Use/Disclosure of Psychotherapy Notes

Authority: Chancellor

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Contact for Info: ECU HIPAA Privacy Office, 252-744-5200

1. Purpose

1.1. East Carolina University’s Health Care Components (“ECU Health Care Components”) that create or maintain Psychotherapy Notes have a legal duty to maintain and release Psychotherapy Notes in the manner permitted by federal and state laws and regulations. The purpose of this policy is to define Psychotherapy Notes and describe the manner in which they will be maintained and disclosed, including uses and disclosures between an ECU Health Care component and other areas of ECU that may receive the disclosed Psychotherapy Notes.

2. Definitions

2.1. Access means an individual’s right to inspect and obtain a copy of their PHI.

2.2. Psychotherapy Notes means 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 are separated from the rest of the individual’s medical record.

2.2.1. Psychotherapy Notes does not include:

2.2.1.1. Medication prescription and monitoring;
2.2.1.2. Counseling session start and stop times;
2.2.1.3. The modalities and frequencies of treatment furnished;
2.2.1.4. Results of clinical tests; and
2.2.1.5. Any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

3. **Policy**

3.1. ECU Health Care Components will comply with all Federal and State laws and regulations regarding the use and disclosure of Psychotherapy Notes. Psychotherapy Notes are not considered part of the designated record set and are kept separate from the individual’s official record. They are not available for patient Access except by the authority of the individual who created the note. Psychotherapy notes will not be disclosed to anyone without a valid authorization and the concurrence of the author of the note.

4. **Exceptions to Obtaining an Authorization**

4.1. The following circumstances do not require an authorization:

4.1.1. To carry out the following treatment, payment, or health care operations:

4.1.1.1. Use by the originator of the Psychotherapy Notes for treatment

4.1.1.2. Use or disclosure by an ECU Health Care Component for its own training programs in which students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family, or individual counseling; or

4.1.1.3. Use or disclosure by an ECU Health Care Component to defend itself in a legal action or other proceeding brought by the individual
4.1.2. A use or disclosure to the Department of Health and Human Services to investigate and determine compliance with the privacy rule.

4.1.3. A use or disclosure that is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

4.1.3.1. An ECU Health Care Component must meet the requirements for uses or disclosures required by law in the following circumstances:

4.1.3.1.1. Disclosures about victims of abuse, neglect or domestic violence;

4.1.3.1.2. Disclosures for judicial and administrative proceedings; or

4.1.3.1.3. Disclosures for law enforcement purposes.

4.1.4. A use or disclosure to a health oversight agency with respect to the oversight of the originator of the Psychotherapy Notes.

4.1.5. A use or disclosure to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law.

4.1.6. A use or disclosure, consistent with applicable law and standards of ethical conduct, if an ECU Health Care Component, in good faith, believes the use or disclosure:

4.1.6.1. Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and

4.1.6.2. Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.

5. **Procedure**
5.1. Individual Request for Use or Disclosure of Psychotherapy Notes.

5.1.1. Written Request. Individuals must make their requests for a use or disclosure of their Psychotherapy Notes in writing using the ECU Authorization for Use and Disclosure of Protected Health Information form. Individuals making their request for use or disclosure of Psychotherapy Notes by telephone or e-mail should be forwarded a copy of the form.

5.1.1.1. Individual Requests Received in Person

5.1.1.1.1. Verify the identity of the individual; and

5.1.1.1.2. Provide the individual with an ECU Authorization for Use and Disclosure of Protected Health Information form; or

5.1.1.1.3. Direct the individual to the designated office or person within the ECU Health Care Component to obtain and complete the authorization.

5.1.1.2. Individual Requests Received by Mail

5.1.1.2.1. Forward all requests to the designated office or person within the ECU Health Care Component to review for validity of the authorization.

5.2. Compound Authorization for Psychotherapy Notes

5.2.1. An authorization for a use or disclosure of Psychotherapy Notes may only be combined with another authorization for a use or disclosure of Psychotherapy Notes and may not be combined with an authorization for use or disclosure of any other PHI.
5.3. **No Right to Access Psychotherapy Notes.** An individual does not have the right to Access their Psychotherapy Notes.

5.3.1. The author of the note may authorize Access to Psychotherapy Notes

5.3.1.1. If the author of the note is not available to authorize access, then the clinical supervisor may act on his/her behalf.

5.4. **Denial of Request for Use or Disclosure of Psychotherapy Notes.** If an ECU Health Care Component denies an individual’s request for use or disclosure of Psychotherapy Notes, the Component must provide notice to the individual in writing using the ECU Denial of Individual’s Request for Access, Use or Disclose of Protected Health Information form.

5.5. **Documentation**

5.5.1. ECU Health Care Components must document and retain the valid authorization in the individual’s designated record set for the time period specified in the retention guidelines outlined in the HIPAA Privacy Manual.