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Notice of Privacy Practices

This notice describes how your Protected Health Information may be used and/or disclosed and how you can get access to this information. Please review this notice carefully before signing.

As outlined in the Advisement Form related to your court-ordered adoption/child custody evaluation, the process of such an evaluation is not confidential, and the information acquired during the course of that evaluation, which can include your Protected Health Information (PHI), can be produced to the Court and to the attorneys of record or to clients who represent themselves upon completion of that evaluation.

As a mental health professional, I am required to maintain the privacy of your PHI and to provide you with notice of my legal duties and privacy practices related to your PHI. I am required to abide by the terms of this Notice of Privacy Practices at all times, and while I reserve the right to change the terms of my Notice of Privacy Practices at any time, any new Notice of Privacy Practices will be effective for all PHI that I maintain at that time. Should I change this policy at any time during the course of your evaluation, you will be provided with a copy of the revised Notice of Privacy Practices and asked to sign that new document. Should your evaluation be completed before such a revision occurs, you will not be provided such a copy since my services with your family at that time will no longer be in process. You can access my current Notice of Privacy Practices at any time on my website.

Your health record contains personal information about you and your health, and while the process of an adoption/child custody evaluation does not involve the creation of a health record, the process does entail the necessity of the evaluator acquiring PHI related to you and/or your children. This information about you may identify you and relate to past, present, and future physical or mental health or condition and related health care services and is thus referred to as your PHI. This Notice of Privacy Practices describes how I may use or disclose your PHI in accordance with applicable law, including the Health Insurance Portability and Accountability Act (HIPAA), regulations promulgated under HIPAA including the HIPAA Privacy and Security Rules, and the evaluator's code of ethics, which are located on the evaluator's website via a link to the Texas State Board of Examiners for Professional Counselors. It also describes your rights regarding how you may gain access to and control your PHI.

HOW THE EVALUATOR MAY USE AND DISCLOSE HEALTH INFORMATION ABOUT YOU

For the evaluation: During the course of an adoption/child custody evaluation, your PHI and/or your child/ren's PHI may be acquired as part of the evaluation process as required by the standards of practice and the Texas Family Code. This information will be used for the purpose of ensuring a thorough evaluation of your family in order to provide an accurate assessment to the Court related to your child/ren and his/her best interest. This information, once acquired, may be

reproduced to the Court, the attorneys of record, and/or to the clients who represent themselves, potentially via efile or email, and this is clearly outlined in the Releases of Information that you will be required to sign during the course of the evaluative process. This information may also be utilized anonymously in consultation with other clinical professionals to assist the evaluator in completing your case with appropriate peer review, and I may disclose your actual PHI or your child/ren's PHI to another mental health professional or consultant with your appropriate authorization only.

After the evaluation: Upon completion of an adoption/child custody evaluation, it is possible that I may be deposed or testify at any final trials in your case. If that occurs, it is possible that information related to your case may be ordered to be disclosed in future cases where I am designated as an expert, i.e. the cause number of your case, the styling of your case, the court and county where your case is heard, and the attorneys in your case.

Required by law: Under the law, I must disclose your PHI to you upon your request, though this information will not be produced until the evaluation process has been completed in order to ensure the evaluator's neutrality. In addition, I must make disclosures to the Secretary of the Department of Health and Human Services for the purpose of investigating or determining my compliance with the requirements of the Privacy Rule.

Without authorization: Following is a list of the categories of uses and disclosures permitted by HIPAA without authorization. Applicable law and ethical standards permit me to disclose information about you without your authorizations in a limited number of situations.

1. Child abuse or neglect: I may disclose your or your child/ren's PHI to a state or local agency that is authorized by law to receive reports of child abuse or neglect.
2. Judicial and administrative proceedings: I may disclose your or your child/ren's PHI pursuant to a subpoena, court order, administrative order, or similar process. This is the crux of an adoption/child custody evaluation.
3. Law enforcement: I may disclose your PHI or your child/ren's PHI to a law enforcement official as required by law, in compliance with a subpoena (with your written consent), a court order, an administrative order, or similar document, for the purpose of identifying a suspect, material witness or missing person, in connection with the victim of a crime, in connection with a deceased person, in connection with the reporting of a crime in an emergency, and in connection with a crime on the premises.
4. Public safety: I may disclose your PHI or your child/ren's PHI if necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. If the information is disclosed to prevent or lessen a serious threat, it will be disclosed to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

With authorization: Uses and disclosures not specifically permitted by applicable law will be made only with your written authorization, which may be revoked in writing at any time, except to the extent that I have already made a use or disclosure based upon your authorization or an applicable court order related to your family law matter.

How your PHI may be used and disclosed, which do not apply to the evaluator's court-ordered adoption/child custody evaluations

NOTE: The laws related to the maintenance policies of your PHI changed in Texas in 2013, and these laws require that I disclose this information to you, though this information does not apply

to the evaluator's process. The reasons that each item do not apply will be outlined in bold below each item identified:

For treatment: Your PHI may be used and disclosed by those who are involved in your care for the purpose of providing, coordinating, or managing your health care treatment and related services. This includes consultation with clinical supervisors or other treatment team members. We may disclose PHI to any other consultant only with your authorization. **(The process of a court ordered adoption/child custody evaluation is not treatment, and the evaluator does not provide treatment services in her practice.)**

For payment: We may use and disclose PHI so that we can receive payment for the treatment services provided to you. This will only be done with your authorization. Examples of payment-related activities are: making a determination of eligibility or coverage for insurance benefits, processing claims with your insurance company, reviewing services provided to you to determine medical necessity, or undertaking utilization review activities. If it becomes necessary to use collection processes due to lack of payment for services, we will only disclose the minimum amount of PHI necessary for purposes of collection. **(Payment for a court-ordered evaluation is payable directly to the evaluator by check or money order. The evaluator does not bill insurance, and her services are not covered by insurance. The only payment that may be necessary and related to your PHI information is related to any costs that your current or previous providers may require you to pay to produce your records to the evaluator for the court-ordered evaluative process as required by the Texas Family Code and the standards of practice. As noted in the release forms that you will sign, you are responsible for all costs, if any, related to the records acquired for your evaluative process.)**

For Health Care Operations: We may use or disclose, as needed, your PHI in order to support our business activities including, but not limited to, quality assessment activities, employee review activities, licensing, and conducting or arranging for other business activities. For example, we may share your PHI with third parties that perform various business activities (e.g., billing or typing services) provided we have a written contract with the business that requires it to safeguard the privacy of your PHI. For training or teaching purposes, PHI will be disclosed only with your authorization. **(The evaluator's court-ordered evaluation services do not entail health care operations, and this aspect of the required privacy policy does not apply outside of what has been outlined within this policy. The evaluator does have a written contract with her out of office printer, and they have signed a copy of this Privacy Policy in addition to that contract.)**

Without authorization: Following is a list of the categories of uses and disclosures permitted by HIPAA without authorization. Applicable law and ethical standards permit us to disclose information about you without your authorizations in a limited number of situations.

1. Deceased patients: We may disclose PHI regarding deceased patients as mandated by state law, or to a family member or friend that was involved in your care or payment for care prior to death, based on your prior consent. A release of information regarding deceased patients may be limited to an executor or administrator of a deceased person's estate or the person identified as next of kin. PHI of persons that have been deceased for more than fifty years is not protected under HIPAA. **(Any and all records related to a deceased client may be acquired via the attorney of record or by court order. All of the evaluator's records are retained for seven years upon the completion of the evaluation or litigation, and they are then destroyed as allowed per her licensure requirements.)**

2. Medical emergencies: We may use or disclose your PHI in a medical emergency situation to medical personnel only in order to prevent serious harm. Our staff will try to provide you a copy of this notice as soon as reasonably practicable after the resolution of the emergency. **(Since the evaluator's court-ordered process does not generate PHI, this factor does not apply to her process.)**
3. Family involvement in care: We may disclose information to close family members or friends directly involved in your treatment based on your consent or as necessary to prevent serious harm. **(During an evaluation, your information will only be available to the Court, the attorneys, and/or to clients who present themselves aside from what has already been outlined previously in this policy.)**
4. Health oversight: If required, we may disclose PHI to a health oversight agency for activities authorized by law, such as audits, investigations and inspections. Oversight agencies seeking this information include government agencies and organizations that provide financial assistance to the program (such as third-party payors based on your prior consent) and peer review organizations performing utilization and quality control. **(This situation only applies as outlined previously in this policy. Your PHI may only be disclosed otherwise if a board complaint is made against the evaluator; at which time, you will be notified that your information will be published to the board to address the complaint.)**
5. Specialized government functions: We may review requests from US military command authorities if you have served as a member of the armed forces, authorized officials for national security and intelligence reasons and to the Department of State for medical suitability determinations, and disclose your PHI based on your written consent, mandatory disclosure laws and the need to prevent serious harm. **(Any contact that the evaluator has with the military will be authorized previously by you via an informed consent.)**
6. Public health: If required, we may use or disclose your PHI for mandatory public health activities to a public health authority authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, or if directed by a public health authority, to a government agency that is collaborating with that public health authority. **(Since the evaluator does not generate PHI related to you, this aspect does not apply.)**

Research: PHI may only be disclosed after a special approval process or with your authorization. **(The evaluator does not conduct research within her practice.)**

Fundraising: We may send you fundraising communications at one time or another. You have the right to opt out of such fundraising communications with each solicitation you receive. **(You will never receive fundraising communications from the evaluator.)**

Verbal permission: We may also use or disclose your information to family members that are directly involved in your treatment with your verbal permission. **(The evaluator will not speak to your family members during a court-ordered evaluative process unless they reside with you on a full or part-time basis, or they have completed a personal reference form or a written witness statement for you and a telephone call to them is warranted. Should a family member contact the evaluator, she will ask that they place any and all information to the evaluator in writing, and any questions answered will be process driven only with your PHI not being discussed or disclosed.)**

YOUR RIGHTS REGARDING YOUR PHI

You have the following rights regarding PHI that is maintained about you. To exercise any of these rights, please submit your request in writing via your attorney after your evaluation has been completed to the evaluator's privacy officer located at the evaluator's address and contact information.

1. Right of access to inspect and copy: Once your court-ordered evaluation is complete, you have the right, which may be restricted only in exceptional circumstances or via court order, to inspect and copy any PHI information related to you or your child/ren that has not already been attached to your adoption/child custody evaluation and produced to your attorney or clients who represent themselves. The evaluator may charge a reasonable, cost-based fee for the copies, and if the records are maintained electronically, you may also request an electronic copy of your PHI. You may not request that this information be provided to another person aside from your attorney of record.
2. Right to amend: Once your court-ordered evaluation is completed and published to the attorneys of record, you have the right to ask that the PHI be amended if you feel that the PHI that I have about you is incorrect or incomplete. I am not required to agree with your amendment, and if your amendment is directly related to information that was produced to me, it would be most appropriate for you to seek amendment of this information from the provider who produced the PHI to the evaluator. If I deny your request for an amendment, you have the right to file a statement of disagreement with the evaluator that will be forwarded to the attorneys of record or to clients who represent themselves.
3. Right to an accounting of disclosures: You have the right to request an accounting of certain of the disclosures that I make of your PHI or your child/ren's PHI. The evaluator may charge a reasonable fee for this request, and within a court-ordered adoption/child custody evaluation, your PHI or your child/ren's PHI will only be disclosed as outlined in your Advisement Form to the attorneys, to clients who represent themselves, and to the individuals for whom releases were signed and have not been revoked.
4. Right to request restrictions: You have the right to request a restriction or limitation on the use or disclosure of your PHI. I am not required to agree to your request, though the Court will be notified if an attempt is made to restrict the evaluator's access to necessary PHI required as part of the standards of practice and the Texas Family Code in relation to the court-ordered evaluation.
5. Breach of notification: If there is a breach of unsecured PHI concerning you, I may be required to notify you of this breach, including what happened and what you can do to protect yourself. Once your evaluation is completed, I maintain your records under lock and key for five years until those records are destroyed in the evaluator's presence.
6. Right to a copy of this notice: You have a right to a copy of this notice, which can be found online via the evaluator's website.

NOTE: The current law requires that I also notify you as to your Right to Request Confidential Communication. This notice states that you have the right to request that we communicate with you about health matters in a certain way or at a certain location. We will accommodate reasonable requests. We may require information regarding how payment will be handled or specification of an alternative address or other method of contact as a condition for accommodating your request. We will not ask you for an explanation of why you are making the request. **(During an evaluation, you are asked to provide a preferred telephone number and**

email address to the evaluator for communication purposes. The evaluator will contact you as needed via one of these means primarily for administrative purposes, and as noted, your information acquired during an evaluation is not confidential.)

ADDITIONAL NOTIFICATIONS

The following additional notifications are required in order to ensure that you have a thorough understanding of how your information may or may not be used or transmitted during the course of a court-ordered evaluation:

1. As outlined in the evaluator's Advisement Form, should the evaluator die, become incapacitated, or terminate her practice, the custody and control of the records maintained by Christy Bradshaw Schmidt, MA, LPC, will be turned over to Carrie Beaird, MA, LPC-S, LCDC. In the event of Ms Beaird's death, incapacitation, or termination of her practice, other successors will be appointed as selected by Ms Bradshaw Schmidt.
2. The majority of your record will be maintained by the Court or your attorneys of record once your evaluation is complete and published to the attorneys of record. After that time, the evaluator will maintain your record under lock and key until five years have passed; at which time, those records will be destroyed in the evaluator's presence.
3. The evaluator utilizes virus protection software and firewall protection on all of the computers that are utilized during the course of her evaluation with your family.
4. The evaluator does not release your PHI or your child/ren's PHI without a signed consent from you, and otherwise, this information is only released within the guidelines established within the evaluator's court order and Advisement Form to the attorneys of record, to clients who represent themselves, and possibly the Court.
5. Information related to your case may be kept during the course of your evaluation in a number of different places including but not limited to: the evaluator's locked office, the evaluator's locked storage locations, the evaluator's HIPAA compliant offsite storage facility (Safesite), the evaluator's car when in transport to the courthouse or to clients' homes, the evaluator's P.O. Box, the evaluator's facsimile machine, the evaluator's computers, the evaluator's cellular phone, the evaluator's email account, and the evaluator's paper files and/or electronic files.
6. If you choose to communicate with the evaluator by email, by text, by facsimile, or via her P.O. Box, you understand the limitations of confidentiality that may exist specifically in relation to each of these forms of communication despite all efforts that have been made to protect your confidentiality in this regard, i.e. the evaluator's computers, email accounts, etc., are all password and/or firewall protected. Most reports and drafts of those reports are stored within a cloud-based management system; however, these reports and related drafts do not specifically contain your PHI. In addition, the evaluator for the most part works diligently to not transmit any PHI via an electronic means or text messages and asks that you do the same, though your providers for whom you have signed a written authorization may choose to transmit such information electronically upon request from the evaluator during your evaluation.
7. The evaluator does utilize a copying service for the production of your final adoption/child custody evaluation report. This copying service is aware that the evaluative process is not confidential and that all of the information to which they have access will be produced to the attorneys of record, to clients who represent themselves, and possibly to the Court, and these documents are protected as a legal document by the copying service and does not leave the confines of their building. The evaluator does have a contract with her copying service, and they have signed her Privacy Policy.
8. The evaluator has attended and will continue to attend the required HIPAA training.

9. The process of an evaluation does not entail the creation or generation of PHI. The process of an evaluation only entails the acquirement of such information, and due to the court-ordered nature of that process, the information that is acquired is not confidential and can and/or will be produced to the Court, the attorneys of record, and to parties who represent themselves, potentially via efile, once the evaluation is completed and published to the attorneys of record.

Complaints

If you believe that the evaluator has violated your privacy rights, you have the right to file a complaint in writing with the evaluator/privacy officer via the address outlined above or with the Secretary of Health and Human Services at 200 Independence Avenue, SW Washington DC 20201 or by calling 202-619-0257.

The effective date of this Notice is September 2013, and this notice was last updated in December 2021.

Signed this _____ day of _____, 2022.

Client: _____
Signature

Printed Name