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**TO MY PATIENTS**

Are you familiar with HIPAA (Health Insurance Portability and Accountability Act of 1996)?

An important part of this federal legislation went into effect on April 14, 2003. Then, in January 2013 the U.S. Department of Health and Human Services (HHS) issued the long-awaited final omnibus rule (Final Rule) implementing the Health Information Technology for Economic and Clinical Health (HITECH) Act modifications to the Privacy Rule and other rules under the Health Insurance Portability and Accountability Act (HIPAA). These carefully regulate the privacy rights of patients.

Included in this document is a Notice of my Privacy Practices and a shortened version of it. If you are a patient of mine, you will be asked to sign an acknowledgement that you received the notice. A copy of these Practices will also be available in my office.

Sincerely,  
Raquel Bateman, PhD

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## **Notice of Privacy Practices**

### Short Version

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.

### **My Commitment to Your Privacy**

My practice is dedicated to maintaining the privacy of your personal health information. I am also required by law to do this. These laws are complicated but I am required to provide you with some important information about them. This notice is a shorter version of the more complete legally required Notice of Privacy Practices (NPP) which is attached to this version. Please refer to that for more complete information. Even the NPP cannot cover all possible situations, so please talk to Dr. Bateman about any questions or problems.

I will use the information about your health which I get from you or from others mainly to provide you with treatment, to arrange payment for my services, or for some other business activities which are called, in the law, health care operations. After you have read this NPP I will ask you to sign a Consent Form to let me use and share your information. If you do not consent and sign this form, I cannot treat you.

If I or you ever want to use or disclose (send, share, release) your information for any other purposes than those listed above, we will discuss this and I will ask you to sign an authorization to allow this.

Of course I will keep your health information private, but there are some times when laws require me to use or share it, such as:

1. When there is a serious threat to your health and safety or the health and safety of another individual or the public. I will share information with a person or organization who is able to help prevent or reduce the threat. In addition, the New York State SAFE Act (MHL 9.46) requires that, effective March 16, 2013, all mental health professionals report to their local Director of Community Services (“DCS”) or their designee when, in their reasonable professional judgment, one of their patients is “likely to engage in conduct that would result in serious harm to self or others.”
2. Some lawsuits and legal or court proceedings.
3. If a law enforcement official requires me to do so.
4. For Workers Compensation and similar benefit programs.
5. Mandated reporting of child abuse.

There are some other situations like these that do not happen very often. They are described in the longer version of the NPP.

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## **Your rights regarding your health information**

1. You can ask us to limit communications with you about your health and related issues in a particular way or at a certain place. For example, you can ask me to call you at home and not at work to schedule or cancel an appointment. I will try my best to do as you ask.
2. You have the right to ask me to limit what I tell certain individuals involved in your care or the payment for your care, such as family members and friends. While I do not have to agree to your request, if I do agree, I will keep our agreement except if it is against the law, there is an emergency, or when the information is necessary to treat you.
3. You have the right to look at the health information I have about you such as your medical and billing records. You can even get a copy of these records for which I may charge you. In the event that you decide you wish to look at your records, contact Dr. Bateman to make arrangements to see them.
4. If you believe the information in your records is incorrect or incomplete, you can ask me to make some kinds of changes (called amending) to your health information. You have to make this request in writing and send it to Dr. Bateman. You must tell me the reasons you want to make the changes.
5. You have the right to a copy of this notice. If I change this NPP, I will inform you and post it in the office. You can always get a copy of the NPP from Dr. Bateman.
6. You have the right to file a complaint if you believe your privacy rights have been violated. You can file a complaint with Dr. Bateman and/or with the Secretary of the Department of Health and Human Services. All complaints must be in writing. Filing a complaint will not change the health care I provide to you in any way.

If you have any questions regarding this notice or my health information privacy policies, please contact Dr. Raquel Bateman.

The effective date of this notice is September 9, 2013.

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## **Notice of Psychologists' 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.

### **I. Uses and Disclosures for Treatment, Payment and Health Care Operations**

I may use or disclose your protected health information (PHI), for treatment, payment, and health care operations purposes with your consent: To help clarify these terms, here are some definitions:

- “PHI” refers to information in your health and billing records that could identify you.
- “Treatment, Payment and Health Care Operations”
  - Treatment is when I provide, coordinate or manage your health care and other services related to your health care. An example of treatment would be when I consult with another health care provider, such as your family or primary care physician or another psychologist.
  - Payment is when I obtain reimbursement for your healthcare. Examples of payment are when I disclose your PHI to your health insurer to obtain reimbursement for your health care or to determine eligibility or coverage.
  - Health Care Operations are activities that relate to the performance and operation of my practice. Examples of health care operations are quality assessment and improvement activities, business-related matters such as audits and administrative services, and care management and care coordination.
- “Use” applies only to activities within my office, such as sharing, employing, applying, utilizing, examining, and analyzing information that identifies you.
- “Disclosure” applies to activities which reach outside of my office, such as releasing, transferring, or providing access to information about you to other parties.
- “Consent” applies to a form you must sign before I begin to treat you.

### **II. Uses and Disclosures Requiring Authorization**

I may use or disclose PHI for purposes outside of treatment, payment, and health care operations only when your authorization is obtained. An “authorization” is written permission above and beyond the general consent. It permits only specific disclosures. In those instances when I am asked for information for purposes outside of treatment, payment and health care operations, I will obtain an authorization from you before releasing this information. I will also need to obtain an authorization before releasing my personal notes regarding your treatment (“psychotherapy notes”). Psychotherapy notes are notes I have made about our conversation during an individual, group, joint or family psychotherapy session, which I have kept separate from the rest of your medical record because they contain tentative hypotheses, personal reminders, etc. These notes are given a greater degree of protection than PHI.

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You may revoke all such authorizations (of PHI or psychotherapy notes) at any time, provided each revocation is in writing. You may not revoke an authorization to the extent that (1) I have already acted on that authorization; or (2) if the authorization was obtained as a condition of obtaining insurance coverage and the law provides the insurer the right to contest the claim under the policy.

### **III. Uses and Disclosures Requiring Neither Consent nor Authorization**

I may use or disclose PHI without your consent or authorization in the following circumstances:

- **Child Abuse:** If, in my professional capacity, a child comes before me which I have reasonable cause to suspect is an abused or maltreated child, or I have reasonable cause to suspect that a child is being abused or maltreated where the parent, guardian, custodian or other person legally responsible for such child comes before me in my professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child, I must report such abuse or maltreatment to the statewide central register of child abuse and maltreatment or the local child protective services agency.
- **Health Oversight:** If there is an inquiry or complaint about my professional conduct to the New York State Board of Psychology, I must furnish to the New York Commissioner of Education your confidential mental health records relevant to this inquiry.
- **Judicial or Administrative Proceedings:** If you are involved in a court proceeding and a request is made for information about the professional services that I have provided you and/or the records thereof; such information is privileged under state law, and I must not release this information without your written authorization, or a court order. However, this privilege does not apply when you are being evaluated for a third party or where the evaluation is court ordered. I must inform you in advance if this is the case.
- **Serious Threat to Health or Safety:** I may disclose your confidential information to protect you or others from a serious threat of harm by you. The New York State SAFE Act (MHL 9.46) requires that, effective March 16, 2013, all mental health professionals report to their local Director of Community Services (“DCS”) or their designee when, in their reasonable professional judgment, one of their patients is “likely to engage in conduct that would result in serious harm to self or others”. This language means threats of, or attempts at, suicide and/or serious bodily harm to self, or homicidal and/or violent behavior towards others. The local Director of Community Services “DCS” may then disclose the patient’s name and other non-clinical identifying information to the NYS Division of Criminal Justice Services (DCJS) to determine if the person has a firearms license. If the patient has a firearms license, the DCJS will report that information to the local firearms licensing official, who must either suspend or revoke the license and who will use this information to make decisions about the granting of a firearms license in the subsequent five (5) years.

The information regarding the NYS SAFE Act comes from the OMH website. For more information, visit the FAQ page: [http://www.omh.ny.gov/omhweb/safe\\_act/faq.html](http://www.omh.ny.gov/omhweb/safe_act/faq.html)

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- **Worker's Compensation:** If you file a worker's compensation claim, and I am treating you for issues involved with that complaint, then I must furnish to the chairman of the Worker's Compensation Board records which contain information regarding your psychological condition and treatment.

## **IV. Patient's Rights and Psychologist's Duties**

### Patient's Rights:

- **Right to Request Restrictions** — You have the right to request restrictions on certain uses and disclosures of protected health information about you. However, I am not required to agree to a restriction you request.
- **Right to Receive Confidential Communications by Alternative Means at Alternative Locations** — You have the right to request and receive confidential communications of PHI by alternative means and at alternative locations. (For example, you may not want a family member to know that you are seeing me. Upon your request, I will send your bills to another address.)
- **Right to Inspect and Copy** — You have the right to inspect and obtain a copy (or both) of your PHI in my mental health and/or billing records for as long as the PHI is maintained in the record. I may deny you access to PHI under certain circumstances, but in some cases, you may have this decision reviewed. On your request, I will discuss with you the details of the request and denial process. Appropriate forms are available for this purpose.
- **Right to Amend**— You have the right to request an amendment of PHI for as long as the PHI is maintained in the record. I may deny your request. On your request, I will discuss with you the details of the amendment process. Forms are available for this purpose.
- **Right to Accounting**— You generally have the right to receive an accounting of disclosures of PHI for which you have neither provided consent nor authorization (as described in Section III of this Notice). On your request, I will discuss with you the details of the accounting process. Forms are available for this purpose.
- **Right to a Paper Copy** — You have the right to obtain a paper copy of this notice upon request, even if you have agreed to receive the notice electronically.

### Psychologist's Duties:

- I am required by law to maintain the privacy of PHI and to provide you with a copy of this notice of my legal duties and privacy practices with respect to PHI.
- I reserve the right to change the privacy policies and practices described in this notice. Unless I notify you of such changes, however, I am required to abide by the terms currently in effect.
- If I revise my policies and procedures, I will notify you and post the revision in my office. You may, of course, request a copy of the revision.

## **V. Complaints**

If you are concerned that I have violated your privacy rights, or you disagree with a decision I made about access to your records, you may contact my office and you will be provided with a

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Complaint Form. Once you fill this out, I will be glad to discuss your concern with you, and do my best to resolve the concern.

You may also send a written complaint to the Secretary of the U.S. Department of Health and Human Services. The address is available in my office.

## **VI. Addendum (9/9/13):**

In January 2013, the U.S. Department of Health and Human Services (HHS) issued the long-awaited final omnibus rule (Final Rule) implementing the Health Information Technology for Economic and Clinical Health (HITECH) Act modifications to the Privacy Rule and other rules under the Health Insurance Portability and Accountability Act (HIPAA). Psychologists must comply with the Final Rule by September 23, 2013.

I will obtain an authorization from you before using or disclosing:

- PHI in a way that is not described in the Notice of Privacy Practices.
- Psychotherapy notes
- When the use and disclosure without your consent or authorization is allowed under other sections of Section 164.512 of the Privacy Rule and the state's confidentiality law. This includes certain narrowly-defined disclosures to law enforcement agencies, to a health oversight agency (such as HHS or a state department of health), to a coroner or medical examiner, for public health purposes relating to disease or FDA-regulated products, or for specialized government functions such as fitness for military duties, eligibility for VA benefits, and national security and intelligence.

Addendum to Patient's Rights:

Right to Restrict Disclosures When You Have Paid for Your Care Out-of-Pocket. You have the right to restrict certain disclosures of PHI to a health plan when you pay out-of-pocket in full for my services.

Right to Be Notified if There is a Breach of Your Unsecured PHI. You have a right to be notified if: (a) there is a breach (a use or disclosure of your PHI in violation of the HIPAA Privacy Rule) involving your PHI; (b) that PHI has not been encrypted to government standards; and (c) my risk assessment fails to determine that there is a low probability that your PHI has been compromised.

Breach Notification Addendum (The Overview is included at the end of this document)

1. When the Practice becomes aware of or suspects a breach, as defined in Section 1 of the breach notification Overview, the Practice will conduct a Risk Assessment, as outlined in Section 2A of the Overview. The Practice will keep a written record of that Risk Assessment.
2. Unless the Practice determines that there is a low probability that PHI has been compromised, the Practice will give notice of the breach as described in Sections 2B and 2C of the breach notification Overview.
3. The risk assessment can be done by a business associate if it was involved in the breach. While the business associate will conduct a risk assessment of a breach of PHI in its control, the Practice will provide any required notice to patients and HHS.

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4. After any breach, particularly one that requires notice, the Practice will re-assess its privacy and security practices to determine what changes should be made to prevent the re-occurrence of such breaches.

VII. Effective Date

This notice will go into effect on September 9, 2013.

*Raquel Bateman, PhD*

Signature, Privacy Officer



### **Additional Information Related to Breach Notification**

What is a Breach?

The HITECH Act added a requirement to HIPAA that psychologists (and other covered entities) must give notice to patients and to HHS if they discover that “unsecured” Protected Health Information (PHI) has been breached. A “breach” is defined as the acquisition, access, use or disclosure of PHI in violation of the HIPAA Privacy Rule. Examples of a breach include: stolen or improperly accessed PHI; PHI inadvertently sent to the wrong provider; and unauthorized viewing of PHI by an employee in your practice. PHI is “unsecured” if it is not encrypted to government standards. A use or disclosure of PHI that violates the Privacy Rule is presumed to be a breach unless you demonstrate that there is a “low probability that PHI has been compromised.” That demonstration is done through the risk assessment described next.

1.

#### **A. Risk Assessment**

The first step if a provider discovers or suspects a breach is to conduct the required risk assessment. (The provider must take this step even if the breached PHI was secured through encryption.) The risk assessment considers the following four factors to determine if PHI has been compromised: 1) The nature and extent of PHI involved. 2) To whom the PHI may have been disclosed. 3) Whether the PHI was actually acquired or viewed. 4) The extent to which the risk to the PHI has been mitigated. If the risk assessment fails to demonstrate that there is a low probability that the PHI has been compromised, breach notification is required — if the PHI was unsecured.

#### **B. Notice to the Patient**

If notice is required, the provider must notify any patient affected by a breach without unreasonable delay and within 60 days after discovery. A breach is “discovered” on the first day that you know (or reasonably should have known) of the breach. The provider is deemed to have discovered a breach on the first day that any employee, officer or other agent of the practice (other than the person who committed the breach) knows about the breach. The notice must be in plain language that a patient can understand. It should provide: a brief description of the breach, including dates; a description of types of unsecured PHI involved; the steps the patient should take to protect against potential harm; a brief description of steps you have taken to investigate the incident, mitigate harm, and protect against further breaches; and the provider’s contact information. The provider must provide written notice by first-class mail to the patient at his or her last known address. Alternatively, the provider can contact patients by e-mail if they have indicated that this is the preferred mode of contact.

#### **C. Notice to HHS**

For breaches affecting fewer than 500 patients, the provider must keep a log of those breaches during the year and then provide notice to HHS of all breaches during the calendar year, within 60 days after that year ends. For breaches affecting 500 patients or more, there are more complicated requirements that include immediate notice to HHS and sending notifications to major media outlets in the area for publication purposes. HHS provides instructions on how to

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provide notice for breaches affecting more than 500 patients on its website at:  
<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brinstruction.html>.

### **Breaches Involving Business Associates**

The Final Rule clarified the role of business associates in breach notification. The risk assessment described in Section A above can be done by the provider's business associate if it was involved in the breach. If a business associate or subcontractor is involved in the breach, they must notify the psychologist. It is then the psychologist's duty to provide notice to the patients and HHS of these breaches.

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Signature, Privacy Officer