



AMERICAN COUNSELING ASSOCIATION

## American Counseling Association

“Dedicated to the growth and development of the counseling profession  
and those who are served”

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# Meeting HIPAA Requirements

## Notice of Privacy Practices and Client Rights Document

“As a service to members, the American Counseling Association has partnered with Robert J. Walsh, NCC, LCPC and Norman C. Dasenbrook, LCPC, who have over 50 years combined experience in the mental health field (including over 30 years in private practice) and are consultants in counseling practice management, to offer a series of bulletins on various private practice topics. This series includes timely information on starting/expanding/ending a private practice, informed consent, HIPAA requirements, managed care and insurance companies, and strategies for enrolling on provider panels and responding to claim denials. The material presented is copyrighted and should not be reproduced without the permission of the American Counseling Association.”

Walsh and Dasenbrook have co-authored, *The Complete Guide to Private Practice for Licensed Mental Health Professionals 3<sup>rd</sup> edition*. Their Guide contains the latest information on marketing, advertising, office procedures, dealing with managed healthcare and insurance billing. It also contains a CD-Rom with all the forms necessary for your practice. The Guide can be purchased through their web site at [Counseling-PrivatePractice.com](http://Counseling-PrivatePractice.com). For more information you can contact the authors at 3703 N. Main St. Suite 100 Rockford, IL. 61103 815.877.0399

## Meeting HIPAA Requirements

### Notice of Privacy Practices and Client Rights Document

By now, most mental health professionals should have some working knowledge of the impact of the HIPAA (Health Insurance Portability and Accountability Act of 1996) on the health care delivery system. Whether seeing your physician, going to the hospital, or whatever compliance plan your agency or workplace has implemented, in the practice of counseling, HIPAA regulations are in force and must be dealt with.

Most counselors who have a limited practice or are seeking to enter private practice ask us in our private practice seminars if they need to be “HIPAA compliant.” Legally, it depends on if you are considered a “covered entity.” Covered entities are providers who transmit any protected health information in electronic form. Even if you are not considered a covered entity now, if you plan to be in practice for the next five to ten years, you probably will be. We recommend being HIPAA compliant as a smart decision. We believe that being HIPAA compliant demonstrates to your clients that you take your professionalism and your clients’ privacy and rights very seriously. Moreover, even if you aren’t considered a covered entity and elect not to be compliant, the act still impacts release of information, record keeping, and confidentiality. To sum it up: just do it.

There are many areas of HIPAA compliance: electing a privacy officer, reviewing business contracts for disclosure of protected health information, and developing policies and procedures, to name a few. We will focus on *NOTICE OF PRIVACY PRACTICES AND CLIENTS’ RIGHTS*. These two components of HIPAA compliance are given to the client (and you have in writing that the client read them and received a copy of them) before your initial session. They need to be in plain language that is not intimidating.

## **NOTICE OF PRIVACY PRACTICES**

As a counselor, you are required by HIPAA to provide a document that explains to potential clients how you and your practice will handle the release of confidential information. At the top (header) of your **HIPAA NOTICE OF PRIVACY PRACTICES** document you are mandated to include the following statement:

**THIS NOTICE DESCRIBES HOW MEDICAL/MENTAL HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.**

Next, you need to print the effective date. This would be the date you started your practice or the mandated date of compliance April 14, 2003 for an existing practice.

Following the date should be a statement outlining that you only release information in accordance with state and federal laws and the ethics of the counseling profession.

After the above information, you need a statement declaring that this notice describes your policies related to the use and disclosure of the client's healthcare information. Also include the following paragraph:

**“Use and disclosure of protected health information for the purposes of providing services.** Providing treatment services, collecting payment and conducting healthcare operations are necessary activities for quality care. State and federal laws allow us to use and disclose your health information for these purposes.”

The body of the document needs to include information in the following four sections (with examples):

**TREATMENT** Use and disclose health information to:

- Provide, manage or coordinate care
- Consultants
- Referral sources

**PAYMENT** Use and disclose health information to:

- Verify insurance and coverage
- Process claims and collect fees

**HEALTHCARE OPERATIONS** Use and disclose health information for:

- Review of treatment procedures
- Review of business activities
- Certification
- Staff training
- Compliance and licensing activities

**OTHER USES AND DISCLOSURES WITHOUT YOUR CONSENT**

- Mandated reporting
- Emergencies
- Criminal damage
- Appointment scheduling
- Treatment alternatives
- As required by law

Incorporating the above information will communicate to your client what happens with the healthcare information he or she shares with you. All this can be documented on one side of a page. Most counselors then include the following client rights information on the back of the Notice of Privacy Practice document. That way, it is all on one piece of paper. Clients need to sign and date that they have read and received a copy of the document. You can have a line in your informed consent document for them to sign and give the client a copy, or clients can sign and date this form, with one copy for the client and the other placed in the record.



**Right to complain**

- Please contact you first
- If not satisfied, right to complain to the U.S. Dept. of Health and Human Services
- No retaliation

**Right to receive changes in policy**

- May request any future changes
- Request to privacy officer

Hopefully, this information is of value to you whether you are drafting policies to open a new practice or are benchmarking your existing documents. Please keep in mind that this information is our interpretation of how HIPAA impacts the practice of counseling. Please review your own documentation with an attorney. This information provided is for reference and does not constitute rendering of legal advice by Norman C. Dasenbrook, Robert Walsh or ACA.

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