



AND ASSOCIATES

Speech Pathology + Applied Behavior Analysis

www.dowerandassociates.com | established 1993

Dear Families/Clients of Dower and Associates, Inc.,

As part of sweeping efforts to reform health care insurance, the U.S. the Department of Health and Human Services has released regulations addressing the privacy of and electronic transmission of patient information. The privacy rule and the electronic data interchange (EDI) standards pertain to all healthcare providers who engage in electronic transactions involving patient health information – including Speech-Language Pathologists (SLPs) and Behavior Analysts (BCBAs and/or BCABAs).

The rules were developed for the implementation of the Health Insurance Portability and Accountability Act (HIPAA, P.L. 104-191). HIPAA was enacted in 1996 to improve portability and continuity of health insurance coverage; combat waste, fraud, and abuse in health insurance and health care delivery; promote medical savings accounts; improve access to long-term care services and coverage; and simplify the administration of health insurance.

Released in December 2000, the privacy rule establishes standards to protect patient information, including all medical records and other individually identifiable health information held or disclosed in any form. The rule also eliminates “local” Level III HCPCS codes. The compliance date for the privacy rule was Feb. 26, 2003. Closely related to the privacy rule are standards released in August 2000 governing the electronic transmission of protected patient information. All electronically transmitted patient data must be compliant by Oct. 16, 2002.

Together, the EDI and privacy rules require healthcare providers to make substantial changes in their operations, policies, and information systems. Compliance procedures for SLPs, BCBAs, and BCABAs vary by setting – hospitals, clinics, schools, private practice settings, and nursing homes, for example, all have different responses to HIPAA.

Dower and Associates, Inc.

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HIPAA affects all medical/clinical-based SLPs, BCBAs, and BCABAs, which is what Dower and Associates, Inc. is defined as when looking at these settings- *we are a private practice*. The final HIPAA privacy rule is so broad that any provider must be vigilant in obtaining 'authorization' for all disclosures that do not involve treatment. Dower and Associates, Inc. Speech and Language Pathologists, who are American Speech Hearing Association (ASHA) members, as well as Dower and Associates, Inc. Board Certified Behavior Analysts and Board Certified Associate Behavior Analysts, who are certified by the Behavior Analyst Certification Board (BACB), have always been sensitive to patient privacy; however, HIPAA brings the force of law and financial penalties for breaches of confidentiality.

Concerning transmitting patient data, HIPAA requires the use of a single standard format for the electronic transmission of patient-related information, and the EDI rule is intended to eliminate the current 400 different formats for electronic health care claims. SLPs who transmit health information in electronic form become "covered entities" and are subject to the EDI standards published in the Aug. 17, 2000, *Federal Register*.

Electronic transactions including claims submissions, eligibility inquiries, health care payments, coordination of benefits information, and all other electronically transmitted patient data must have conformed to the EDI format by October 2002.

Dower and Associates, Inc. does not use electronic transmission of patient-related information for health care claims, as we do not bill insurance companies directly.

Dower and Associates, Inc. does use electronic transmission of patient-related information in the following circumstances:

- *Between staff members involved in your or your child's treatment*
- *Between agencies with whom Dower and Associates, Inc. contracts SLP and Behavior Analysis services directly*
- *Between parties to whom you have given written authorization*
- *Between yourself and your (or your child's) SLP and/or Behavior Analyst*

NOTE: *all confidential transmissions will include the following in the tagline line on the electronic communication:*

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This electronic message transmission and any attachments transmitted with it may contain information from (Dower and Associates, Inc. Staff Member Name and Credentials) and/or Dower and Associates, Inc. that is confidential and intended only for the named addressee(s). The information is intended solely for the recipient and use by any other party is not authorized. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the contents of this information is strictly prohibited. This message may additionally contain protected health information under IAW Public Law 104-191 and falls within the scope of the Electronic Communication Privacy Act, 18 USCA 2510. Unauthorized possession and/or disclosure of protected health information may result in personal liability for civil and federal criminal penalties. If you have received this electronic transmission in error, please notify me immediately by telephone (703-618-6180) by reply email and permanently delete/destroy all copies of the original message from your computer and network. Thank you.

Before the privacy rule, no clearly defined federal rules existed to protect the privacy of health information and guarantee patient access to such information. The rule, published on Dec. 28, 2000, *Federal Register*, establishes a mandatory “federal floor” of privacy protections and doesn’t preempt more protective state laws. It affects all providers who engage in electronic transactions involving protected patient health information – which includes any individually identifiable health information, including a patient’s name, address, and social security number.

SLPs, BCBAs, and BCABAs must obtain a patient's consent to use and disclose protected health information for treatment, payment, and health care operations. Patients also have the right to see and correct their health records, obtain a disclosure history, and receive advance notice of policies regarding the disclosure of protected information.

Former President Clinton said of the privacy rule: “This action is required by the great tides of technological and economic change that have swept through the medical profession over the last few years,” and added to the rule “carefully crafted for this new era, to make medical records easier to see for those who should see them, and much harder to see for those who shouldn’t.”

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To this end, please find in the final pages of this letter, two documents:

1. Notice of Speech-Language Pathologist and Behavior Analyst Policies and Practices to Protect the Privacy of Your Health Information (pages 5 -10)
2. Consent for Purposes of Treatment, Payment and Healthcare Operations (page 11)

Please sign and return the consent page (page 11 of this document).

The consent form will continue to allow the use or disclosure of your (or your child's) protected health information by Dower and Associates, Inc. for the purpose of diagnosing or providing treatment to you (or your child), obtaining payments for your (or your child's) healthcare bills or conducting the healthcare operations of the practice.

Thank you in advance for your cooperation in this important matter,

Nikia Dower, MS, CCC-SLP, BCBA, LBA

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Notice of Speech-Language Pathologists and Behavior Analysts Policies and Practices to Protect the Privacy of Your Health Information

THIS NOTICE DESCRIBES HOW SPEECH, LANGUAGE, BEHAVIORAL, 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

We 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 we provide, coordinate, or manage your health care and other services related to your health care. An example of treatment would be when we consult with another healthcare provider, such as your family physician or other involved professionals/therapists.
 - *Payment* is when we obtain reimbursement for your healthcare. Examples of payment are when we disclose your **PHI** to your health insurer or other agency 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 the practice. Examples of healthcare operations are quality assessments and improvement activities, business-related matters such as audits and administrative services, and case management and care coordination.
- "Use" applies only to activities within the practice, such as sharing, employing, applying, utilizing, examining, and analyzing information that identifies you.
- "Disclosure" applies to activities outside of the practice, such as releasing, transferring, or providing access to information about you to other parties.

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II. Uses and Disclosures Requiring Authorization

We may use or disclose PHI for purposes outside of treatment, payment, and healthcare operations when your appropriate authorization is obtained. An *"authorization"* is written permission above and beyond the general consent that permits only specific disclosures. In those instances when we are asked for information for purposes outside of treatment, payment and healthcare operations, we will obtain authorization from you before releasing this information. We will also need to obtain authorization from you before releasing your speech and language therapy notes and/or behavioral consultation notes. *"Speech and Language Therapy notes"* and *"Behavioral Consultation notes"* are notes we have made about our conversation during a private or group session, which we have kept separate from the rest of your or your child's medical record. These notes are given a greater degree of protection than PHI.

You may revoke all such authorizations (of PHI or speech and language therapy/behavioral notes) at any time, provided each revocation is in writing. You may not revoke an authorization to the extent that (1) we 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.

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III. Uses and Disclosures with Neither Consent nor Authorization

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

- **Child Abuse:** If we have reason to suspect that a child is abused or neglected, we are required by law to report the matter immediately to the Department of Social Services.
- **Adult and Domestic Abuse:** If we have reason to suspect that an adult is abused, neglected, or exploited, we are required by law to immediately make a report and provide relevant information to the Department of Welfare or Social Services.
- **Health Oversight:** The Virginia Department of Health Professions (VDHP), the American Speech, Language and Hearing Association (ASHA), and the Behavior Analyst Certification Board (BACB) have the power, when necessary, to subpoena relevant records should we be the focus of an inquiry.
- **Judicial or Administrative Proceedings:** If you are involved in a court proceeding and a request is made for information about your or your child's diagnosis and treatment and the records thereof, such information is privileged under state law, and we will not release information without the written authorization of you or your legal representative, or a subpoena (of which you have been served, along with the proper notice required by state law). However, if you move to quash (block) the subpoena, we are required to place said records in a sealed envelope and provide them to the clerk of court of the appropriate jurisdiction so that the court can determine whether the records should be released. 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 we are engaged in our professional duties and you communicate to me a specific and immediate threat to cause serious bodily injury or death, to an identified or an identifiable person, and we believe you have the intent and ability to carry out that threat immediately or imminently, we must take steps to protect third parties. These precautions may include (1) warning the potential victim(s), or the parent or guardian of the potential victim(s), if under 18; or (2) notifying a law enforcement officer.

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IV. Patient's Rights and Speech-Language Pathologist 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, we are required to agree to a restriction you request.
- *Right to Receive Confidential Communications by Alternative Means and 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 us. Upon your request, we will send your bills to another address.)
- *Right to Inspect and Copy* - You have the right to inspect or obtain a copy (or both) of PHI and speech and language therapy notes in our cumulative and billing records used to make decisions about you for as long as the PHI is maintained in the record. We may deny your access to PHI under certain circumstances, but in some cases, you may have this decision reviewed. Upon your request, we will discuss with you the details of the request and denial process.
- *Right to Amend* - You have the right to request an amendment of PHI for as long as the PHI is maintained in the record. We may deny your request. At your request, we will discuss with you the details of the amendment process.
- *Right to an 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). At your request, we will discuss with you the details of the accounting process.
- *Right to a Paper Copy* - You have the right to obtain a paper copy of the notice from us upon request, even if you have agreed to receive the notice electronically.

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Speech-Language Pathologist's and Behavior Analyst's Duties:

- We are required by law to maintain the privacy of PHI and to provide you with a notice of our legal duties and privacy practices concerning **PHI**.
- We reserve the right to change the privacy policies and practices described in this notice. Unless we notify you of such changes, however, we are required to abide by the terms currently in effect.
- If we revise our policies and procedures, we will provide you with a revised notice by mail or at our next scheduled appointment if one is scheduled in the near future.

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V. Questions and Complaints

If you have questions about this notice, disagree with a decision we make about access to your records, or have other concerns about your privacy rights, you may contact Nikia Dower, MS, CCC-SLP, BCBA, LBA at 703-618-6180.

If you believe that your privacy rights have been violated and wish to file a complaint with the office, you may send your written complaint to **9845 Business Way, Manassas, VA 20110**.

Additionally, you may also send a written complaint to:

- the Secretary of the U.S. Department of Health and Human Services at 200 Independence Avenue, S.W. Washington, D.C. 20201,
- the Virginia Department of Health Professions at 9960 Mayland Drive Richmond, VA 23233,
- the American Speech, Language, and Hearing Association at 2200 Research Boulevard Rockville, MD 20850-3289 and/or
- the Behavior Analyst Certification Board at 7950 Shaffer Parkway Littleton, CO 80127.

You have specific rights under the Privacy Rule. We 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 on April 1, 2003, and was revised on September 1, 2024. We reserve the right to change the terms of this notice and to make the new notice provisions effective for all PHI that we maintain. We will provide you with a revised notice by mail or at our next scheduled appointment if one is scheduled in the near future.

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CONSENT FOR PURPOSES OF TREATMENT, PAYMENT AND HEALTHCARE OPERATIONS

I consent to the use or disclosure of my (or my child's) protected health information by Dower and Associates, Inc. to diagnose or provide treatment to me (or my child), obtain payment for my healthcare bills, or conduct the healthcare operations of the practice. I understand that diagnosis or treatment of me (or my child) by Dower and Associates, Inc. may be conditioned upon my consent as evidenced by my signature on this document.

I understand that I have the right to request a restriction regarding how my child's or my protected health information is used or disclosed to carry out treatment, payment, or healthcare operations. Dower and Associates, Inc. is not required to agree to the requested restriction; however, if Dower and Associates, Inc. agrees with the requested restriction, the restriction may be binding on them. I have the right to revoke this consent in writing at any time, except to the extent that Dower and Associates, Inc. has taken action in reliance on this consent.

My (or my child's) "protected health information" means health information, including demographic information collected from me or my child and created or received by Dower and Associates, Inc. This protected health information relates to my (or my child's) past, present, or future physical or mental health or conditions and identifies my child or me, or there is a reasonable basis to believe the information may identify my child or me. I understand that I have the right to review Dower and Associates, Inc.'s notice of privacy practices before signing this document. The Notice of Speech-Language Pathologists and Behavior Analysts Policies and Practices to Protect the Privacy of Your Health Information has been provided to me and is available in Dower and Associates, Inc.'s office. The notice of privacy practices describes the types of uses and disclosures of my protected health information that will occur in my child's or my treatment, payment of bills, or in the performance of healthcare operations in Dower and Associates, Inc.'s practice. The notice of privacy practices also describes my rights and Dower and Associates, Inc.'s duties concerning protected health information.

Dower and Associates, Inc. reserves the right to change the privacy practices that are described in the Notice of Speech-Language Pathologists and Behavior Analysts Policies and Practices to Protect the Privacy of Your Health Information. I may obtain a revised notice from Dower and Associates, Inc.'s office at my next scheduled appointment or by mail at my request.

Client's Name (printed): _____
Signature of Client or Parent/ Guardian: _____
Printed Version of Signature: _____
Relationship to Client: _____
Date: _____

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