

Creative Family Counseling, LLC

Notice of Privacy Practices and Rights (v. 7-14-2022)

This notice describes how medical information about you may be used and disclosed and how you can get access to this information. Please review it carefully.

Our commitment to your privacy.

Creative Family Counseling, LLC (“CFC”) consists of Lacey Ryan, LMFT, the sole business owner and other therapists who may be employed by, or contracted with, CFC.

CFC is committed to maintaining the privacy of your health information. While you are a patient with CFC, CFC shall create records regarding you and the services you receive here. This can include information about your medical history, your current health, treatments you receive from us, about your payment for healthcare, as well as other kinds of information. CFC is required by federal and state law to protect the confidentiality of such health information when it identifies you.

What is this document?

The Federal Health Insurance Portability and Accountability Act (“HIPAA”) requires us to provide you with this notice. It describes our legal duties and CFC’s office practices for maintaining the privacy of your protected health information (“PHI”). This document also outlines your rights regarding your health information.

We are required by federal law to follow the terms of the Notice of Privacy Practices currently in effect. This notice describes how medical/mental health information about you may be used and disclosed by CFC and how you can get access to this information. Please read the following information carefully.

Under what circumstances may my PHI be used and disclosed?

The Kentucky licensing law for marriage and family therapists, Kentucky Revised Statutes 335.300 to 335.399 and 201 Kentucky Administrative Regulations Chapter 32, and other applicable Kentucky law such as the Kentucky Rules of Evidence applicable in court proceedings, provide extremely strong privileged communication protections for conversations between your therapist and you in the context of your established professional relationship with your therapist. There is a difference between privileged

conversations and documentation in your mental health records. Records are kept documenting your care as required by law, professional standards, and other review procedures. HIPAA very clearly defines what kind of information is to be included in your “designated medical record” as well as some material, known as “Psychotherapy Notes” which is not accessible to insurance companies and other third-party reviewers and in some cases, not to the patient themselves, and in all cases unless a special, separate informed consent and authorization for release of records is obtained specifically regarding Psychotherapy Notes.

HIPAA provides privacy protections about your personal health information, which is called PHI which could personally identify you, is about you, or is information that can reasonably be linked to you. PHI consists of three (3) components: *treatment, payment, and health care operations*.

Treatment refers to activities in which CFC provides, coordinates, or manages your mental health care or other services related to your mental health care. Examples include: psychotherapy session; mental health evaluation, assessment, and testing, or talking to your primary care physician about your medication or overall medical condition.

Payment is when CFC obtains reimbursement for your mental health care. CFC may use or disclose your health information in order to bill and collect payment for services you receive from CFC. For example if your services are covered by health insurance, CFC may contact your health insurer to certify you are eligible for a particular benefit, and CFC may provide your insurer with details of your treatment so your insurer shall pay for the treatment.

Health care operations are activities related to the performance of CFC practice such as quality assurance. In mental health care, the best example of health care operations is when utilization review occurs; a process in which your insurance company reviews our work together to see if your care is really “medically necessary.”

The *use* of your PHI refers to activities the CFC office conducts for filing claims, scheduling appointments, keeping records and other tasks *within* the CFC office-related to your care. *Disclosures* refer to activities you authorize which occur *outside the* CFC office such as sending your PHI to other parties (i.e., your primary care doctor, your child’s school).

CFC may use your PHI for follow up. CFC may contact you with appointment reminders or to provide you with information about treatment recommendations or alternative

treatments which may be of interest to you.

Uses or disclosures of PHI requiring authorization.

Kentucky requires authorization and consent for treatment, payment, and health care operations. HIPAA does nothing to change this requirement by law in Kentucky. CFC may disclose PHI for the purposes of treatment, payment, and healthcare operations with your consent. You have signed this general consent to care and authorization to conduct payment and health care operations, authorizing CFC to provide treatment and to conduct the administrative steps associated with your care.

Additionally, if you ever want CFC to send any of your PHI or medical records of any sort to anyone outside of the office of CFC, you shall always first sign a specific authorization to release information to this outside party. A copy of that authorization form is available upon request. The requirement of your signing an additional authorization form is an added protection to help insure your PHI is kept strictly confidential.

There is a third, special authorization provision potentially relevant to the privacy of your records: CFC therapist Psychotherapy Notes. In recognition of the importance of the confidentiality of conversations between therapist-client in treatment setting, HIPAA permits CFC keeping "Psychotherapy Notes" separate from the overall "designated medical record." Insurance companies cannot secure "Psychotherapy Notes," nor can they insist upon their release for payment of services, as has unfortunately occurred over the last two decades of managed mental health care.

As defined by HIPAA, "Psychotherapy Notes" are the therapist's own therapy notes "recorded in any medium by a mental health provider documenting and analyzing the contents of a conversation during a private, group, or joint family counseling session and are separated from the rest of the individual's medical record." "Psychotherapy Notes" are necessarily more private and contain much more personal information about you, hence, the need for increased security of notes. "Psychotherapy Notes" are not the same as your "progress notes," which may provide the following information about your care each time you have an appointment at the CFC office: medication prescriptions and monitoring; assessment/treatment start and stop times; the modalities of care; frequency of treatment furnished; results of clinical tests, and; any summary of your diagnosis, functional status, treatment plan, symptoms, prognosis and progress to date.

Certain payers of care, such as Medicare and Workers Compensation, require the release of both your progress notes and the therapist's Psychotherapy Notes in order to

pay for your care. If any therapist at CFC is forced to submit your Psychotherapy Notes in addition to your progress notes for reimbursement for services rendered, you shall sign an additional authorization directing CFC to release Psychotherapy Notes. Most of the time, your therapist at CFC may be able to limit reviews of your PHI to only your “designated record set,” which may include the following: all identifying paperwork you completed when you first started your care here; all billing information; a summary of your first appointment; your mental status examination; your individualized, comprehensive treatment plan; your discharge summary; progress notes; reviews of your care by managed care companies; results of psychological testing, and; any authorization letters or summaries of care you have authorized CFC to release on your behalf. Please note the actual test questions or raw data of psychological tests, if your treatment with CFC includes services performed by a psychologist who administers a psychological test, are protected by copyright laws, and the need to protect patients from unintended, potentially harmful use, are not part of your “designated mental health record.”

When is Creative Family Counseling prohibited from using my PHI?

Our practice may not release your PHI for any use or disclosure which is not identified in this notice, unless CFC has your written authorization to do so, or is otherwise authorized by law, such as set forth below. If you provide CFC with a written authorization to use or disclose your PHI for another purpose, you may revoke this authorization in writing at any time, by sending the written revocation to Lacey Ryan, LMFT, at the address below. Once you have revoked your authorization, CFC shall no longer use or disclose your PHI for the purposes described in the authorization. You cannot revoke an authorization for an activity already done that you instructed a therapist at CFC to do, or if the authorization was obtained as a condition for the obtaining insurance payment. Kentucky law provides the insurer the right to contest the claim under the policy.

Uses or disclosures not requiring consent or authorization:

By law, PHI *may* be released without your consent or authorization for the following reasons:

1. When CFC is required to do so by state or federal law.
2. When needed for public health activities (i.e., to assist with a drug recall).
3. To report information about victims or suspected victims of abuse, neglect, or

domestic violence

4. When CFC concludes the disclosure is necessary to avert a serious health or safety threat (i.e., “Duty to Warn” Law, national security threats, or to prevent suicide).
5. When disclosure is required for a judicial or administrative proceeding.
6. When disclosure is necessary for law enforcement purposes (i.e., complying with a court order, or identifying a fugitive).
7. To coroners, funeral directors, or organ procurement organizations when necessary to allow them to carry out their duties.
8. When necessary for specialized government functions (i.e., veterans affairs, national security).
9. To government health agency for oversight activities such as inspections, investigations, licensure, or other proceedings.
10. When necessary to comply with worker’s compensation laws.

Uses or disclosures you have the option to limit or object.

We may use or disclose your health information in the following ways to assist in your care, unless you object to or restrict these disclosures in writing. The written objection or restriction should be directed to Director of Compliance and Technology Rebecca Street, LMFT.

1. To individuals involved in your care: CFC may release your health information to an individual who is involved in your care. While this is typically a spouse or a family member, you have the right to specify any individual, such as a close friend or a member of the clergy. You also have the right to object to contact. We shall comply with your request unless prohibited by emergency circumstances.
2. To communicate with you regarding treatment and appointments: CFC may use or disclose your health information to contact you to follow up on treatment or to remind you of your next appointment.

You have the right to specify how our practice communicates with you, including the method and locations at which we may contact you.

Is there a way to know how my PHI has been used or disclosed?

You have the right to receive an accounting of any of the disclosures of your PHI for the past 5 years, but not before the effective date of this Notice, or the effective date of any prior Notice you have signed with CFC, whichever is earlier. This accounting shall include a list of the date of disclosure, to whom it was made, and what information was released. This accounting shall not list disclosures made for purposes of treatment, payment, health care operations, or certain governmental functions. It shall also not list information provided to you or to specified individuals involved in your care. If you request an accounting more than once in a 12-month period, CFC may charge you a reasonable fee to cover the cost of complying with this request.

What rights do I have regarding my PHI?

You have the following rights regarding the PHI we maintain about you.

1. Confidential Communications: You have the right to request that CFC communicate with you regarding your health care in a particular manner or to a certain location. For example, you may specify that CFC contacts you at home rather than work.
2. Requesting Restrictions: You have the right to request a restriction on use or disclosure of your health information for the purposes of treatment, payment, or health care operations. Additionally, as described above, you have the right to specify that your PHI be disclosed to certain individuals involved in your care or treatment. CFC is not required to agree to the restriction you request, but shall notify you of the lack of agreement so you may make further, informed choices.
3. Inspection and Copies: You have the right to inspect and obtain copies of your PHI and billing records used to make decisions about you as long as the PHI is maintained in the record. You, or anyone you designate in writing on your behalf, are entitled to one free copy of your medical record, which CFC may provide in paper format or electronic format. If you have been provided one free copy of your medical record, CFC may thereafter charge you a reasonable fee for additional or replacement copies to cover the cost of copying, mailing, labor, and supplies.
4. Amending Your Information: If you believe your health information as maintained by CFC is incorrect or incomplete, you have the right to request CFC to amend the record. Your request for amendment must be submitted in writing to Director of Compliance and Technology Rebecca Street, LMFT., at the address listed below along with the reason for requested amendment. CFC shall review your request and provide you with a written notice of its decision. If CFC denies your request, it shall provide you with a reason for its decision and information on how you may file a written disagreement with the denial.

5. Accounting: You generally have the right to receive an accounting of disclosures of PHI. On your request, CFC shall discuss with you the details of the accounting process.

6. Right to a Paper Copy of this Notice: You have the right to a paper copy of this notice.

7. Revocation of Authorization: You have the right to revoke your authorization of PHI, except to the extent that action has already been made.

For more information on how to exercise each of these aforementioned rights, please do not hesitate to ask Director of Compliance and Technology Rebecca Street, LMFT, of CFC for further assistance on these matters.

Duties of licensed marriage and family therapists.

1. Therapists are required by law to maintain the privacy of PHI and to provide you with a notice of CFC's legal duties and privacy practices with respect to PHI.

2. Therapists are required by law to abide by the terms of this notice, unless it is changed and you are so notified.

3. If CFC revises its policies and procedures, CFC shall provide you with a revised notice by mail or in person.

What if I believe my privacy rights have been violated?

You have the right to file a complaint if you believe your privacy rights have been violated by CFC. Lacey Ryan, LMFT, is the appointed "Privacy Officer" for CFC per HIPAA regulations. Complaints shall be submitted in writing to:

Creative Family Counseling

ATTN: Director of Compliance and Technology Rebecca Street, LMFT

8134 New LaGrange Road, Suite 102

Louisville, Kentucky 40222

Phone: (502) 709-0410

If you are not satisfied with the manner in which CFC handles the complaint, you may submit a formal complaint to the Secretary of the U.S. Department of Health and Human

Services.

Changes to this notice.

CFC reserves the right to change this Notice of Privacy Practices at any time in the future as allowed by federal and state law. Any changes may apply to all information maintained by CFC including information created or received prior to the change. CFC shall provide a copy of its most recent Notice of Privacy Practices at each first patient visit following the Notice's adoption. You may also call or write CFC to obtain a copy of the most recent version.

This notice shall go into effect November 1, 2018, and shall remain so unless new notice provisions effective for all PHI are enacted accordingly.

