

# BetterMinds, PLLC

## Notice of Privacy Practices

### **DUTY TO PROTECT PRIVACY:**

PROTECTED HEALTH INFORMATION (PHI): individually identifiable information that relates to past, present, or future physical or mental health condition, the provision of health care to the individual, or the past, present, or future payment for the provision of health care to the individual that is held or transmitted in any form or media (i.e., electronic, paper, or oral). Common identifiers include, but are not limited to, name, address, birth date, social security number, etc.

BetterMinds has a responsibility to have reasonable safeguards in place to significantly reduce the risk of incidental use/disclosure of PHI.

### **TERMS OF PRIVACY NOTICE:**

BetterMinds has a responsibility to provide a notice of its privacy practices no later than the first service encounter (for in-office) or via electronic response (for teletherapy), to post the notice at each delivery site, to provide a notice upon request, to provide a copy on a website it maintains, and to act in accordance with the established privacy practices. In emergency treatment situations, notice must be provided as soon as practically possible after the emergency abates.

BetterMinds has a responsibility to develop and implement policies and procedures to restrict access and use of PHI based on internal roles of the covered entity's workforce. Such policies and procedures must identify the person(s), or classes of person(s), who need access to PHI to carry out their duties, categories of PHI to which access is needed, and any conditions under which they need the information to do their job functions.

BetterMinds has a responsibility to establish and implement policies and procedure for routine, recurring disclosures, or requests for disclosures that limits the PHI disclosed to the minimum amount reasonably necessary to achieve the intended purpose. For non-routine disclosures, BetterMinds has a responsibility to develop criteria designed to limit the disclosure to the minimum amount reasonably necessary to achieve the intended purpose AND review each request individually against the criteria established.

BetterMinds has a responsibility to develop and implement written privacy policies and procedures consistent with the HIPAA Privacy Rule, to designate a privacy official responsible for developing and implementing privacy policies and procedures whom is the contact official for receiving complaints and providing information on the entity's privacy practices, to train all workforce members (e.g., employees, volunteers, trainees, etc.) on its privacy policies and procedures as appropriate to carry out job functions, to have and apply sanctions against violations of privacy policies and procedures, to mitigate (as is practical) any known harmful effect caused by violations of privacy policies and procedures, to maintain reasonable and appropriate administrative, technical, and physical safeguards to prevent intentional or unintentional use/disclosure of PHI in violation of HIPAA Privacy Rule and limit incident

use/disclosure, to have procedures for complaints regarding privacy policies and procedure including to whom such complaints can be submitted to (e.g., name of privacy officer, Secretary of HHS).

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BetterMinds has the right to make a reasonable assumption that another covered entity's request for PHI is within the scope of what is minimally necessary for the intended purpose. For example, if a request is made by a health insurance company for specific records (e.g., progress notes for past year), then BetterMinds may make the reasonable assumption that this request aligns with "minimum necessary" principle and comply with the request.

### **WAYS IN WHICH PHI MAY BE USED/DISCLOSED:**

#### **REQUIRED BY LAW**

BetterMinds has a responsibility to comply with required disclosure, per law, in the following scenarios: (1) to the client or client's personal representative when an appropriate request for access has been made, (2) during the course of a compliance investigation by the Health and Human Services (HHS) division, (3) or otherwise required by law for reporting purposes, such as reporting abuse/neglect to appropriate agencies.

#### **FORMAL PERMISSIONS NOT REQUIRED - BetterMinds, PLLC may use/disclose PHI without obtaining prior permissions in the following circumstances:**

PHI may be used/disclosed to the client or the client's personal representative without obtaining permission in specific circumstances allowed by law.

De-identified health information may be used/disclosed without obtaining permissions. DE-IDENTIFIED HEALTH INFORMATION refers to health information where specified identifiers have been removed so that the remaining information could not reasonably be used to identify the individual for which the information pertains to.

**TREATMENT:** PHI may be used/disclosed for treatment activities without obtaining permissions. Treatment activities include, but are not limited to, provision, coordination, consultation, referral or other management of health care and related services, involving any health care provider who is or has provided healthcare services to the client. It is important to note that when it is practical, it is the practice of this organization to obtain permissions prior to engaging in use/disclosure of PHI to other health care providers.

**PAYMENT:** PHI may be used/disclosed for activities in pursuit of obtaining payment for services without obtaining permissions. Payment activities include but are not limited to obtaining premiums, determining or fulfilling responsibilities for coverage and provision of benefits, to furnish or obtain reimbursement for health care services.

**HEALTH CARE OPERATIONS:** PHI may be used/disclosed for activities involved in health care operations of the organization without obtaining prior permissions. Health care operations include, but are not limited to, quality assessment and improvement activities, provider or health plan performance evaluation, credentialing, accreditation, conducting or arranging for medical reviews, audits, legal services, during the course of complying with programs or activities designed to detect fraud/abuse, specified insurance functions, business planning, development, management, and administration, business management, general administrative activities (e.g., appointment reminders).

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**EMERGENCY:** PHI may be used/disclosed in circumstances where the individual is incapacitated or in emergency situation(s) when it is the covered entity's professional judgement that use/disclosure of PHI would be in the best interest(s) of the client without obtaining permissions.

**NATIONAL PRIORITY:** PHI may be used/disclosed without permission for 12 national priority purposes:

- (1) As Required by Law (e.g., statutes, regulations, court orders)
- (2) Public Health Activities
  - (a) to collect/receive information to prevent/control disease, injury, or disability to public health; for reporting/receiving information related to child abuse/neglect
  - (b) as required by Federal Drug Administration (FDA)
  - (c) when notification of a communicable disease exposure is required by law
  - (d) to comply with Occupational Safety and Health Administration (OSHA) when information is requested by employers concerning work-related illness/injury
- (3) Victims of Abuse, Neglect, Domestic Violence: disclosure of PHI is permissible to appropriate government authorities regarding victims of abuse, neglect, or domestic violence
- (4) Health Oversight Activities (e.g., audits or investigations conducted by legally authorized agencies)
- (5) Judicial and/or Administrative Proceedings: disclosure is permitted when responding to a court order or administrative tribunal, in response to a subpoena or other lawful process IF certain assurances regarding notice to the individual or a protective order are provided
- (6) Law Enforcement Purposes
  - (a) as required by law (e.g., court orders, court-ordered warrants, subpoenas, administrative requests)
  - (b) to identify or locate a suspect, fugitive, material witness, or missing person
  - (c) in response to law enforcement OFFICIAL REQUEST for information about a victim or suspected victim of a crime
  - (d) when a covered entity believes PHI is evidence of a crime that occurred on its premises
  - (e) in a medical emergency not occurring on the covered entities premises when necessary to inform law enforcement about the commission and nature of a crime, location of the crime or crime victims, and/or the perpetrator of the crime
- (7) Decedents: to inform funeral directors, coroners, medical examiners as needed in identifying the deceased, determining cause of death, or other functions authorized by law
- (8) Cadaver Donations: to facilitate donation/transplantation
- (9) Research, provided the following can be represented and are met:
  - (a) alteration/waiver of individuals' authorization has been approved by an IRB or Privacy Board;
  - (b) to solely prepare research protocol or similar preparatory activities so long as the PHI is not removed from the covered entity and the particular PHI is necessary for the research; OR
  - (c) PHI of decedents is necessary for research AND documentation of the death of the individual(s) about whom information is sought
  - (d) Further, a limited data set of PHI may be used for research without obtaining permission for use/disclosure
- (10) Serious Threat to Health/Safety: when it is believed necessary to prevent/lessen a serious and imminent threat to a person or the public, WHEN the disclosure is made to someone they believe can prevent or lessen the threat; it is important to know that it is COMMON PRACTICE of this organization to notify appropriate authorities if the covered entity, in their professional judgement, has reason to believe that disclosure of PHI is in pursuit of protecting the client and/or any identifiable potential victim(s) from serious and imminent physical harm/injury; disclosure to law enforcement may be made if information is needed to identify or apprehend an escapee or violent criminal

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(11) Essential Government Functions (e.g., assuring proper execution of a military mission, conducting intelligence and national security activities that are authorized by law, providing protective services to the President, making medical suitability determinations for U.S. State Department employees, protecting health/safety of inmates or employees in a correctional institution, and determining eligibility for or conducting enrollment in certain government benefit programs)

(12) Workers' Compensation: to comply with workers' compensation laws or other similar programs providing benefits for work-related injuries or illnesses

**CLIENT CARE:** PHI may be used/disclosed to person(s) whom the client or client's personal representative identifies (formally or informally) PHI may be disclosed to with regard to PHI that is directly relevant to that person's involvement in the individual's care or payment of care without obtaining prior permissions. For example, if an adult client, who cannot drive themselves, provides informal permissions (i.e., through a verbal conversation with the clinician) that a family member is allowed in the therapy room at the end of the session to walk them out to their car, the clinician can allow this based on obtaining the informal permissions.

**INFORMAL PERMISSION:** Informal permissions may be obtained for use/disclosure of PHI by asking the client or client's personal representative outright or when circumstances clearly give the client or client's personal representative the opportunity to agree, acquiesce, or object. It is important to know that while there may be times when informal permissions are obtained, it is NOT common practice to rely on informal permissions (i.e., absent a written agreement) for use/disclosure of PHI

### **YOUR RIGHTS:**

Clients have a right to receive a notice of BetterMind's privacy practices and to request, at any time, a notice of privacy practices.

Clients have a right to ask questions and report as necessary. If you have any questions about this notice, please contact the HIPAA PRIVACY OFFICER (listed below). Below are a list of agencies/organizations to file written complaints if you feel the situation cannot be resolved with the provider and/or BetterMinds OR feel the nature of the event/situation needs to be otherwise escalated. If you believe your rights under HIPAA have been violated, you have a right to file a complaint with the U.S. Department of Health and Human Services via mail (see below). If you believe the provider has behaved in ways that are unethical, illegal, or otherwise improper that rise to the level of needing to notify the licensing board, you have a right to do so (see below).

### **HIPAA PRIVACY OFFICER:**

Jenny L. French, LPC/MHSP

BetterMinds, PLLC

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### **HHS:**

Centralized Case Management Operations  
U.S. Department of Health & Human Services  
200 Independence Avenue, S.W.  
Room 509F HHH Bldg.  
Washington, D.C. 20201  
OCRComplaint@hhs.gov

You may also visit the Complaint Portal (<https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>) to file a complaint online.

### **TN BOARD FOR LICENSED PROFESSIONAL COUNSELORS (LPC), LICENSED MARRIAGE AND FAMILY THERAPISTS (LMFT), AND LICENSED CLINICAL PASTORAL THERAPISTS (LCPT):**

Office of Investigations  
665 Mainstream Drive  
2nd Floor  
Nashville, TN 37243  
800-852-2187

You may also file a complaint online by visiting:

[https://tennessee.na1.adobesign.com/public/esignWidget?wid=CBFCIBAA3AAABLblqZhAcdPhyxyZDOmrLUXvMv57FSJnnGDD1kh7u8EC2CN0XAWuu94-OYXhKDX8LOBaXW2E\\*](https://tennessee.na1.adobesign.com/public/esignWidget?wid=CBFCIBAA3AAABLblqZhAcdPhyxyZDOmrLUXvMv57FSJnnGDD1kh7u8EC2CN0XAWuu94-OYXhKDX8LOBaXW2E*).