


**Emma Eccles Jones College of Education & Human Services**

**POLICY INFORMATION**

Document # <b>112</b>	Title: <b>Use &amp; Disclosure of Psychotherapy Notes</b>	Print Date: <b>8/15/2016</b>
Revision # <b>1.0</b>	Prepared by: <b>J. Black</b>	Date Prepared: <b>1/15/2016</b>
Safeguard: <b>HIPAA</b>	Approved by: <b>Dean Beth E. Foley</b> 	Date Approved: <b>9/2/2016</b>

**I. POLICY STATEMENT**

CEHS Health Care Components (HCCs) shall use or disclose psychotherapy notes only upon receipt of the patient's written authorization, subject to the exceptions below.

**II. DEFINITIONS**

See HIPAA Privacy Policy 100

**III. AUTHORITY AND RESPONSIBILITIES**

CEHS has component units that are listed as a hybrid entity in accordance with USU's HIPAA Hybrid Covered Entity Declaration. Only the health care component (i.e., covered functions) of CEHS must comply with this policy. All references in this policy to "CEHS" shall be construed to refer only to the health care component of CEHS.

**IV. PROCEDURES TO IMPLEMENT**

Maintenance of Psychotherapy Notes

1. Separate File - Psychotherapy notes shall be maintained separate from the patient's general medical record. In the electronic health record (EHR) it is sufficient if psychotherapy notes are maintained in a separate folder that is only accessible by the mental health professional that created the note, and designated workforce members, or for use allowed under Uses and Disclosures of Psychotherapy Notes part 3 (below).
2. Information Placed in the Medical Record - The following information, which is not considered psychotherapy notes, may be placed in the patient's regular medical record for audits, program evaluations, research, and/or payment purposes:
  - a) Medication prescriptions and monitoring;
  - b) Start and stop times of counseling sessions;
  - c) Modalities and frequencies of treatment furnished;
  - d) Results of clinical tests; and
  - e) Any summary of the diagnosis, functional status treatment plan, symptoms, prognosis, and progress to date.

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Use or Disclosure of Psychotherapy Notes

1. HIPAA Authorization for Psychotherapy Notes Required - Except as otherwise allowed by law and this policy, a separate HIPAA Authorization specifically limited to use or disclosure of psychotherapy notes must be obtained from the patient or his/her legal representative before psychotherapy notes can be used or disclosed.
2. **Attachment A - CEHS Authorization for Use and/or Disclosure of Psychotherapy Notes** should be used when obtaining authorization for psychotherapy notes.
3. Situations where HIPAA Authorization is NOT Required - A HIPAA Authorization IS NOT required for CEHS to carry out its own LIMITED treatment, payment or healthcare operations in the following circumstances:
  - a) For use by the originator of the psychotherapy notes for treatment;
  - b) To carry out treatment, payment or healthcare operations;
  - c) For use or disclosure in CEHS training programs in which students, trainees, or practitioners in mental health learn, under supervision, to practice or improve their counseling skills;
  - d) To defend a legal action brought by the patient against CEHS or its employed Mental Health Professionals;
  - e) To the Department of Health and Human Services to determine compliance with the privacy rule; and
    - i. To a government authority, to report information about an individual who is a suspected victim of abuse, neglect or domestic violence;
    - ii. During the course of any judicial or administrative proceeding in response to an order;
    - iii. During the course of any judicial or administrative proceeding in response to a subpoena, discovery request or other lawful process only if there is evidence that written notice has been provided to the patient and not objections were filed; and
    - iv. For limited law enforcement purposes as outlined in 45 CFR §164.512(f)
  - f) As otherwise required or allowed by law for the following purposes:
    - i. To a health oversight agency for oversight of the provider who created the notes;
    - ii. To a coroner or medical examiner for the purpose of identifying a deceased person, determining the cause of death, or other duties as authorized by law; or
    - iii. To medical or law enforcement personnel reasonably able to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, or prevent or lessen the probability of immediate mental or emotional injury to the patient.

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4. Minimum Necessary Standard Required

Uses and disclosures of psychotherapy notes shall be limited to the minimum amount of information necessary to satisfy the purpose of the request. The HCC Privacy Officer shall ensure compliance with the Policy regarding use and disclosure of minimum necessary protected health information (PHI), subject to the limitations outlined in this Policy.

Requests for Disclosure of Psychotherapy Notes

1. Requests for Psychotherapy Notes Accompanied by an Authorization - If request for the use or disclosure of psychotherapy notes is accompanied by a valid authorization form, the request shall be forwarded to the HCC Privacy Officer or other designated Medical Records workforce member, who will verify the validity of the authorization form and, if the validity is determined, provide the information to the requestor. If a request for the use or disclosure of psychotherapy notes is not accompanied by the patient's written authorization, the request **MUST** be forwarded to the HCC Privacy Officer.
2. Request for Psychotherapy Notes Without an Authorization - Requests without an authorization must be reviewed by the HCC Privacy Officer. The Privacy Officer, will review all requests for uses and disclosures of psychotherapy notes that are not accompanied by the patient's authorization to determine whether they may be disclosed without such authorization. If the Privacy Officer determines that the patient's authorization is necessary, the individual seeking to make the use or disclosure must obtain the patient's authorization, in accordance with **HIPAA Privacy Policy 111 - Uses and Disclosures with Authorization**, prior to making the use or disclosure.

Retention of HIPAA Authorizations

CEHS HCCs shall retain signed HIPAA Authorizations for six years from the date it was last in effect. In all cases, except research, the signed HIPAA Authorization shall be retained in the patient's medical record file.

**V. ATTACHMENTS**

Attachment A - CEHS Authorization for Use and/or Disclosure of Psychotherapy Notes

**VI. REFERENCES**

45 CFR §164.508

45 CFR §164.512(f)

HIPAA Privacy Policy 111- Uses and Disclosures with Authorization

## Emma Eccles Jones College of Education &amp; Human Services

## Attachment A

{Clinic Letter Head}

## CEHS Authorization for Use and/or Disclosure Psychotherapy Notes

Patient Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_ MRN: \_\_\_\_\_

**Information to Be Released- Psychotherapy Notes Only**

From (date) \_\_\_\_\_ to (date): \_\_\_\_\_

**Purpose of Request**

<input type="checkbox"/> Treatment or Consultation	<input type="checkbox"/> At the request of the individual	<input type="checkbox"/> Billing or claims payment
<input type="checkbox"/> CEHS Healthcare Operations	<input type="checkbox"/> Other, (specify)	

**Person Authorized to Receive Information**

Name: \_\_\_\_\_ Phone #: \_\_\_\_\_

Address: \_\_\_\_\_

**Drug and/or Alcohol Abuse and/or Psychiatric, and/or HIV/AIDS Records Release** - If my medical or billing record contains information in reference to drug, alcohol abuse, psychiatric care, sexually transmitted disease, Hepatitis B or C testing and or in reference to HIV/AIDS testing and/or treatment, I agree to its release. **Check One:** Yes \_\_\_ No \_\_\_ Initials \_\_\_\_\_

**Time Limit and right to Revoke Authorization** - Except to the extent that action has already been taken in reliance on this authorization, at any time I can revoke this authorization by submitting a notice in writing to the Clinic Privacy Officer at {CLINIC NAME HERE}. Unless revoked, this authorization will expire on \_\_\_\_/\_\_\_\_/\_\_\_\_.

**Re-disclosure-** I understand that the information disclosed by this authorization may be subject to re-disclosure by the recipient and may no longer be protected by the Health Insurance Portability and Accountability Act of 1996. CEHS, and its workforce members are hereby released from any legal responsibility or liability for disclosure of the above information to the extent indicated and authorized herein.

**Signature of Patient or Personal Representative Who May Request Disclosure**

I understand that CEHS may not condition my treatment on whether I sign this authorization form unless specified above under Purposes of Request. I can inspect or copy the protected health information to be used or disclosed. I authorize {CLINIC NAME HERE} to use and disclose the protected health information specified above.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Authority to sign if not patient: \_\_\_\_\_

**For Office Use:**

Identity verified by:	Verification type: <input type="checkbox"/> Photo ID <input type="checkbox"/> Matching signature <input type="checkbox"/> Other, specify:
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