

# *Prestige Evaluation and Consulting Services, LLC*

903 18<sup>th</sup> Street, Suite 218

Plano, TX 75074

Phone: 214-274-9386; Fax: 214-473-4246

## **Notice of Privacy Practices**

*This notice describes how health information about you may be used and disclosed. This notice also explains how you can access your information. Please keep this notice for your records.*

The Health Insurance Portability and Accountability Act (HIPAA) is a federal law that provides privacy protections and new patient rights with regard to the use and disclosure of your Protected Health Information (PHI) used for the purpose of treatment, payment, and health care operations. HIPAA requires that ***Prestige Evaluation and Consulting Services, LLC*** provide you with a Notice of Privacy Practices for use and disclosure of PHI for treatment, payment and health care operations.

This form explains HIPAA and its application to your personal health information in greater detail. The law requires that ***Prestige Evaluation and Consulting Services, LLC*** obtain your signature acknowledging that you have been provided with this information.

### **Understanding Your Health Record/Information**

Each time you visit a hospital, physician, or other health care provider, a record of your visit is made. Typically, this record contains your symptoms, examination and test results, diagnosis, treatment, and a plan for future care or treatment. This information, often referred to as your health and medical record, usually serves as:

- A basis for planning your care and treatment
- A means of communication among the many health professionals who contribute to your care
- A legal document describing the care you received
- A means by which you or a third-party payer can verify that services billed were actually provided
- A tool in educating health professionals
- A source of data for medical research
- A source of information for public health officials charged with improving the health of the nation
- A source of data for facilitation, planning and marketing
- A tool with which we can assess and continually work to improve the care we render and the outcomes we achieve

### **Understanding what is in your record and how your health information is used helps you to:**

- Ensure its accuracy
- Better understand who, what, when, where, and why others may access your health information
- Make more informed decisions when authorizing disclosure to others

### **I. Uses and disclosures for treatment, payment and health care operations.**

***Prestige Evaluation and Consulting Services, LLC***, 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 record that could identify you.

- “*Treatment, Payment and Health Care Operations*”
  - *Treatment* is when ***Prestige Evaluation and Consulting Services, LLC*** provide, coordinate or manage your mental health care. An example of treatment would be when ***Prestige Evaluation and Consulting Services, LLC*** consult with your family physician, a psychologist, psychiatrist or other therapist.
  - *Payment* refers to obtaining reimbursement for your health care. Examples are when ***Prestige Evaluation and Consulting Services, LLC*** disclose your PHI to your health insurer to obtain reimbursement for you or to determine eligibility.

- *Health Care Operations* are activities that relate to the performance and operation of ***Prestige Evaluation and Consulting Services, LLC***. Examples of such operations are case management or care coordination.
- “*Use*” applies only to activities within the offices of ***Prestige Evaluation and Consulting Services, LLC***.
- “*Disclosure*” applies to activities outside of ***Prestige Evaluation and Consulting Services, LLC***, such as releasing, transferring or providing information about you to other parties.

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

***Prestige Evaluation and Consulting Services, LLC*** may use or disclose PHI for purposes outside of treatment, payment and health care operations when your appropriate authorization is obtained. An authorization is written permission above and beyond the general consent that permits only specific disclosure. In those instances when ***Prestige Evaluation and Consulting Services, LLC*** is asked for information for purposes outside of treatment, payment or operations, ***Prestige Evaluation and Consulting Services, LLC*** will obtain an authorization from you before releasing this information. ***Prestige Evaluation and Consulting Services, LLC*** will also obtain an authorization before releasing your psychotherapy notes. “*Psychotherapy notes*” are notes made about conversations during an individual, joint, family or group counseling session, which have been kept separate from your client information. These notes are given a greater degree of protection than PHI. You may revoke all such authorizations at any time, provided each revocation is in writing. You may not revoke an authorization to the extent that (1) ***Prestige Evaluation and Consulting Services, LLC*** have relied 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.

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

- PHI in a way that is not described in this Notice.
- Psychotherapy notes

## **III. Uses and Disclosure with Neither Consent nor Authorization.**

***Prestige Evaluation and Consulting Services, LLC*** may use or disclose PHI without your consent or authorization in the following circumstances:

- **Child Abuse:** If employees of ***Prestige Evaluation and Consulting Services, LLC*** have reason to believe that a child has been, or may be, abused or neglected, the employee must make a report of such within 48 hours to the Texas Department of Protective and Regulatory Services, the Texas Youth Commission or any local or state law enforcement agency.
- **Adult Abuse:** If an employee of ***Prestige Evaluation and Consulting Services, LLC*** have cause to believe that an elderly or disabled person is in a state of neglect, abuse or exploitation, the employee must immediately make a report to the Department of Protective and Regulatory Services.
- **Health Oversight:** If a complaint is filed against ***Prestige Evaluation and Consulting Services, LLC*** with the Texas State Board of Examiners of Psychologists (TSBEP), they have the authority to subpoena confidential mental health information from ***Prestige Evaluation and Consulting Services, LLC*** relevant to that complaint.
- **Judicial Proceedings:** If you are involved in a court proceeding and a request is made for information about your diagnosis, treatment or records thereof, such information is privileged under the state, and ***Prestige Evaluation and Consulting Services, LLC*** will not release information without written authorization from you or a court order. The privilege does not apply when you are being evaluated by a third party or where the evaluation is court ordered. You will be informed in advance if this is the case.
- **Serious Threat to Health or Safety:** If an employee of ***Prestige Evaluation and Consulting Services, LLC*** determine that there is a probability of imminent physical injury by you to yourself or others, or there is a probability of immediate mental or emotional injury to you, employees of ***Prestige Evaluation and Consulting Services, LLC*** may disclose relevant confidential mental health information to medical or law enforcement personnel.
- **Worker’s Compensation:** If you file a worker’s compensation claim, ***Prestige Evaluation and Consulting Services, LLC*** may disclose records relating to your diagnosis and treatment to your employer’s insurance carrier.
- **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.

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

##### Client's Rights:

- ***Right to Information*** - Although your health record is the physical property of ***Prestige Evaluation and Consulting Services, LLC***, the information, with the exception of raw test data, belongs to you.
- ***Right to Requested Restrictions*** – You have the right to request restrictions on certain uses and disclosures of protected health information about you. However, ***Prestige Evaluation and Consulting Services, LLC*** is not required to agree to your request.
- ***Right to Inspect and Copy*** – You have the right to inspect or obtain a copy of PHI and psychotherapy notes in the records used to make decisions about you as long as the PHI is maintained in the record. ***Prestige Evaluation and Consulting Services, LLC*** may deny your access to PHI under certain circumstances, but in some cases you may have this decision reviewed. On your request, ***Prestige Evaluation and Consulting Services, LLC*** will discuss with you the detail of the request and denial process.
- ***Right to Receive Confidential Communications by Alternative Means and at Alternative Locations*** – For example, you may not want a family member to know that you are receiving services from ***Prestige Evaluation and Consulting Services, LLC***. Upon your request, your bills will be sent to another address.
- ***Right to Amend*** – You have the right to request an amendment of PHI for as long as the PHI is maintained in the record. ***Prestige Evaluation and Consulting Services, LLC*** may deny your request. Employees of ***Prestige Evaluation and Consulting Services, LLC*** will discuss the details of the amendment process upon request.
- ***Right to an Accounting*** – You generally have the right to receive an accounting of the disclosures of PHI for which you have neither provided consent nor authorization.
- ***Right to a Paper Copy*** – You have the right to obtain a paper copy of this notice from me upon request.
- ***Right to Revoke*** - You may revoke your authorization for ***Prestige Evaluation and Consulting Services, LLC*** to disclose health information except to the extent that action has already been taken.
- ***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.

##### Psychologist's Duties:

- ***Prestige Evaluation and Consulting Services, LLC*** is required by law to maintain the privacy of PHI and to provide you with a notice of legal duties and privacy practices with respect to PHI.
- ***Prestige Evaluation and Consulting Services, LLC*** reserve the right to change the privacy policies and practices described in this notice. Unless ***Prestige Evaluation and Consulting Services, LLC*** notify you of such changes, however, it is required that ***Prestige Evaluation and Consulting Services, LLC*** abide by the terms currently in effect.
- If ***Prestige Evaluation and Consulting Services, LLC*** revise policies and procedures, the amended form will be provided to current clients at the next scheduled appointment or for inactive clients by mail within 15 days of receiving a request in writing.

#### **V. Questions and Complaints**

If you have questions about this notice, disagree with a decision ***Prestige Evaluation and Consulting Services, LLC*** make about access to your records, or have other concerns about your privacy rights, please contact us.

If you believe that your rights have been violated and wish to file a complaint, you may send your written complaint to:

***Prestige Evaluation and Consulting Services, LLC***  
***Attn: Dr. Daralyn Plains***  
***The Nathaniel Barrett Building, Bldg II***  
***903 18<sup>th</sup> Street, Suite 218***  
***Plano, TX 75074***

You may also send a written complaint to the Secretary of the U.S. Department of Health and Human Services.  
US Department of Health and Human Services  
HIPPA Complaint  
7500 Security Boulevard C5-24-04  
Baltimore, Maryland 21244

You have specific rights under the Privacy Rule. ***Prestige Evaluation and Consulting Services, LLC***, nor its employees, will not retaliate against you for exercising your right to file a complaint.

#### **VI. Effective Date, Restrictions and Changes to Privacy Policy**

This notice went into effect April 14, 2003.

***Prestige Evaluation and Consulting Services, LLC*** will limit the use or disclosures made as follows: Release of psychoeducational or psychological test protocols (raw data) will not be made to anyone other than a qualified mental health professional, except in the case of a court order requiring me to release this data. "Raw data" refers to the actual test materials and recording forms on which the copyrighted test items are printed. This material is considered to be the property of the psychologist, not the patient, since open access to the tests themselves can damage the validity of the tests due to their content being exposed to the public. Exposing the content of tests to the public makes tests potentially useless, as would exposing items from the ACT, SAT, or STAAR tests. This practice is mandated by the Texas State Board of Examiners of Psychologists.

***Prestige Evaluation and Consulting Services, LLC*** reserve the right to change the terms of this notice and to make new provisions effective for all PHI maintained by ***Prestige Evaluation and Consulting Services, LLC***.

#### **Breach Notification Addendum to Policies & Procedures**

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 2.A of the Overview. The Practice will keep a written record of that Risk Assessment.

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 2.B and 2.C of the breach notification Overview.

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.

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.

#### **1. 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.

## **2. What to do if you learn of or suspect a breach**

### **A. Risk Assessment**

The first step if you discover or suspect a breach is to conduct the required risk assessment. (You 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. For example, does the breached PHI provide patient names, or other information enabling an unauthorized user to determine the patient's identity?
- 2) To whom the PHI may have been disclosed. This refers to the unauthorized person who used the PHI or to whom the disclosure was made. That person could be an outside thief or hacker, or a knowledgeable insider who inappropriately accessed patient records.
- 3) Whether the PHI was actually acquired or viewed. Factors 2 and 3 can be illustrated by comparing two scenarios. In both scenarios, your office has been broken into and your locked file cabinet with paper patient records has been pried open. In Scenario A, you suspect that a burglar was simply looking for valuables because cash and other valuables (but no patient files) have been taken. In Scenario B, you suspect the husband of a patient in the midst of a contentious divorce because no valuables have been taken; only the wife's file appears to have been opened, and the husband has a history of similar extreme behavior. In Scenario A, the likelihood that a burglar was rummaging through files seeking only valuables, indicates a relatively low risk that PHI was actually viewed. In Scenario B, the identity of the suspected "breacher" suggests a very high risk that the wife/patient's PHI was viewed and compromised.
- 4) The extent to which the risk to the PHI has been mitigated. For example, if you send the wrong patient's PHI to a psychologist colleague for consultation, it should be easy to obtain written confirmation from the colleague that they will properly delete or destroy the PHI on the wrong patient. By contrast, if your laptop has been stolen you have little assurance that the thief will respect your patient's confidentiality. 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, you 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. You are also deemed to have discovered a breach on the first day that any employee, officer or other agent of your practice (other than the person who committed the breach) knows about the breach. In most cases that members have brought to the APA Practice Organization's attention, there is a clear answer to the question, "Do I have to give notice?" For example, in the most common scenario of the stolen laptop with unencrypted PHI, the answer is always yes. But if you are uncertain, you can contact our Office of Legal and Regulatory Affairs at [praclegal@apa.org](mailto:praclegal@apa.org). You may also want to contact your professional liability insurance. 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
- Your contact information.

If you do not have all of the above information when you first need to send notice, you can provide a series of notices that fill in the information as you learn it. You must provide written notice by first-class mail to the patient at his or her last known address. Alternatively, you can contact your 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, you 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 provide notice for breaches affecting more than 500 patients on its website at: <http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brinstruction.html>.

#### **D. Breaches Involving business Associates**

The Final Rule clarified the role of business associates in breach notification. The risk assessment described in 2.A on page 2 can be done by your business associate if it was involved in the breach. Business associates are defined in Section D. 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 as explained below.

*Prestige Evaluation and Consulting Services, LLC*

903 18<sup>th</sup> Street, Suite 218

Plano, TX 75074

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**Acknowledgement of Receipt of Notice of Privacy Practices**

Patient/Client Name: \_\_\_\_\_

DOB: \_\_\_\_\_

I hereby acknowledge that I have received and have been given an opportunity to read a copy of **Prestige Evaluation and Consulting Services, LLC's** Privacy Practices. I understand that if I have any questions regarding the notice or my privacy rights, I can contact the Privacy Officer at 214-274-9386.

\_\_\_\_\_  
Signature of Patient or Client

\_\_\_\_\_  
Signature of Parent, Guardian, or Personal Representative\*

\_\_\_\_\_  
Date

If you are signing as a personal representative of an individual, please describe your legal authority to do so (Power of attorney, minor child, healthcare surrogate, etc.)

( ) Patient/Client Refuses to Acknowledge Receipt:

\_\_\_\_\_  
Signature of Staff Member

\_\_\_\_\_  
Date