



NOTICE OF PRIVACY PRACTICES

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.

If you have any questions about this Privacy Notice, please contact our Privacy officer: Director of Quality Improvement; PHONE 408-261-7777. You may also contact the Privacy Officer by writing to 2001 The Alameda, San Jose, CA 95126-1136.

OUR COMMITMENT TO YOU:

Momentum for Mental Health is committed to you, the client. We strive to provide the highest quality of care possible, consistent with our Clinical Framework. In order to provide quality services, it is necessary for us to share certain “Protected Health Information” about you at times.

“Protected Health Information” means health information (including information that identifies you) that we have collected from you. We may also have received this information from your health care providers, your employer or a health care clearinghouse. It may include information about your past, present or future physical or mental health or condition, the provision of your health care, and payment for your health care services.

THE LAW REQUIRES US TO:

- Keep this information private.
- Notify you of our legal obligation and privacy practices regarding this information. We do this through the Privacy Notice.
- Comply with the Privacy Notice currently in effect.
- Notify you of a breach of unsecured Protected Health Information or Electronic Protected Health Information
- Obtain written authorization from you for use and disclosure of PHI or ePHI with regards to marketing purposes and/or sale of PHI
- Inform you of use of disclosure of psychotherapy notes other than in excluded situations as outlined below.

This Notice of Privacy Practices describes how we may use and disclose your protected health information to **carry out treatment, payment or health care operations**. The notice also describes other purposes that are permitted or required by law. This Notice also describes **your rights** regarding health information we maintain about you and a **brief description of how you may exercise these rights**. This Notice further states the obligations we have to protect your health information.

HOW WE WILL USE AND DISCLOSE YOUR PROTECTED HEALTH INFORMATION

We will use and disclose your health information as described in each of the following categories. For each category, we will explain what we mean in general, but not describe all specific uses or disclosures of health information.

FOR TREATMENT

- *We will use and disclose* your health information without your authorization to provide your health care and any related services. We will also use and disclose your health information to coordinate and manage your health care and related services. For example, we may need to disclose information to a case manager who is responsible for coordinating your care.
- *We may also disclose* your health information among our staff (including staff other than your therapist or primary staff), who work at Momentum for Mental Health. For example, our staff may discuss your care at a case conference.
- *In addition, we may disclose* your health information without your authorization to another health care provider for purposes of your treatment. For example, we may share information with your primary care physician or a laboratory.

FOR PAYMENT

- *We may use or disclose* your health information without your authorization to bill and collect payment for treatment services we provide to you. For example, we may disclose your health information to the county or another third party.

FOR HEALTH CARE OPERATIONS

- *We may use and disclose* health information about you without your authorization for our health care operations. These uses and disclosures are necessary to run our organization and make sure that our clients receive quality care. Following is a list of examples for which we may use health information about you:
 - ✓ to assess and improve quality of care
 - ✓ to review the performance or qualifications of our staff.
 - ✓ to train students in clinical activities
 - ✓ to comply with licensing and accreditation requirements
 - ✓ to conduct business planning and development
 - ✓ general administrative activities

We may combine health information of many of our clients to decide: a) what additional services we should offer, b) what services are no longer needed, and c) whether certain treatments are effective.

- *We may also use and disclose* your health information to contact you to remind you of your appointment.
- *We may use and disclose* your health information to inform you about possible treatment options or alternatives that may be of interest to you.

Health-Related Benefits and Services

- *We may use and disclose* health information to tell you about health-related benefits or services that may be of interest to you.

If you do not want us to provide you with information about health-related benefits or services, you must notify the Privacy Officer in writing at:

Momentum for Mental Health
2001 The Alameda
San Jose, CA 95126-1136

Please state clearly that you do not want to receive materials about health-related benefits or services.

Fundraising Activities

- *We may use or disclose* health information about you to contact you about raising money for our programs, services and operations. This may include disclosure of information to the Foundation for Mental Health, which is the fund-raising entity of Momentum for Mental Health. A Foundation representative may contact you to raise money for us. **If we disclose such information, we will only release basic contact information, such as your name and address and the dates you were provided service. We will not provide information about your treatment.**

If you do not want us to contact you for fundraising purposes, you must notify the Privacy Officer in writing at:

Momentum for Mental Health
2001 The Alameda
San Jose, CA 95126-1136

Please state clearly that you do not want to receive any fund-raising solicitations from us.

USES AND DISCLOSURES THAT MAY BE MADE WITHOUT YOUR AUTHORIZATION*

***NOTE: You WILL have an opportunity to object to these uses and disclosures.**

Persons Involved in your Care.

- ❖ *We may provide* health information about you to someone who helps pay for your care.
- ❖ *We may use or disclose* your health information to notify someone of your location if that person is responsible for your care. For example, we may notify a family member, personal representative or other third party of your location, general condition or death.
- ❖ *We may use or disclose* your health information to someone assisting in disaster relief efforts in order to help them coordinate notification to your family or others involved in your health care.
- ❖ *In limited circumstances, we may disclose* health information to about you to a friend or family member who is involved in your care. **If you are physically present and have the capacity to**

make health care decisions, your health information may only be disclosed with your agreement to persons you designate to be involved in your care.

- ❖ *In an emergency, we may disclose* your health information to a spouse, a family member, or a friend so that such a person may assist in your care. In this case **we will determine whether the disclosure is in your best interest** and, **if so, only disclose information that is directly relevant** to participation in your care. If you are not in an emergency situation, but are unable to make health care decisions, we will disclose your health information to:
 - a person designated to participate in your care in accordance with an advance directive validly executed under state law.
 - your guardian or other fiduciary if one has been appointed by a court, or
 - if applicable, the state agency responsible for consenting to your care.

USES AND DISCLOSURES THAT MAY BE MADE WITHOUT YOUR AUTHORIZATION**

****NOTE: You will NOT have an opportunity to object to these uses and disclosures.**

Emergencies

We may use and disclose your health information in an emergency treatment situation. For example, we may provide your health information to a paramedic who is transporting you in an ambulance. **A staff member who is required by law to treat you may use or disclose your health information if he/she has made an unsuccessful attempt to obtain your authorization.**

Research

We may disclose your health information to researchers when their research has been approved by an Institutional Review Board or a similar privacy board that has reviewed the research proposal and established protocols to protect the privacy of your health information.

As Required By Law

We will disclose health information about you when required to do so by federal, state or local law.

To Avert a Serious Threat to Health or Safety

We may use and disclose health information about you when necessary to prevent a serious and imminent threat to your health or safety or to the health or safety of the public or another person. **Under these circumstances, we will only disclose health information to someone who is able to help prevent or lessen the threat.**

Public Health Activities

We may disclose health information about you as necessary for public health activities. For example, we may

- ❖ report to public health authorities for the purpose of preventing or controlling disease, injury or disability;
- ❖ report vital events such as birth or death;
- ❖ conduct public health surveillance or investigations;

- ❖ report child abuse or neglect;
- ❖ report the viewing of child pornography as of 01/01/2015 in accordance with legislation AB1775:
(This law requires mandated reporters to file a child abuse report when learning that a consumer they are providing services to “depicts a child in, or knowingly develops, duplicates, prints, downloads, streams, accesses through any electronic or digital media, or exchanges, a film, photograph, videotape, video recording, negative, or slide in which a child is engaged in an act of obscene sexual conduct”).
- ❖ report certain events to the Food and Drug Administration (FDA) or to a person subject to the jurisdiction of the FDA. This includes information about defective products or problems with medications;
- ❖ notify clients about FDA-initiated product recalls;
- ❖ notify a person who may have been exposed to a communicable disease, or who is at risk of contracting or spreading a disease or condition;
- ❖ notify the appropriate government agency if we believe you have been a victim of abuse, neglect or domestic violence. **We will only notify an agency if we obtain your agreement or if we are required or authorized by law to report such abuse, neglect or domestic violence.**

Health Oversight Activities

We may disclose health information about you to a health oversight agency for activities authorized by law. Oversight agencies include government agencies that oversee the health care system, government benefit programs such as Medicare or Medicaid, other government programs that regulate health care and civil rights laws.

Disclosures in Legal Proceedings

- *We may disclose* health information about you to a court or administrative agency when a judge or administrative agency orders us to do so.
- *We also may disclose* health information about you in legal proceedings without your permission or without a judge or administrative agency’s order. For example, we may disclose your health information when we receive a subpoena for it. **We will not provide this information in response to a subpoena without your authorization if the request is for records of a federally-assisted substance abuse program.**

Law Enforcement Activities

- *We may disclose* health information to a law enforcement official for law enforcement purposes when:
 - ❖ Required by a court order, subpoena, warrant, summons or similar process.
 - ❖ The information is needed to identify or locate a suspect, fugitive, material witness or missing person.
 - ❖ We report a death that we believe may be the result of criminal conduct.
 - ❖ We report criminal conduct occurring on the premises of our facility.

- ❖ We determine that the law enforcement purpose is to respond to a threat of an imminently dangerous activity by you against yourself or another person.
- ❖ The disclosure is otherwise required by law.
- ***We may also disclose*** health information about a client who is a victim of a crime. We may disclose this information without a court order or without being required to do so by law. However, **we will disclose information if it has been requested by a law enforcement official and the victim agrees** to the disclosure. **If the victim is unable to consent to disclosure, we will only disclose information if the following occurs:**
 - ❖ the law enforcement official represents to us that (i) the victim is not the subject of the investigation and (ii) disclosure is necessary in order for law enforcement to take immediate action to meet a serious danger to the victim or others; and
 - ❖ we determine that the disclosure is in the victim's best interest.

Medical Examiners or Funeral Directors

We may provide health information about our clients to a medical examiner. Medical examiners are appointed by law to assist in identifying deceased persons and to determine the cause of death in certain circumstances. We may also disclose health information about our clients to funeral directors as necessary to carry out their duties.

Military and Veterans

- If you are a member of the armed forces, ***we may disclose*** your health information as required by military command authorities.
- ***We may also disclose*** your health information for the purpose of determining your eligibility for benefits provided by the Department of Veterans Affairs.
- Finally, if you are a member of a foreign military service, ***we may disclose*** your health information to that foreign military authority.

National Security and Protective Services for the President and Others

We may disclose medical information about you to authorized federal officials for intelligence, counter-intelligence, and other national security activities authorized by law. We may also disclose health information about you to authorized federal officials so they may provide protection to the President, other authorized persons or foreign heads of state or so they may conduct special investigations.

Inmates

If you are an inmate of a correctional institution or under the custody of a law enforcement official, ***we may disclose*** health information about you to the correctional institution or law enforcement official.

Workers' Compensation

We may disclose health information about you to comply with the state's Workers' Compensation Law.

THERE MAY BE OTHER SITUATIONS IN WHICH MOMENTUM FOR MENTAL HEALTH WOULD BE REQUIRED BY LAW OR PERMITTED TO RELEASE PERSONAL HEALTH INFORMATION. MOMENTUM FOR MENTAL HEALTH RESERVES THE RIGHT TO RELEASE INFORMATION IN THESE CIRCUMSTANCES.

USES AND DISCLOSURES OF PERSONAL HEALTH INFORMATION THAT MAY BE MADE WITH YOUR PERMISSION

- Uses and disclosures not described above will generally only be made with your written permission. This permission is called an "authorization." You have the right to revoke an authorization at any time.
- If you revoke your authorization we will not make any further uses or disclosures of your health information under that authorization, unless we have already taken an action relying upon the uses or disclosures you have previously authorized.

YOUR RIGHTS AS OUR CLIENT

Regarding Your Health Information.

- **You have the Right to Inspect and Copy.**

You may request an opportunity to inspect or copy health information used to make treatment or payment decisions about your care. Usually, this would include clinical and billing records, but not psychotherapy notes.

We may deny your request to inspect or copy your health information *in certain limited circumstances*. In some cases, you will have the right to have the denial reviewed by a licensed health care professional not directly involved in the original decision to deny access. We will inform you in writing if the denial of your request may be reviewed. Once the review is completed, we will honor the decision made by the licensed health care professional reviewer.

- **You have the Right to Amend**

You may request us to amend any health information used to make treatment or payment decisions about your care. This right is valid for as long as we keep records about you. Usually, this would include clinical and billing records, but not psychotherapy notes.

We may deny your request for an amendment *if it is not in writing or does not include a reason* to support the request.

We may also deny your request if you ask us to amend health information that:

- ❖ was not created by us, unless the person or entity that created the health information is no longer available to make the amendment;
- ❖ is not part of the health information we maintain to make decisions about your care;
- ❖ is not part of the health information that you would be permitted to inspect or copy; or
- ❖ is accurate and complete.

If we deny your request to amend, we will send you a written notice of the denial stating the basis for the denial and offering you the opportunity to provide a written statement disagreeing with the denial. If you do not wish to prepare a written statement of disagreement, you may ask that the requested amendment and our denial be attached to all future disclosures of the health information that is the subject of your request.

If you choose to submit a written statement of disagreement, we have the right to prepare a written rebuttal to your statement of disagreement. In this case, we will attach the written request and the rebuttal (as well as the original request and denial) to all future disclosures of the health information that is the subject of your request.

- **You have the Right to An Accounting of Disclosures**

You may request that we provide you with an accounting of disclosures we have made of your health information. An accounting is a list of disclosures. However, list will not include certain disclosures of your health information,. For example, the list will not include disclosures we have made for purposes of treatment, payment, and health care operations.

- **You have the Right to Request Restrictions.**

You may request a restriction on the health information we use or disclose about you for treatment, payment or health care operations.

We are not required to agree to a restriction that you may request. **If we do agree, we will honor your request unless the restricted health information is needed to provide you with emergency treatment.**

You have the right to restrict disclosures of PHI or ePHI to a health plan with respect to health care for which you have paid out-of-pocket and in full.

- **You have a Right to Request Confidential Communications**

You may request that we communicate with you about your health care only in a certain location or through a certain method. For example, you may request that we contact you only at work or by e-mail.

Momentum for Mental Health may provide consumers the opportunity to communicate with Momentum staff as mutually agreed upon by text or email if requested by the consumer. Transmitting confidential consumer information by text or email, however, entails a number of risks, both general and specific, that consumers should consider before using texting or email.

Risk Factors

- Among general email and /or texting risks are the following:
 - ❖ Texts or email can be immediately broadcast worldwide and be received by many intended and unintended recipients.
 - ❖ Recipients can forward text or email messages to other recipients without the original sender's permission or knowledge.

- ❖ Users can easily misaddress a text or email.
 - ❖ Texts or email are easier to falsify than handwritten or signed documents.
 - ❖ Backup copies of texts or email may exist even after the sender or the recipient has deleted his or her copy.
- Among specific consumer text and /or email risks are the following:
- ❖ Email containing information pertaining to a patient's diagnosis and/or treatment must be included in the patient's medical records. Thus, all individuals who have access to the medical record will have access to the email messages.
 - ❖ Employees do not have an expectation of privacy in texts or email that they send or receive at their place of employment. Thus, consumers who send or receive texts or email from their place of employment risk having their employer read their texts or email.
 - ❖ If employers or others, such as insurance companies, read an employee's email and learn of medical treatment, particularly mental health, sexually transmitted diseases, or alcohol and drug abuse information, they may discriminate against the employee/patient. For example, they may fire the employee, not promote the employee, deny insurance coverage, and the like. In addition, the employee could suffer social stigma from the disclosure of such information.
 - ❖ Consumers have no way of anticipating how soon Momentum and its employees and agent will respond to a particular email or text message. Although Momentum and its employees and agents will endeavor to read and respond to texts and email promptly, Momentum cannot guarantee that any particular text or email message will be read and responded to within any particular period of time. Momentum staff rarely have time during consultations, appointments, staff meetings, meetings away from the facility, and meetings with consumers and their families to continually monitor whether they have received texts or email. Thus consumers should not use texting or email in an emergency.

Conditions for the Use of Texts and Email

- It is the policy of Momentum to make all email messages sent or received that concern the diagnosis or treatment of a consumer part of the consumer's medical record and to treat such email messages with the same degree of confidentiality as afforded other portions of the medical record.
- Momentum staff will not communicate information or respond to information sent by text concerning diagnosis or treatment.
- Momentum will use reasonable means to protect the security and confidentiality of text and email information. Because of the risks outlined above, Momentum cannot, however, guarantee the security and confidentiality of text or email communication.
- Thus, consumers must consent to the use of email for confidential medical information after having been informed of the above risks.
- Consumers may also consent to the use of texts for confidential communication re: appointments and administrative information only after having been informed of the above risks. Again, Momentum staff will not communicate information or respond to information sent by text concerning diagnosis or treatment.

Consent to the use of email includes agreement with the following conditions:

- All emails to or from the consumer concerning diagnosis and/or treatment will be made a part of the patient's medical record. As a part of the medical record, other individuals, such as other Momentum medical staff, Finance personnel, and the like, and other entities, such as other health care providers and insurers, will have access to email messages contained in medical records.
- Momentum may forward email messages within the facility as necessary for diagnosis, treatment, and reimbursement. Momentum will not, however, forward the email outside the facility without the consent of the consumer or as required by law.
- If the consumer sends an email to Momentum, one of its mental health staff, or an administrative department, Momentum will endeavor to read the email promptly and to respond promptly, if warranted. However, Momentum can provide no assurance that the recipient of a particular email will read the email message promptly. Because Momentum cannot assure consumers that recipients will read email messages promptly, consumers must not use email in an emergency.
- If a consumer's email requires or invites a response, and the recipient does not respond within a reasonable time, the consumer is responsible for following up to determine whether the intended recipient received the email and when the recipient will respond.
- Because some medical information is so sensitive that unauthorized disclosure can be very damaging, consumers should not use email for communications concerning diagnosis or treatment of AIDS/HIV infection; other sexually transmissible or communicable diseases, such as syphilis, gonorrhea, herpes, and the like; mental health or developmental disability; or alcohol and drug abuse. Any communication by e-mail about mental health or developmental disability or alcohol or drug abuse should be carefully weighed in light of the risks discussed here.
- Because employees do not have a right of privacy in their employer's email system, consumers should not use their employer's email system to transmit or receive confidential medical information.
- Momentum cannot guarantee that electronic communications (emails or texts) will be private. Momentum will take reasonable steps to protect the confidentiality of patient texts and email, but Momentum is not liable for improper disclosure of confidential information not caused by Momentum's gross negligence or wanton misconduct.
- If the consumer requests and consents to the use of texts or email, the consumer is responsible for alerting Momentum regarding any types of information that the consumer does not want to be sent by email other than those set out above.
- The consumer is responsible for protecting consumer's password or other means of access to text or email sent or received from Momentum to protect confidentiality. Momentum is not liable for breaches of confidentiality caused by consumer.
- Any further use of texts or email by the consumer that discusses diagnosis or treatment by the consumer constitutes informed consent to the foregoing. Consumers may withdraw consent to the use of texts or email at any time by email or written communication to Momentum attention: Director of Quality Improvement.

- **You have a Right to a Paper Copy of this Notice**

You may request a paper copy of this Notice of Privacy Practices at any time. Even if you have agreed to receive this Notice of Privacy Practices electronically, you may still obtain a paper copy.

To obtain a paper copy of the Privacy Notice, contact the Privacy Officer in writing at:

Momentum for Mental Health
2001 The Alameda
San Jose, CA 95126-1136

COMPLAINTS

If you believe your privacy rights have been violated, you may file a complaint with us or with the Office of Civil Rights at 1-866-OCR-PRIV. To file a complaint with us, contact Privacy Officer of Momentum for Mental Health Quality Improvement Department at the following address:

Momentum for Mental Health
Quality Improvement Department
2001 The Alameda
San Jose, CA 95126-1136
PHONE: 408-261-7777

Our Privacy Officer will help you write your complaint if you request such assistance in writing. The Privacy Officer may be reached at the following address:

We will not retaliate against you for filing a complaint.

CHANGES TO THIS NOTICE

We reserve the right to change the terms of our Notice of Privacy Practices. We also reserve the right to make the revised or changed Notice of Privacy Practices effective for all health information we already have about you as well as any health information we receive in the future. We will post a copy of the current Notice of Privacy Practices at our main office and at each site where we provide care. You may also obtain a copy of the current Notice of Privacy Practices by accessing our website at www.momentumformentalhealth.org or by calling us at 408-261-7777 and requesting that a copy be sent to you in the mail. You may also ask for a copy when you are in our offices.

WHO WILL FOLLOW THIS NOTICE

Momentum for Mental Health and each of the programs it operates will follow this Notice of Privacy Practices. Programs are located in Santa Clara County, CA. A complete roster of facilities is available upon request. Programs at the locations listed above may share health information with each other for treatment, payment or health care operations.