



Functional Behavior SOLUTIONS

FUNCTIONAL BEHAVIOR SOLUTIONS, LLC, PRIVACY NOTICE

NOTICE OF PRIVACY PRACTICES: As required by the Health Insurance Portability and Accountability Act (HIPAA) of 1996, this notice describes how health/treatment information about “you” (“you” means a client and/or their representative) may be used and disclosed and how one can get access to this information. This information is important, so please review it carefully. Feel free to sit down and take the time you need.

WHO WILL FOLLOW THIS NOTICE: Functional Behavior Solutions, LLC (hereafter referred to as FBS), and Jill Saxon, Ph.D., BCBA-D (hereafter referred to as JILL SAXON) and all FBS employees and consultants follow these privacy practices.

ABOUT THIS NOTICE: This notice will tell “you” about the ways we may disclose health/treatment information about “you” and will also describe your rights and certain obligations that we have regarding the use and disclosure of your health/treatment information. We are required by law to:

- Make sure that health/treatment information that identifies “you” is kept private;
- Give “you” this notice of our legal duties and privacy practices with respect to your health information;
- Follow the terms of the notice that is currently in effect.

HOW WE MAY USE AND DISCLOSE HEALTH/TREATMENT INFORMATION ABOUT “YOU”: The following categories describe different ways that we use and disclose health/treatment information. For each category of uses or disclosures we will explain what we mean and give “you” examples. Not every use or disclosure in a category will be listed. However, all of the ways we are permitted to use and disclose information will fall within one or more of the categories.

- **For Treatment:** We may use health/treatment information about “you” to provide “you” with **healthcare/behavioral treatment** or services. We may disclose health/treatment information about “you” to: school district representatives, doctors, physician’s assistants, nurses, counselors, technicians, pharmacists, therapists, clinical staff, or other personnel, who are involved in providing care/treatment for “you.” We also may disclose our health/treatment information to consultants to whom we refer “you”, or to your personal health care/behavioral treatment providers such as your physician(s), psychologist, counselor, Emergency Department, clinics, or other health/treatment providers to help ensure you are receiving appropriate, timely and coordinated services. For example:
 - If we have documentation about medication that “you” are taking, we may disclose that information to emergency medical services (ambulance), your personal physician or to a local emergency room.
 - If “you” are receiving behavioral intervention at home or in a school program, we may share documentation of efficacy with another approved service provider to coordinate efforts.
- **For Healthcare/Behavioral Treatment Operations:** We may use and disclose health/treatment information about “you” for operations of our clinical services. These uses and disclosures are necessary to ensure that clients receive quality services. For example:
 - We may use treatment information to evaluate the performance of employees in caring for “you.”



- **Service Alternatives:** We may use your health/treatment information in order to make “you” aware of service or program alternatives which might be of interest to “you.”
- **Individuals Involved in Your Care and Support:**
 - We may release health/treatment information about “you” to any person identified by “you” on an authorized release form. This means that we will, upon your request only, disclose health/treatment information to a friend, family member, school district, outside consultant who helps with your care/treatment, who helps pay for your care/treatment or who “you” have identified to be notified in an emergency situation. We will tell them only what they need to know to help “you.”
 - “You” have the right to say “no” to this release of information. If “you” say “no,” we will not use or share your health/treatment information with anyone except those individuals permitted under the law. Please follow the procedures described in the Right to Request Restrictions section of this notice.
 - In addition, we may disclose medical/treatment information about “you” to an entity assisting in a disaster relief effort so that family/guardians can be notified about your condition, status and location.
- **As Required by Law:** We will disclose health/treatment information about you when required to do so by federal, state or local law. For example:
 - Child Abuse: If I have reasonable cause to believe that a child has been subject to abuse, I must report this immediately to the New Jersey Department of Child Protection and Permanency.
- **To Avert a Serious Threat to Health or Safety:** FBS and Jill Saxon may, consistent with applicable law and ethical standards, use or disclose protected health information/treatment information if FBS and/or Jill Saxon, in good faith, believe(s) such use and disclosure is necessary to prevent or lessen a serious and imminent threat to the health/treatment or safety of a person or the public and the disclosure is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat. FBS and Jill Saxon must limit information that is used or disclosed and may only release the statement relating to the serious threat and the PHI (Personal Health Information) related to the threat. FBS and Jill Saxon is(are) presumed to have acted in good faith in making such a disclosure, if the belief is based upon actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.
- **Public Health Risks:** FBS and Jill Saxon may disclose your health/treatment information to authorized public health or government officials as required by law for public health activities. These activities may include the following:
 - To the Food and Drug Administration (FDA) for purposes related to the quality, safety or effectiveness of an FDA-regulated product or service.
 - To prevent or control disease, injury or disability.
 - To report disease or injury.
 - To report births and deaths.
 - To report child abuse or neglect.
 - To report reactions to medications and food or problems with products.
 - To notify people of recalls or replacement of products they may be using.
 - To notify a person who may have been exposed to a disease or may be at risk for contracting or spreading a disease or condition.
 - To notify the appropriate government authority if we believe a client has been the victim of abuse, neglect or domestic violence. We will only make this disclosure if you agree or when required or authorized by law.
- **Health Oversight Activities:** We may disclose health/treatment information to a health/treatment oversight agency or group for activities *authorized by law*. These activities are necessary to monitor the



health care/behavioral treatment system, government programs, and compliance with civil rights laws. These oversight activities include for example:

- audits, investigations, inspections, and licensure.

▪ **Lawsuits and Disputes:**

- If “you” are involved in a lawsuit or a dispute, we may disclose health information about “you” in response to a court or administrative order.
- We may also disclose health/behavioral treatment information about “you” in response to a subpoena, discovery request, or other legal demand by someone else involved in the dispute, but only if efforts have been made to tell “you” about the request or to obtain an order protecting the information requested
- We may also be asked to testify in a mediation or grievance hearing brought by “you” or against “you” for a school district, other state or government agency, or FBS and/or Jill Saxon, based upon or related to FBS and/or Jill Saxon’s clinical opinion, behavioral treatment or guidance.

▪ **Law Enforcement:** We may disclose health/behavioral treatment information if asked to do so by a law enforcement official:

- In response to a court order, subpoena, warrant, summons or similar process.
- To identify or locate a missing person.
- About the victim of a crime if, under certain circumstances, the person is unable to give consent.
- About a death we believe may be the result of criminal conduct.
- About criminal conduct related to agency operations.
- In emergency circumstances to report a crime (e.g., abuse); the locations of the crime or victims; or, to the extent permitted by law, the identity, description or location of the person who committed the crime.
- To authorized federal officials so they may provide protection for the President and other authorized persons or, to the extent permitted by law, to conduct special investigations.

▪ **In Legal Custody:** If “you” are a dependent in a custody hearing of a law enforcement official, we may disclose health/behavioral treatment information about “you” to the institution or law enforcement official.

▪ **Other Uses of Health Information:** Other uses and disclosures of health information not covered by this Notice or the laws that apply to us will only be made with your written authorization. “You” can revoke such an authorization by writing to FBS or Jill Saxon, and such revocation will be effective to the extent that we have not already released the information pursuant to the authorization or otherwise taken action based on the authorization.

HOW WE ARE RESTRICTED FROM USING MEDICAL/TREATMENT INFORMATION ABOUT YOU: The following outlines ways in which FBS and Jill Saxon are prohibited from sharing/disclosing your personal health information:

▪ **Sale of Your Health Information**

The sale of your health information without authorization is prohibited. Under Federal law, certain uses and disclosures are not considered a sale of your information, including, but not limited to, disclosures for treatment, payment, for public health purposes, for the sale of part or all of the entity, to any Business Associate for services rendered on our behalf, and as otherwise permitted or required by law. In addition, the disclosure of your health information for research purposes or for any other disclosure permitted by law will not be considered a prohibited disclosure if the only reimbursement received is a “reasonable, cost-based fee” to cover the cost to prepare and transmit your health information and as may otherwise be permitted under Federal and State law. If an authorization is obtained from you to disclose your health information in connection with a sale of your health information, the authorization must state that the



disclosure will result in remuneration (meaning that the entity will receive payment for disclosure of your health information and any other requirements of law).

- **Marketing**

We will, in accordance to Federal law, obtain your written authorization to use or disclose your health information for marketing purposes including all treatment and health care operations communications where we receive financial remuneration (meaning that the entity receives direct or indirect payment from a third party whose product or service is being marketed) unless such marketing is: (i) face to face marketing communications; (ii) promotional gifts of nominal value regardless of whether they are subsidized; (iii) “refill reminders”, so as long as the remuneration for making such communications are “reasonably related to our costs” for making such communications; and (iii) any other activity that does not require an authorization under Federal and State law.

- **Behavioral Consultation Notes and/or Data**

We will, in accordance to Federal law, obtain your written authorization to release your behavioral consultation notes and/or data, if any, that are contained in your health records. However, the entity may use or disclose your behavioral consultation notes and/or data for the following: (i) to carry out the following treatment, payment, or health care operations: (A) use by the originator of the behavioral consultation notes and/or data for treatment; (B) use or disclosure by the entity for its own training programs in which students, trainees, or practitioners in Applied Behavior Analysis learn under supervision to practice or improve their skills; or (C) use or disclosure by the entity to defend itself in a legal action or other proceeding brought by “you”; and (ii) a use or disclosure that is required by or permitted by Federal law.

YOUR RIGHTS REGARDING MEDICAL/TREATMENT INFORMATION ABOUT “YOU”: “You” have the following rights regarding health information we maintain about “you”:

- **Right to Inspect and Copy:** “You” have the right to inspect and obtain copies of health/behavioral treatment information that may be used to make decisions about your care. Usually, this includes medical/behavior or clinical treatment and billing records.

In order to inspect and obtain copies of your health/treatment information, “you” must submit your request in writing to FBS and/or Jill Saxon; or in some cases, the request must go to the school district that is in a contractual relationship with FBS and/or Jill Saxon. If “you” request a copy of the information, “you” may be charged a fee of \$1.00/page for the cost of copying, mailing, or other supplies associated with your request.

We may deny your request to inspect and copy your records in certain limited circumstances. If “you” are denied access to health/treatment information, “you” may request in writing, to FBS or Jill Saxon, that the denial be reviewed. A licensed health care/clinical professional will review your request and the denial. The reviewer will not be the person who denied your request. We will comply with the outcome of the review.

- **Right to Amend:** If “you” think your health/treatment information is incorrectly recorded or incomplete, “you” may ask us to amend the information. The right to amend does not mean the right to obliterate or totally remove documentation from the record. Rather it is an opportunity to “append” a statement of correction or clarification to the record and to know that when the original statement is used or disclosed, the new “corrective” or “clarified” statement will accompany any released copies. “You” have the right to request an amendment for as long as the information is maintained by FBS and/or Jill Saxon.

To request an amendment, your request must be made in writing and submitted to FBS or Jill Saxon. In addition, “you” must give a reason that supports your request. We may deny your request for an



amendment if it is not in writing or does not include a reason to support the request. In addition, we may deny your request if “you” ask us to amend information that:

- Was not created by us, unless the person or entity that created the information is no longer available to make the amendment;
- Is not part of the health/treatment information kept by or for FBS and Jill Saxon;
- Is not part of the information that “you” would be permitted to inspect and copy; or
- Is accurate and complete.

We will provide “you” with written notice of the action we take in response to your request for an amendment.

- **Right to an Accounting of Disclosures:** “You” have the right to request an “accounting of disclosures”. This is a list of certain disclosures that we made of your health/treatment information. The accounting will include:
 - The name of the entity or person who received the health/treatment information, and if known, the address of such entity or person;
 - A brief description of the health/treatment information disclosed; or
 - A brief statement of the purpose of the disclosure or a copy of the authorization.

We are not required to account for any disclosures made to “you” or for disclosures related to treatment, payment, service operations, or made pursuant to an authorization signed by “you.”

To request an accounting of disclosures of your health care/behavioral treatment information, your request must be made in writing and submitted to FBS and/or Jill Saxon; and, in the case of a student, copied to the school district that is in a contractual relationship with FBS and/or Jill Saxon as appropriate. Your request must state a time period, which may not be longer than six years and may not include dates before May 20, 2017. Your request should indicate in what form “you” want the list (for example, on paper or electronically). The first list “you” request within a 12-month period will be free. For additional lists, we will notify “you” of the costs involved and you may choose to withdraw or modify your request at that time, before any costs are incurred.

- **Right to Request Restrictions or Limitations on Health/Treatment Information:** “You” may have the right to request a restriction or limitation on the health/treatment information we use or disclose about “you” for treatment, payment or health care/behavioral treatment operations or services. “You” also have the right to request a limit on the health/treatment information we disclose about “you” to someone who is involved in your care/treatment or the payment for your care/treatment, such as a family member or friend. To request restrictions, “you” should make a request in writing to FBS and/or Jill Saxon, and as appropriate, copy the school district that is in a contractual relationship with FBS and/or Jill Saxon. In your request “you” must provide the following:
 - What information “you” want to limit;
 - Whether “you” want to limit our use, disclosure or both; and
 - To whom “you” want limits to apply; for example, disclosures to your parents.

However, FBS and Jill Saxon are not required to agree to any request to restrict the Use and Disclosure of Protected Health/Treatment Information, unless the disclosure is to a health/treatment plan for purposes of payment or health care/behavioral treatment operations and the PHI pertains to a health care/behavioral treatment item or service for which the provider has been paid out-of-pocket in full. If we agree to your request, we will comply with your request unless the information is needed to provide “you” emergency treatment.



- **Right to Request Confidential Communications:** “You” have the right to request that we communicate with “you” about health/treatment matters in a certain way or at a certain location. For example, “you” can ask that we only contact “you” at home, by mail or via e-mail. To request confidential communication, “you” must make your request in writing. Your request must specify how or where “you” wish to be contacted. We will not ask “you” the reason for your request. We will attempt to accommodate reasonable requests.
- **Right to Receive Notification of a Breach:** We are required to notify you following discovery of a breach of your unsecured health information.
- **Right to a Paper Copy of Notice:** “You” have a right to a paper copy of this Notice. You may ask us to give “you” a copy of this notice at any time. Even if “you” have agreed to receive this notice electronically, “you” are still entitled to a paper copy of this notice. To obtain a paper copy of this notice “you” can contact FBS and/or Jill Saxon.

Changes to this Notice: We reserve the right to change this Notice. We reserve the right to make the revised or changed Notice effective for health/ treatment information about “you” that we already have, as well as any information we receive in the future. The current Notice in effect at any time will be available by contacting FBS and/or Jill Saxon at jill@functionalbehaviorsolutions.com.

Complaints: If “you” believe your privacy rights have been violated, “you” may file a complaint with the Secretary of the US Department of Health and Human Services. You will not be penalized for filing a complaint.

If You Have Questions: If you have any questions about this Privacy Notice, contact:
Functional Behavior Solutions, LLC, and/or Jill Saxon, Ph.D., BCBA-D
908.913.0743
jill@functionalbehaviorsolutions.com

Effective Date: April 26, 2024