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HIPAA NOTICE OF PRIVACY PRACTICES

I. 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.

II. IT IS MY LEGAL DUTY TO SAFEGUARD YOUR PROTECTED HEALTH INFORMATION (PHI).

By law I am required to insure that your PHI is kept private. The PHI constitutes information created or noted by me that can be used to identify you. It contains data about your past, present, or future health or condition, the provision of health care services to you, or the payment for such health care. I am required to provide you with this Notice about my privacy procedures. This Notice must explain when, why, and how I would use and/or disclose your PHI. Use of PHI means when I share, apply, utilize, examine, or analyze information within my practice; PHI is disclosed when I release, transfer, give, or otherwise reveal it to a third party outside my practice. With some exceptions, I may not use or disclose more of your PHI than is necessary to accomplish the purpose for which the use or disclosure is made; however, I am always legally required to follow the privacy practices described in this Notice.

Please note that I reserve the right to change the terms of this Notice and my privacy policies at any time as permitted by law. Any changes will apply to PHI already on file with me. Before I make any important changes to my policies, I will immediately change this Notice and post a new copy of it in my office and on my website www.BrendaDiller.com. You may also request a copy of this Notice from me, or you can view a copy of it in my office or on my website, which is located at www.BrendaDiller.com.

III. HOW I WILL USE AND DISCLOSE YOUR PHI.

I will use and disclose your PHI for many different reasons. Some of the uses or disclosures will require your prior written authorization; others, however, will not. Below you will find the different categories of my uses and disclosures, with some examples.

A. Uses and Disclosures Related to Treatment, Payment, or Health Care Operations Do Not Require Your Prior Written Consent. I may use and disclose your PHI without your consent for the following reasons:

1. For treatment. I can use your PHI within my practice to provide you with mental health treatment, including discussing or sharing your PHI with my trainees and interns. I may disclose your PHI to physicians, psychiatrists, psychologists, and other licensed health care providers who provide you with health care services or are otherwise involved in your care. Example: If a psychiatrist is treating you, I may disclose your PHI to her/him in order to coordinate your care.

2. For health care operations. I may disclose your PHI to facilitate the efficient and correct operation of my practice. Examples: Quality control - I might use your PHI in the evaluation of the quality of health care services that you have received or to evaluate the performance of the health care professionals who provided you with these services. I may also provide your PHI to my attorneys, accountants, consultants, and others to make sure that I am in compliance with applicable laws.

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3. To obtain payment for treatment. I may use and disclose your PHI to bill and collect payment for the treatment and services I provided you. Example: I might send your PHI to your insurance company or health plan in order to get payment for the health care services that I have provided to you. I could also provide your PHI to business associates, such as billing companies, claims processing companies, and others that process health care claims for my office.

4. Other disclosures. Examples: Your consent isn't required if you need emergency treatment provided that I attempt to get your consent after treatment is rendered. In the event that I try to get your consent but you are unable to communicate with me (for example, if you are unconscious or in severe pain) but I think that you would consent to such treatment if you could, I may disclose your PHI.

B. Certain Other Uses and Disclosures Do Not Require Your Consent. I may use and/or disclose your PHI without your consent or authorization for the following reasons:

- 1. When disclosure is required by federal, state, or local law; judicial, board, or administrative proceedings; or, law enforcement.** Example: I may make a disclosure to the appropriate officials when a law requires me to report information to government agencies, law enforcement personnel and/or in an administrative proceeding.
- 2. If disclosure is compelled by a party to a proceeding before a court of an administrative agency pursuant to its lawful authority.**
- 3. If disclosure is required by a search warrant lawfully issued to a governmental law enforcement agency.**
- 4. If disclosure is compelled by the patient or the patient's representative pursuant to Colorado Health and Safety Codes or to corresponding federal statutes of regulations,** such as the Privacy Rule that requires this Notice.
- 5. To avoid harm.** I may provide PHI to law enforcement personnel or persons able to prevent or mitigate a serious threat to the health or safety of a person or the public (i.e., adverse reaction to meds).
- 6. If disclosure is compelled or permitted by the fact that you are in such mental or emotional condition as to be dangerous to yourself or the person or property of others, and if I determine that disclosure is necessary to prevent the threatened danger.**
- 7. If disclosure is mandated by the Colorado Child Abuse Mandatory Reporting law.** For example, if I have a reasonable suspicion of child abuse or neglect.
- 8. If disclosure is mandated by the Colorado Elder / Dependent Adult Abuse Mandatory Reporting law.** For example, if I have a reasonable suspicion of elder abuse or dependent adult abuse.
- 9. If disclosure is compelled or permitted by the fact that you tell me of a serious/imminent threat of physical violence by you against a reasonably identifiable victim or victims.**
- 10. For public health activities.** Example: In the event of your death, if a disclosure is permitted or compelled, I may need to give the county coroner information about you.
- 11. For health oversight activities.** Example: I may be required to provide information to assist the government in the course of an investigation or inspection of a health care organization or provider.
- 12. For specific government functions.** Examples: I may disclose PHI of military personnel and veterans under certain circumstances. Also, I may disclose PHI in the interests of national security, such as protecting the President of the United States or assisting with intelligence operations.
- 13. For research purposes.** In certain circumstances, I may provide PHI in order to conduct medical research.
- 14. For Workers' Compensation purposes.** I may provide PHI in order to comply with Workers' Compensation laws.
- 15. Appointment reminders and health related benefits or services.** Examples: I may use PHI to provide appointment reminders. I may use PHI to give you information about alternative treatment options, or other health care services or benefits I offer.
- 16. If an arbitrator or arbitration panel compels disclosure,** When arbitration is lawfully requested by either party, pursuant to subpoena *duces tectum* (e.g., a subpoena for mental health records) or any other provision authorizing disclosure in a proceeding before an arbitrator or arbitration panel.

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17. If disclosure is required or permitted to a health oversight agency for oversight activities authorized by law.

Example: When compelled by U.S. Secretary of Health and Human Services to investigate or assess my compliance with HIPAA regulations.

18. If disclosure is otherwise specifically required by law.

C. Certain Uses and Disclosures Require You to Have the Opportunity to Object.

1. Disclosures to family, friends, or others. I may provide your PHI to a family member, friend, or other individual who you indicate are involved in your care or responsible for the payment for your health care, unless you object in whole or in part. Retroactive consent may be obtained in emergency situations.

D. Other Uses and Disclosures Require Your Prior Written Authorization. In any other situation not described in Sections IIIA, IIIB, and IIIC above, I will request your written authorization before using or disclosing any of your PHI. Even if you have signed an authorization to disclose your PHI, you may later revoke that authorization, in writing, to stop any future uses and disclosures (assuming that I haven't taken any action subsequent to the original authorization) of your PHI by me.

IV. WHAT RIGHTS YOU HAVE REGARDING YOUR PHI

These are your rights with respect to your PHI:

A. The Right to See and Get Copies of Your PHI. In general, you have the right to see your PHI that is in my possession, or to get copies of it; however, you must request it in writing. If I do not have your PHI, but I know who does, I will advise you how you can get it. You will receive a response from me within 30 days of my receiving your written request. Under certain circumstances, I may feel I must deny your request, but if I do, I will give you, in writing, the reasons for the denial. I will also explain your right to have my denial reviewed.

If you ask for copies of your PHI, I will charge you not more than \$.50 per page. I may see fit to provide you with a summary or explanation of the PHI, but only if you agree to it, as well as to the cost, in advance.

B. The Right to Request Limits on Uses and Disclosures of Your PHI. You have the right to ask that I limit how I use and disclose your PHI. While I will consider your request, I am not legally bound to agree. If I do agree to your request, I will put those limits in writing and abide by them except in emergency situations. You do not have the right to limit the uses and disclosures that I am legally required or permitted to make.

C. The Right to Choose How I Send Your PHI to You. It is your right to ask that your PHI be sent to you at an alternate address (for example, sending information to your work address rather than your home address) or by an alternate method (for example, via email instead of by regular mail). I am obliged to agree to your request providing that I can give you the PHI, in the format you requested, without undue inconvenience. I may not require an explanation from you as to the basis of your request as a condition of providing communications on a confidential basis.

D. The Right to Get a List of the Disclosures I Have Made. You are entitled to a list of disclosures of your PHI that I have made. The list will not include uses or disclosures to which you have already consented, i.e., those for treatment, payment, or health care operations, sent directly to you, or to your family; neither will the list include disclosures made for national security purposes, to corrections or law enforcement personnel, or disclosures made before April 15, 2003. After April 15, 2003, disclosure records will be held for six years.

I will respond to your request for an accounting of disclosures within 60 days of receiving your request. The list I give you will include disclosures made in the previous six years unless you indicate a shorter period. The list will include the date of the disclosure, to whom PHI was disclosed (including their address, if known), a description of the information disclosed, and the reason for the disclosure. I will provide the list to you at no cost, unless you make more than one request in the same year, in which case I will charge you a reasonable sum based on a set fee for each additional request.

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E. The Right to Amend Your PHI. If you believe that there is some error in your PHI or that important information has been omitted, it is your right to request that I correct the existing information or add the missing information. Your request and the reason for the request must be made in writing. You will receive a response within 60 days of my receipt of your request. I may deny your request, in writing, if I find that: the PHI is (a) correct and complete, (b) forbidden to be disclosed, (c) not part of my records, or (d) written by someone other than me. My denial must be in writing and must state the reasons for the denial. It must also explain your right to file a written statement objecting to the denial. If you do not file a written objection, you still have the right to ask that your request and my denial be attached to any future disclosures of your PHI. If I approve your request, I will make the change(s) to your PHI. Additionally, I will tell you that the changes have been made, and I will advise all others who need to know about the change(s) to your PHI.

F. The Right to Get This Notice by Email. You have the right to get this notice by email. You have the right to request a paper copy of it, as well.

V. HOW TO COMPLAIN ABOUT MY PRIVACY PRACTICES

If, in your opinion, I may have violated your privacy rights, or if you object to a decision I made about access to your PHI, you are entitled to file a complaint with the person listed in Section VI below. You may also send a written complaint to the Secretary of the Department of Health and Human Services at 200 Independence Avenue S.W. Washington, D.C. 20201.

VI. PERSON TO CONTACT FOR INFORMATION ABOUT THIS NOTICE OR TO COMPLAIN ABOUT MY PRIVACY PRACTICES

If you have any questions about this notice or any complaints about my privacy practices, or would like to know how to file a complaint with the Secretary of the Department of Health and Human Services, please contact me at: Brenda Diller, MHR, CHT, HTP – 150 E 9th Street, Suite 202, Durango, Colorado 81301 or 407 S Tejon Street, Suite A, Colorado Springs, Colorado 80903. You may also email me at BrendaDiller@hipaamail.us.

VII. NOTIFICATIONS OF BREACHES

In the case of a breach, I am required to notify each affected individual whose unsecured PHI has been compromised. Even if such a breach was caused by a business associate, I am ultimately responsible for providing the notification directly or via the business associate. If the breach involves more than 500 persons, OCR must be notified in accordance with instructions posted on its website. I bear the ultimate burden of proof to demonstrate that all notifications were given or that the impermissible use or disclosure of PHI did not constitute a breach and must maintain supporting documentation, including documentation pertaining to the risk assessment.

VIII PHI AFTER DEATH

Generally, PHI excludes any health information of a person who has been deceased for more than 50 years after the date of death. I may disclose deceased individuals' PHI to non-family members, as well as family members, who were involved in the care or payment for healthcare of the decedent prior to death; however, the disclosure must be limited to PHI relevant to such care or payment and cannot be inconsistent with any prior expressed preference of the deceased individual.

IX. Individuals' Right to Restrict Disclosures; Right of Access

To implement the 2013 HITECH Act, the Privacy Rule is amended. I am required to restrict the disclosure of PHI about you, the patient, to a health plan, upon request, if the disclosure is for the purpose of carrying out payment or healthcare operations and is not otherwise required by law. The PHI must pertain solely to a healthcare item or service for which you have paid the covered entity in full. (OCR clarifies that the adopted provisions do not require that covered healthcare providers create separate medical records or otherwise segregate PHI subject to a restrict healthcare item or service; rather, providers need to employ a method to flag or note restrictions of PHI to ensure that such PHI is not inadvertently sent or made accessible to a health plan.)

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The 2013 Amendments also adopt the proposal in the interim rule requiring me to provide you, the patient, a copy of PHI to any individual patient requesting it in electronic form. The electronic format must be provided to you if it is readily producible. OCR clarifies that I must provide you only with an electronic copy of their PHI, not direct access to their electronic health record systems. The 2013 Amendments also give you the right to direct me to transmit an electronic copy of PHI to an entity or person designated by the you. Furthermore, the amendments restrict the fees that I may charge you for handling and reproduction of PHI, which must be reasonable, cost-based and identify separately the labor for copying PHI (if any). Finally, the 2013 Amendments modify the timeliness requirement for right of access, from up to 90 days currently permitted to 30 days, with a one-time extension of 30 additional days.

X. Notice of Privacy Practices (NPP)

My NPP must contain a statement indicating that most uses and disclosures of psychotherapy notes, marketing disclosures and sale of PHI do require prior authorization by you, and you have the right to be notified in case of a breach of unsecured PHI.

XI. EFFECTIVE DATE OF THIS NOTICE

This notice went into effect on Jan. 30, 2013

I acknowledge receipt of this notice

Client Name: _____ Date: _____ Signature: _____

Client Name: _____ Date: _____ Signature: _____

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Consent For Non-Secure Electronic Communications
Communication by Email, Text Message, and Other Non-Secure Means

It may become useful during the course of treatment to communicate by email, text message (e.g. "SMS") or other electronic methods of communication. Be informed that these methods, in their typical form, are not confidential means of communication. If you use these methods to communicate with me there is a reasonable chance that a third party may be able to intercept and eavesdrop on those messages. The kinds of parties that may intercept these messages include, but are not limited to:

- People in your home or other environments who can access your phone, computer, or other devices that you use to read and write messages
- Your employer, if you use your work email to communicate with me.
- Third parties on the Internet such as server administrators and others who monitor Internet traffic.
- If there are people in your life that you don't want accessing these communications, please talk with me about ways to keep your communications safe and confidential.
- At your discretion there may be communications between us regarding your PHI via my email address at AvelonBMcNae@gmail.com, and protected with a double-verification process via my cell phone for signing into my account. Gmail uses SSL (Secure Sockets Layer). SSL is a secure encryption web protocol used for securing data transmitted over the Internet. Even with these safeguards by my office, your transmitted PHI may not be secure over the Gmail servers or as it is received by and transmitted to me. If you choose to send or receive PHI via email, you acknowledge you are aware of these risks.
- I also take further precautions to protect my email service with Last Pass. A large number of PBKDF2-SHA256 rounds are utilized to create my individual key. It has the ability to increase the number of rounds over time to make the forcing of my master password impossible.
- Text Messages are password-protected by my cell phone master password should there be text message communications between us. Text messages at this time are not guaranteed to be secure.
- My website access is password protected. My online calendar is also password protected and secure with SSL.

OPTIONAL:

While it cannot be guaranteed that they will prevent 100% of confidentiality breaches, they are designed with the intention of supporting the confidentiality of clinical communications:

- Method 1 (AvelonBMcNae@gmail.com)
- Method 2 (e.g. secure texting apps for smartphones)
- Method 3 (Secure Fax: 970-422-7096)

CONSENT FOR TRANSMISSION OF PROTECTED HEALTH INFORMATION BY NON-SECURE MEANS

The following forms of Protected Health Information may be transmitted by non-secure means:

- Information related to the scheduling of meetings or other appointments
- Information related to billing and payment
- Direct communications between us regarding your therapy

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I have been informed of the risks, including but not limited to my confidentiality in treatment, of transmitting my protected health information by unsecured means. I understand that I am not required to sign this agreement in order to receive treatment. I also understand that I may terminate this consent at any time.

(Signature of client)

Date

I consent to allow **Brenda Diller dba Avelon B McNae, MHR, CHT, HTP** to use unsecured email and mobile phone text messaging to transmit to me the following protected healthcare information:

- Information related to the scheduling of meetings or other appointments
- Information related to billing and payment
- Direct information about your therapy sessions or therapy work with me.

I have been informed of the risks, including but not limited to my confidentiality in treatment, of transmitting my protected health information by unsecured means. I understand that I am not required to sign this agreement in order to receive treatment. I also understand that I may terminate this consent at any time.

(Signature of client)

Date

*Brenda Diller dba
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www.AvelonBMcNae.com
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Secure Fax: 970-422-7096*

CONSENT FOR TRANSMISSION OF PROTECTED HEALTH INFORMATION BY NON-SECURE MEANS

I, _____ AUTHORIZE: _____
(name of client) Brenda Diller dba Avelon B McNae, MHR, CHT, HTP

TO TRANSMIT THE FOLLOWING PROTECTED HEALTH INFORMATION RELATED TO MY HEALTH RECORDS AND HEALTH CARE TREATMENT:

Top of Form

- Information related to the scheduling of meetings or other appointments
- Information related to billing and payment
- Completed forms, including forms that may contain sensitive, confidential information
- Information of a therapeutic or clinical nature, including discussion of personal material relevant to my treatment
- My health record, in part or in whole, or summaries of material from my health record
- Other information. Describe: _____

BY THE FOLLOWING NON-SECURE MEDIA:

- Unsecured email.
- SMS text message (i.e. traditional text messaging) or other type of "text message."
- Other media. Describe: _____.

TERMINATION

This authorization will terminate _____ days after the date listed below.

OR

This authorization will terminate when the following event occurs: _____.

I have been informed of the risks, including but not limited to my confidentiality in treatment, of transmitting my protected health information by unsecured means. I understand that I am not required to sign this agreement in order to receive treatment. I also understand that I may terminate this authorization at any time.

OPTIONAL:

I understand that Brenda Diller dba Avelon B McNae, MHR, CHT, HTP may in the future make available the following means of communication that are designed to be secure, and I still choose to authorize to the above-named non-secure means now.

- *Method 1 (e.g. secure texting apps for smartphones)*
- *Method 2 (Secure Fax: 970-422-7096)*

(Signature of client)

Date

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Secure Fax: 970-422-7096

Communications Policy

Contacting Me

When you need to contact me for any reason, these are the most effective ways to get in touch in a reasonable amount of time:

- By phone (970-422-6102.) You may leave messages on my confidential voicemail.
- By text message at 970-422-6102
- By email AveleonBMcNae@gmail.com (non-secure)
- By the secure contact page on my website www.AvelonBMcNae.com
- If you wish to communicate with me by non-secure email or non-secure text message, you acknowledge being informed about the potential confidentiality risks of doing so.
- If you wish to communicate with me by non-secure email or non-secure text message, please read and complete the Consent For Non-Secure Communications form included with these office policies.

I subscribe to the following service(s) that can allow us to communicate more privately through the use of encryption and other privacy technologies. None of them will cost you money, but each requires some setup before they can be used. Please ask if you would like to use any of these services.

- Secure text messaging. This service can be used on a computer or smartphone.
- Secure online video chat software via VSee

If you need to send a file such as a PDF or other digital document that requires complete security, please send it with encrypted email or via USPS.

Please refrain from making contact with me using social media messaging systems such as Facebook, Messenger or Twitter. These methods have very poor security and I am not prepared to watch them closely for important messages from clients.

It is important that we be able to communicate and also keep the confidential space that is vital to therapy. Please speak with me about any concerns you have regarding my preferred communication methods.

Response Time

I may not be able to respond to your messages and calls immediately. For voicemails and other messages, you can expect a response within 24 hours. I may occasionally reply more quickly than that or on weekends, but please be aware that this will not always be possible.

Be aware there may be times when I am unable to receive or respond to messages, such as when out of cellular range or out of town.

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Emergency Contact

If you are ever experiencing an emergency, including a mental health crisis, please call the **National Suicide Prevention Hotline. 1-800-273-8255**

If you need to contact me about an emergency, the best method is:

- By phone 970-422-6102
- If you cannot reach me by phone, please leave a voicemail and then follow up with a secure text message.

Please note that SMS (normal phone text messages) are not designed for emergency contact. SMS text messages occasionally get delayed and on rare occasions may be lost. So, please refrain from using SMS as your sole method of communicating with me in emergencies.