Main Line Therapeutics & Wellness

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PATIENT RECORDS PRIVACY POLICIES AND PROCEDURES

ABOUT THIS DOCUMENT

This document presents language and guidance for policies and procedures regarding compliance with the Health Insurance Portability and Accountability Act ("HIPAA") Privacy Rule (45 C.F.R. parts 160 and 164).The Privacy Rule specifically requires policies and procedures concerning the Rule's administrative requirements and "minimum necessary" standard.

A copy of the policies and procedures detailed in this document will be kept in a file in the office.

Use and Disclosure of PHI

Protected Health Information ("PHI") may not be used or disclosed in violation of the Health Insurance Portability and Accountability Act ("HIPAA") Privacy Rule (45 C.F.R. parts 160 and 164) (hereinafter, the "Privacy Rule") or in violation of state law.

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

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

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

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

- Reporting on victims of domestic violence or abuse, 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
- Marketing or fundraising.

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

Use and Disclosure of PHI—Minimum Necessary Requirement

When using, disclosing or requesting PHI, I make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request. I recognize that the requirement also applies to covered entities that request my patients' 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 I share information with a patient. The requirement does not apply for uses and disclosures when patient 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.

Procedures for handing and disclosure of PHI.

- Only therapists associated with MLTW and any administrative staff who might require access to PHI for billing and/or other administrative procedures in accordance with their duties will have access to PHI. Any support staff such as cleaners or other staff members will not have access to PHI except to the extent required by their job descriptions.

- Any disclosure of PHI will be completed only as required by law or ethical requirements or as permitted under HIPPA. Requests for disclosure of PHI may be made by the client (or if under 14-years-of-age) the client's parent or legal guardian. Any client making such a request must complete and submit an "Authorization Form." This form must include, as much as is possible, specific information detailing the PHI that should and/or should not be released. All disclosures will be documented on an "Accounting for Disclosures Form" which will become part of your permanent clinical record.

- When disclosing PHI, efforts will be taken to limit the disclosure of PHI to that information which is "reasonably necessary to accomplish the purpose for which the request is made." Any non-routine requests for disclosure for PHI will be reviewed on an individual basis in accordance with the criteria and requirements set forth by HIPPA.

- When your therapist requests PHI as he or she judges necessary in accordance with your care, he or she will limit that request to information which is "reasonably necessary to accomplish the purpose for which the request is made." Any non-routine request will be reviewed and considered on an individual basis in accordance with the criteria and requirements set forth by HIPPA and any other applicable State or Federal laws.

- I 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 another covered entity, by a public official (who represents that the information requested is the minimum necessary), or by a researcher (with appropriate documentation).

- I 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.

- I will not use, disclose, or request an entire medical record, except when the entire medical 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 patient 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 patient 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 a group, joint, or family counseling session and that are separate from the rest of the individual's medical record." The term "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."

I abide 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 or 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.

I recognize that a patient may revoke an authorization at any time in writing, except to the extent that I have, or another entity has, taken action in reliance on the authorization.

- Psychotherapy Notes are kept separate from other PHI.

- Authorization forms may be signed by the client before, during, or after a therapy session or at any other time as deemed appropriate and mutually agreeable to the client and therapist. Clients may always refuse to sign and authorization form, and no action would ever be taken against a client for such refusal. Any authorization may be revoked in writing by a client at any time by delivering said revocation to the therapist of record. Records of all authorization forms and any revocations are kept as part of the permanent clinical file.

- All authorization form received by outside entities must comply with the following in order to be considered valid by the therapist and therefore acted upon. Clients, at their request, may receive a copy of all authorization forms received.

- A valid authorization:
  - Must be completely filled out with no false information.
  - May not be combined with another patient authorization.
  - Must be written in plain language.
  - Must contain a statement adequate to put the patient on notice of his or her right to revoke the authorization in writing and either exceptions to such right and a description of how to revoke, or a reference to revocation in the notice provided to the patient.
  - Must contain a statement adequate to put the patient on notice of the inability to condition treatment, payment, enrollment, or eligibility for benefits on the authorization.
  - Must contain a statement adequate to put the patient on notice of the potential for information to be re-disclosed and no longer protected by the rule.

  Further, a valid authorization must contain the following information:

  - A description of the information to be used and disclosed that identifies the information in a specific and meaningful fashion.
  - The name or other specific identification of the person(s), or class of persons, authorized to make the requested use and disclosure.
  - The name or other specific identification of the person(s), or class of persons, to whom the requested use and disclosure will be made.
  - A description of each purpose of the requested use or disclosure. The statement "at the request of the individual" is a sufficient description of the purpose when a patient initiates the authorization and does not, or elects not to, provide a statement of the purpose.
  - 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.

Patient Rights—Notice

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

Procedure

The privacy officer at MLTW is Natan Gottesman, Ph.D. Dr. Gottesman can be reached by leaving a voice-mail message at 610-525-6246.

- I provide notice to my patient on the first date of treatment, or in cases of continuing treatment, at the first session scheduled after April 14th, 2003. In an emergency situation, I provide notice "as soon as reasonably practicable." (This first date of treatment timing requirement applies to electronic service delivery, and a patient may request a paper copy of notice when services are electronically delivered.)

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

- I promptly revise and distribute notice whenever there is a material change to uses and disclosures, patient's rights, my legal duties, or other privacy practices stated in the notice.

- I make notice available in my office for patients to take with them and post the notice in a clear and prominent location.

Patient Rights—Restrictions and Confidential Communications

The Privacy Rule permits patients *to request* restrictions on the use and disclosure of PHI for treatment, payment, and health care operations, or to family members. While I am not required to agree to such restrictions, I will attempt to accommodate a reasonable request. Once I have agreed to a restriction, I 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 patient requests access to his or her records or requests an accounting of disclosures. A restriction is not effective for any uses and disclosures authorized by the patient, or for any required or permitted uses recognized by law.

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

Procedure for Requests for Restrictions on Disclosure of Confidential Information

- Requests to restrict the use and disclosure of PHI must be submitted in writing by the client to the therapist of record. The receipt of this request will be noted in the chart by the therapist. The therapist will attempt to comply with any request received, except as such disclosure may be required by law or ethical guidelines, or necessary for the continuity of care.
  - Therapist are required to accommodate requests to restrict the use and disclosure of information, but once agreed upon, I may not violate the agreement.
  - 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 patient requests access to his or her records or requests an accounting of disclosures.
  - A restriction is not effective for any uses and disclosures authorized by the patient, or for any required or permitted uses recognized by law.

- I permit patients *to request* receiving communications through alternative means or at alternative locations and I accommodate reasonable requests. I may not require an explanation for a confidential communication request, and reasonable accommodation may be conditioned on information on how payment will be handled and specification of an alternative address or method of contact.

- Termination of any request to restrict disclosure can be accepted orally or in written form and that you document such termination.

Patient Rights—Access to and Amendment of Records

In accordance with state law, the Privacy Rule, and other federal law, patients have access to and may obtain a copy of the medical and billing records that I maintain. Patients are also permitted to amend their records in accordance with such law.

Patient Rights—Accounting of Disclosures

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

Procedure

- 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 must state whether the patient wishes to be sent the accounting via postal or electronic mail.

    - A written accounting will be provided for each disclosure requested including 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.. 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.

    - A copy of the accounting including the name of the therapist of record, who is responsible for receiving and processing accounting requests.

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

    - The therapist will provide an accounting within 60 days of a request, and may extend this limit for up to 30 more days by providing the patient 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 I may charge a reasonable, cost-based fee. I will inform the patient of this fee and provide the patient the option to withdraw or modify his or her request.

    - I 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 I 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

I 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, 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.

I 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 patients. I rely on my business associate to abide by the contract but will take reasonable steps to remedy any breaches of the agreement that I become aware of.

This policy 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 patients for inspection and amendment and incorporate amendments as required under the patient 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 for compliance reviews, and
- At contract termination, if feasible, return or destroy all PHI.
- If I know of a pattern of activity or practice of a business associate that constitutes a material breach or violation of the agreement, you will take reasonable steps to cure the breach. If such steps are unsuccessful, you will terminate the contract, or if termination is not feasible, you will report the problem to HHS.

Administrative Requirement—Privacy Officer

Policy

If not myself, I designate a privacy officer, who 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 my practice, the privacy officer receives complaints and fulfills obligations as set out in notice to patients**.**

Procedure

Privacy Officer Job Description
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 patient's PHI in compliance with federal and state laws.

Reporting Relationship: As applicable
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 applies sanctions 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.

Administrative Requirement—Training

Policy

As required by the Privacy Rule, I train all members of my staff, as necessary and appropriate to carry out their functions, on the policies and procedures to protect PHI. I have the discretion to determine the nature and method of training necessary to ensure that staff appropriately protects the privacy of my patients' records.

Procedure

As required by the Privacy Rule, I train all members of my staff, as necessary and appropriate to carry out their functions, on the policies and procedures to protect PHI. I have the discretion to determine the nature and method of training necessary to ensure that staff appropriately protects the privacy of my patients' records.

- I train new members of your staff within a reasonable time after joining your staff. Also note that you provide training to staff whose function is impacted by a material change in the Privacy Rule within a "reasonable time" from the effective date of the material change.

Administrative Requirement—Safeguards

Policy

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

Procedure

These procedures are intended to provide reasonable safeguards of clients' PHI from any intentional, unintentional, or incidental use or disclosure that would violate the Privacy Rule.

PHI is only accessed by the therapist of record, or where not possible and access is necessary as required and or allowed under HIPPA, by a licensed mental-health professional colleague or administrative assistant associated with the same practice.

Additionally, locked cabinets are present in the office for the storage of all PHI.

Administrative Requirement—Complaints

Policy

The privacy of my patients' PHI is critically important for my relationship with my patients and for my practice. I provide a process for my patients to make complaints concerning my adherence to the requirements of the Privacy Rule.

Procedure for a Complaint Process

1. Patients may file privacy complaints by submitting them in one of the following ways:
   a. In person, using the Privacy Complaint form.
   b. By mail, either on the Privacy Complaint form or in a letter containing the necessary information. All complaints should be mailed to:
      Privacy Officer – MLTW
      234 S. Bryn Mawr Avenue
      Bryn Mawr, PA 19010
   c. By telephone at **610-525-6246, Mailbox #1**
   b. By fax at **Attn Privacy Officer : 610-525-2552**

2. All privacy complaints should be directed to the **Privacy Officer**

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/email address where formal response to the complaint may be sent.

4. When a privacy complaint is filed by a patient the following process should be followed:
   a. Validate the complaint with the individual.
c. If appropriate, attempt to correct any apparent misunderstanding of the policies and procedures on the patient's part; if after clarification, the patient does not want to pursue the complaint any further, indicate that "no further action is required." Record the date and time and file under dismissed complaints.
d. If not dismissed, log the complaint by placing a copy of the complaint form in both the complaint file and in the patient's record.
e. Investigate the complaint by reviewing the circumstances with relevant staff (if applicable).
f. If it is determined that the complaint is invalid, send a letter stating the reasons the complaint was found invalid. File a copy of the letter and form in an investigated complaints file.
g. If the investigative findings are unclear, get a second opinion either from your lawyer, the APA Insurance Trust, or the APA Practice Organization.
h. If it is determined that the complaint is valid and linked to 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.
i. 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.
j. Place a copy of the complaint form in the patient's record.
k. Review both invalid and investigated complaint files periodically, to determine if there are any emerging patterns.

Administrative Requirement—Sanctions

Policy

I have and apply appropriate sanctions against a member of my staff who fails to comply with the requirements of the Privacy Rule or my policies and procedures. I may not apply sanctions against an individual who is testifying, assisting, or participating in an investigation, compliance review, or other proceeding.

Procedure

I will apply sanctions against any member of my staff who fails to comply with the privacy rule. Depending on the nature and severity of the violation, sanctions could include a verbal warning, a written warning, a verbal or written warning requiring a corrective action, or any other sanction which I deem to be proportional to the failure of compliance.

Administrative Requirement—Mitigation

Policy

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

Procedure Guidance

Depending on the nature of any failure to comply with the privacy rule on the part of myself or any business associate, I will attempt to mitigate any potential harmful effect by trying to take a proportional corrective action.

Administrative Requirement—Retaliatory Action and Waiver of Rights

Policy

I believe that patients should have the right to exercise their rights under the Privacy Rule. I do not take retaliatory action against a patient for exercising his or her rights or for bringing a complaint. Of course, I will take legal action to protect myself, if I believe that a patient undertakes an activity in bad faith.

Procedure

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

I will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against a patient 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.

I will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against a patient or other person for opposing any act or practice made unlawful under the Privacy Rule, provided that the patient or other person has a "good faith belief" that the practice is unlawful and the manner of opposition is reasonable and does not involve disclosure of PHI.

I will not require a patient 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

Policy

To ensure that I am in compliance with the Privacy Rule, I have implemented policies and procedures to ensure compliance with the privacy rule.

Procedure

- The policies and procedure detailed in this document are a demonstration of MLTW's compliance with the Privacy Rule.

- Prompt changes will be made to policies and procedures that accord with changes to the Privacy Rule. Notice of any changes will also be provided promptly to patients 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

Policy

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

Procedure

- Include the following in your procedures:
- I 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.