any required or permitted uses recognized by law.

The Privacy Rule also permits clients *to request* receiving communications from us through alternative means or at alternative locations. As required by the Privacy Rule, we will accommodate all reasonable requests.

Restrictions to use and disclosure of information:

Although we are not required to accommodate requests for restriction of information, once we agree, we will not violate the restriction. (For example, postal inspectors names will not be included in PHI, instead a number is used.) Restrictions may be requested by contract (e.g. postal inspectors), in writing or verbally. If verbally, it will be noted in psychotherapy notes, and if needed, in the PHI.

The following are limitations to restrictions:

- Restricted PHI may be provided to another health care provider in an emergency treatment situation.
- A restriction is not effective to prevent uses and disclosures when a client requests access to his or her records or request an accounting of disclosures.
- A restriction is not effective for any uses and disclosures authorized by the client, or for any required or permitted uses recognized by law.
- Clients may *request* receiving communications through alternative means or at alternative locations and we will accommodate a reasonable request.
- Termination of restrictions: Client's may terminate restrictions in writing.

Client Rights: Access to and Amendment of Records

In accordance with state law, the Privacy Rule, and other federal law, clients have access to and may obtain a copy of the records that we maintain. Clients are also permitted to amend their records in accordance with such law.

Client Rights—Accounting of Disclosures

We will provide our clients with an accounting of disclosures upon request, for disclosures made up to six years prior to the date of the request. We do not have to provide an accounting for disclosures made for treatment, payment, or health care operations purposes, or pursuant to patient authorization. We also do not provide an accounting for disclosure made for national security purposes, to correctional institutions or law enforcement officers or that occurred prior to April 14, 2003.

Procedure Guidance

The following provides guidance for writing procedures to meet the accounting of disclosures.

- Clients may request an account of disclosures by submitting a request in writing. The request must state the time period for which the accounting is to be supplied, which may not be longer than six years. The request states whether the client wishes to be sent the accounting via postal or electronic mail.

Tracking and processing requests for disclosures: Request for PHI disclaimer will be tracked by the financial administrator and filed in the office. Requests for disclosures of psychotherapy notes will be kept and tracked by each therapist.

- Each disclosure in the accounting—the date, name and address (if known) of the entity that received the PHI, a brief description of the PHI disclosed, and a brief statement of the purpose of the disclosure that "reasonably informs" the patient of the basis of the disclosure—is provided. In lieu of the statement of purpose, a copy of a written request for disclosure for any of the permitted disclosures in the Privacy Rule or by HHS for compliance purposes may be provided.

- If multiple disclosures have been made for a single purpose for various permitted disclosures under the Privacy Rule or HHS for compliance purposes, the accounting also includes the frequency, periodicity, or number of disclosures made and the date of the last disclosure.

- We will provide an accounting within 60 days of a request, and that we may extend this limit for up to 30 more days by providing the client with a written statement of the reasons for the delay and the date that the accounting will be provided.

- The first accounting is provided without charge. For each subsequent request we may charge a reasonable, cost-based fee. We will inform the client of this fee and provide the client the option to withdraw or modify his or her request.

- We must temporarily suspend providing an accounting of disclosures at the request of a health-oversight agency or law enforcement official for a time specified by such agency or official. The agency or official should provide a written statement that such an accounting would be "reasonably likely to impede" activities and the amount of time needed for suspension. However, the agency or official statement may be made orally, in which case we will document the statement, temporarily suspend the accounting, and limit the temporary suspension to no longer than 30 days, unless a written statement is submitted.

Business Associates

We rely on certain persons or other entities, who or which are not my employees, to provide services on my behalf. These persons or entities may include accountants, practicum students, lawyers, billing services and collection agencies. Where these persons or entities perform services, which require the disclosure of individually identifiable health information, they are considered under the Privacy Rule to be my business associates.

We enter into a written agreement with each of my business associates to obtain satisfactory assurance that the business associate will safeguard the privacy of the PHI of my clients. We rely on our business associates to abide by the contract but will take reasonable steps to remedy any breaches of the agreement that we become aware of.

The agreement establishes the uses and disclosures of PHI to the business associate and prohibits use and further disclosure, except to the extent that information is needed for the proper management and administration of the business associate or to carry out its legal responsibilities. The contract also provides that the business associate will:

- Use appropriate safeguards to prevent inappropriate use and disclosure, other than provided for in the contract,
- Report any use or disclosure not provided for by its contract of which it becomes aware,
- Ensure that subcontractors agree to the contract's conditions and restrictions,
- Make records available to clients for inspection and amendment and incorporate amendments as required under the client access and amendment of records requirements of the rule,
- Make information available for an accounting of disclosures,

- Make its internal practices, books and records relating to the use and disclosure of PHI available to HHS or compliance reviews, and
- At contract termination, after seven years, return or destroy all PHI.

If we know of a pattern of activity or practice of a business associate that constitutes a material breach or violation of the agreement, we will take reasonable steps to cure the breach. If such steps are unsuccessful, we will terminate the contract, or if termination is not feasible, we will report the problem to HHS.

Administrative Requirement: Privacy Officer

Policy

The privacy officer, CDPCC's financial administrator, is responsible for the development and implementation of the policies and procedures to protect PHI, in accordance with the requirements of the Privacy Rule. As the contact person for our practice, the privacy officer receives complaints and fulfills obligations as set out in notice to clients.

The privacy officer's job description is as follows:

The Privacy Officer is responsible for all ongoing activities related to the development, implementation, maintenance of, and adherence to the practice's policies and procedures covering the privacy of and access to client's PHI in compliance with federal and state laws.

Reporting Relationship: Reports to Executive Director and Director of Counseling Services

Qualifications: Current knowledge of applicable federal and state privacy laws.

The *duties* of the Privacy Officer are as follows:

1. Develops, implements and maintains the practice's policies and procedures for protecting individually identifiable health information.
2. Conducts ongoing compliance monitoring activities.
3. Works to develop and maintain appropriate consent forms, authorization forms, notice of privacy practices, business associate contracts and other documents required under the HIPAA Privacy Rule.
4. Ensures compliance with the practice's privacy policies and procedures and recommends sanctions to the Executive Director for failure to comply with privacy policies for all members of the practice's workforce and business associates.
5. Establishes and administers a process for receiving, documenting, tracking, investigating and taking action on all complaints concerning the practices privacy policies and procedures.
6. Performs all aspects of privacy training for the practice and other appropriate parties. Conducts activities to foster information privacy awareness with the practice and related entities.
7. Ensures alignment between security and privacy practices.
8. Cooperates with the Office of Civil Rights and other legal entities in any compliance reviews or investigations.
9. Ensures the administrative assistant and publicity coordinator and any other office workers protect PHI.

Administrative Requirement: Training

The Privacy Officer will train all members of the staff, as necessary and appropriate to carry out their functions, on the policies and procedures to protect PHI. This Officer will have discretion to determine the nature and method of training necessary to ensure that staff appropriately protects the privacy of our clients' PHI.

- The Privacy Officer will train all members of the staff, as necessary and appropriate to carry out their functions, on the policies and procedures to protect PHI.
- New members of your staff will be trained one month after beginning work. Furthermore, staff will be trained within a month of any changes made in the Privacy Rules.

The Director or Counseling Services will ensure all therapists protect psychotherapy notes.

Administrative Requirement—Safeguards

To protect the privacy of the PHI of my clients, we have in place appropriate administrative, technical and physical safeguards, in accordance with the Privacy Rule.

- All computers have access to PHI will be password-protected and the password(s) will be kept by the Privacy Officer.
- All correspondence with names of clients will be locked in file cabinets in the office (when not in use) or locked in external storage.
- Only the Privacy Officer, Executive Director and any temporary financial administrator will have password to Privacy Officer's computer.
- When CDPCC is vacant, all windows and doors will be locked and the alarm will be on.
- Violations to security (opened windows, unlocked file cabinets, unlocked doors) will be reported the External Security Officer and reported to the Executive Director. Any unauthorized computer entry will be reported to the Privacy Office.
- The Executive Director will determine the course of action needed: either drop the issue, investigate it further, report to police and/or discipline action.

The following provides a sample procedure for a compliant process:

1. Clients may file privacy complaints by submitting them in one of the following ways:

    a. In person.

    b. By mail, either on the Privacy complaint from or in a letter containing the necessary information.

    All complaints should be mailed to:

    Central DuPage Pastoral Counseling Center
    507A Thornhill Drive, Carol Stream IL 60188

    c. By telephone at 630-752-9750

    d. By fax at 630-752-9768

2. All privacy complaints should be directed to the Executive Director.

3. The complaint must include the following information:

    a. The type of infraction the complaint involves

    b. A detailed description of the privacy issue

    c. The date the incident or problem occurred, if applicable

    d. The mailing/e-mail address where formal response to the complaint may be sent.

    b. The name, address and telephone number of the person making the complaint.

4. When a privacy complaint is filed by a client the following process should be followed:

    a. Acknowledge receipt of the complaint with the individual.

    b. If appropriate, attempt to correct any apparent misunderstanding of the policies and procedures on the client's part; if after clarification, the client does not want to pursue the compliant any further, indicate that "no further action is required." Record the date and time and file under dismissed complaints.

    c. If not dismissed, log the complaint by placing a copy of the complaint form in both the complaint file and in the client's record.

    d. Investigate the complaint by reviewing the circumstances with relevant staff (if applicable).

    e. If it is determined that the complaint is invalid, send a letter to the client stating the reasons the complaint was found invalid. File a copy of the letter and form in an investigated complaints file.

    f. If the investigative findings are unclear, get a second opinion either from your lawyer, the APA Insurance Trust or the APA Practice Organization.

    g. If it is determined that the complaint is valid and involving a required process or an individual's rights, follow the office sanction policy to the extent that an individual is responsible. If the complaint involves compliance with the standards that do not involve a single individual, then begin the process to revise current policies and procedures.

    h. Once an appropriate sanction or action has been taken with respect to a complaint with merit, or if the response will take more than 30 days, send a letter explaining the findings and the associated response or intended response. Document the disposition of the complaint and file the letter and form in an investigated complaints file.

    i. Place a copy of the complaint form in the client's record.

    j. Review both invalid and investigated complaint files periodically, to determine if there are any emerging patterns.

Administrative Requirement: Sanctions

The Executive Director may apply appropriate sanctions or discipline to a member of the staff who fails to comply with the requirements of the Privacy Rule or my policies and procedures. Sanctions do not apply to an individual who is testifying, assisting, participating in an investigation, compliance review or other proceeding. Such disciplines may include but are not limited to warnings, reprimands or dismissal.

Administrative Requirement: Mitigation

Policy

We mitigate, to the extent possible, any harmful effect that we become knowledgeable of regarding our use or disclosure, or our business associate's use or disclosure, of PHI in violation of policies and procedures or the requirements of the Privacy Rule.

For example, if we inadvertently sent the wrong records to an insurer for reimbursement, we would request the records back and inform the client of the error.

Administrative Requirement: Retaliatory Action and Waiver of Rights

We believe that clients should have the right to exercise their rights under the Privacy Rule, we do not take retaliatory action against a client for exercising his or her rights or for bringing a complaint. Or course, we will take legal action to protect ourselves, if we believe that a client undertakes an activity in bad faith.

We will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against a client for exercising a right, filing a complaint or participating in any other allowable process under the Privacy Rule.

We will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against a client or other person for filing an HHS compliance complaint, testifying, assisting, or participating in a compliance review, proceeding, or hearing, under the Administrative Simplification provisions of HIPAA.

We will not require a client to waive his or her rights provided by the Privacy Rule or his or her right to file an HHS compliance complaint as a condition of receiving treatment.

Administrative Requirement: Policies and Procedures

To ensure that we are in compliance with the Privacy Rule, we have implemented policies and procedures to ensure compliance with the privacy rule. We will promptly change our policies and procedures in accord with changes to the Privacy Rule. Notice provided to clients will also be promptly changed to reflect the change in policy and procedure, unless the change does not materially affect the notice. The timing of the change in notice and reliance on the change may depend on the terms for such changes in the notice.

Administrative Requirement: Documentation

We meet applicable state laws and the Privacy Rule's requirements regarding documentation.

Documentation is required throughout the Privacy Rule to demonstrate implementation of certain requirements. These documentation requirements include those specifically related to: notice, authorization, the minimum necessary standard and clients' rights.

- We maintain policies and procedures in written or electronic form.
- All written communication required by the Privacy Rule is maintained (or an electronic copy is maintained) as documentation.
- If an action, activity or designation is required by the Privacy rule to be documented, a written or electronic copy is maintained as documentation.
- Documentation is maintained for a period of six years from the date of creation or the date when it last was in effect, whichever is later.

CDPCC Code of Conduct

All employees and independent contractors will comply with the applicable portions of HIPAA and CDPCC personnel policies. Therapists will also comply with the ethical principles and code of conduct of their respective disciplines.

CDPCC Monitoring System

The following managers will review and report to the Executive Director on a yearly basis at the end of January each year:

Executive Director – Personnel Policies

Director of Counseling Services – CDPCC Counseling Policy & Procedure

Systems Administrator - Privacy Rules and Training; Security audits; HIPAA Policy and Procedures

CDPCC Training System

The Executive Director is responsible for conducting all training for the staff and independent contractors. This training will be carried out according to the monitoring system described above.