

Title/Subject: HIPAA: PSYCHOTHERAPY NOTES

Applies to: ☒ Faculty ☒ Staff ☒ Students ☐ Student Employees ☐ Visitors ☒ Contractors

Effective Date of This Revision: June 27, 2025

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BACKGROUND:

Central Michigan University (CMU) is a covered entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) law and regulations. CMU has designated itself as a hybrid entity as its business activities include both covered and non-covered functions. HIPAA requires that all CMU officers, employees and agents of units within the hybrid entity must preserve the confidentiality and integrity of Individually Identifiable Health Information (IIHI) pertaining to each patient, client, or participant in CMU's self-funded health plan. This IIHI is considered Protected Health Information (PHI) and shall be safeguarded in compliance with the rules and standards established under HIPAA.

For additional information on the measures Central Michigan University has implemented to comply with this legislation, visit CMU's official HIPAA website at HIPAA.cmich.edu.

PURPOSE:

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires health care providers who provide psychotherapy services to provide additional protection for psychotherapy notes. CMU has adopted this policy to set uniform guidelines on how psychotherapy notes are to be protected in compliance with HIPAA requirements.

DEFINITIONS:

Clinical Student: A CMU student who, in connection with a CMU degree program, provides or assists in providing mental health counseling services to a patient at CMU.

Clinician: A mental health professional who provides mental health counseling services to a patient at CMU and/or provides oversight to a Clinical Student in connection with mental health services provided to a patient at CMU.

Psychological Assessment Records: Under the Privacy Rule, Psychotherapy Notes do not include the results of clinical tests. Therefore, psychological assessment records, such as test data and test materials, are considered a part of and are to be included in the patient's medical record. Patients have access to this information in the same manner that they have access to other mental health information in their medical records. Patients, however, are not required to have access to copyrighted test materials and manuals.

Psychotherapy Notes: Notes recorded in any medium by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session, and that kept separately from the rest of the individual's medical record.

- I. The definition in the Privacy Rule specifically excludes from psychotherapy notes information pertaining to medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date. In the event a therapist maintains psychotherapy notes, this type of information is not subject to the more stringent rules

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that apply to psychotherapy notes and may be used and shared under the same rules as other mental health records.

All other terms used in this policy have the same meaning as those terms in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the regulations at 45 CFR Parts 160, 162, and 164.

POLICY:

- I. The Privacy Rule makes a distinction between an individual's medical record and psychotherapy notes. Psychotherapy notes are notes recorded by a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and maintained separately from the rest of the patient's medical record. Mental health professionals at CMU are not required to maintain psychotherapy notes (also sometimes referred to as "process notes"); but if such records are maintained, such records are subject to this policy.
- II. The Clinical Student and/or Clinician must make sure that the patient's medical file is properly maintained with the information that CMU normally requires be part of the file. This includes information about medication prescriptions and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and summaries of diagnosis, functional status, the treatment plan, symptoms, prognosis and progress to date. To the extent such information is recorded in psychotherapy notes, it must be transferred to the medical record.
- III. If a clinician or Clinical Student maintains psychotherapy notes, these notes are offered a higher level of protection under the Privacy Rule. While patient mental health records may be used internally by CMU staff for treatment, payment, and health care operations purposes, use of psychotherapy notes is limited. Only the Clinical Student or the Mental Health Professional who prepared the psychotherapy notes may use them, and only for purposes of treating the patient to whom they relate. Other staff at CMU may not access or use the notes unless CMU has obtained a written authorization from the patient or one of the exceptions listed in section 4.0 below applies.
- IV. Some limited uses and disclosures of psychotherapy notes beyond the Clinician's use for treatment are permitted:
 - a. Use or disclosure as part of CMU's training programs in which students, trainees or practitioners learn under supervision to practice or improve their skills in group, joint, family, or individual counseling. Thus, a Clinician or other CMU faculty member supervising a Clinical Student may review the psychotherapy notes for purposes of training the Clinical Student.
 - b. Use by the clinician or by CMU for defense in a legal action or other proceeding brought by the patient.
 - c. For responding to an investigation by the Department of Health & Human Services as to whether CMU, the Clinician and/or the Clinical Student is complying with HIPAA.
 - d. To the extent that a use or disclosure is required by law.
 - e. To a health oversight agency for oversight activities authorized by law with respect to the originator of the psychotherapy notes.
 - f. Disclosures about decedents to coroners and medical examiners.
 - g. Disclosures necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.
- V. Although these uses are permitted by HIPAA, they may not be permitted under Michigan law, which imposes additional restrictions on confidential information that a patient shares with the clinician that is necessary for the clinician's services. Some or all of the information in psychotherapy notes is subject to this psychologist-patient privilege, and the clinician cannot be compelled to disclose the information without the patient's consent (or, if the patient is a minor, without the consent of the patient's parent or guardian) or in certain circumstances where the privilege is waived (for example, if the patient files a malpractice law suit against the clinician). Unless CMU obtains an authorization from the patient, CMU will consult with legal counsel before producing any psychotherapy records.

Central Michigan University reserves the right to make exceptions to modify or eliminate this policy and or its content. This document supersedes all previous policies, procedures or guidelines related to this subject