

Psychotherapy Notes Policy

1. Introduction

- a. Clark County has adopted this Psychotherapy Notes Policy to comply with our duties under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Department Health and Human Services (“DHHS”) security and privacy regulations, and the Joint Commission on Accreditation of Healthcare Organizations (“JCAHO”) accreditation standards, as well as our duty to protect the confidentiality and integrity of confidential medical information as required by law, professional ethics, and accreditation requirements.
- b. All applicable personnel of Clark County must comply with this policy. Familiarity with this policy and demonstrated competence in the requirements of the policy are an important part of every employee’s responsibilities.
- c. This policy governs how and when Clark County personnel can psychotherapy notes and mental health treatment records to requesting parties.

2. Definitions

- a. 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.
 - 1) Psychotherapy notes exclude 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.

3. Policy

- a. Patient Access to Psychotherapy Notes
 - 1) Even though the patient has a right to access most health information, the patient does not have a right to access psychotherapy notes. Therefore, Clark County is not required to fulfill a patient’s request for access to psychotherapy notes. However, Clark County should inform the patient of this limitation on access if the request will not be fulfilled.
- b. Patient Authorization Required
 - 1) In most circumstances, Clark County’s employees must obtain a patient’s written authorization for any use or disclosure of psychotherapy notes. Clark County is not required, however, to disclose any health information, including psychotherapy notes, pursuant to an authorization. Especially with on-going authorizations, if there is a concern that a request for disclosure is unnecessary or excessive, Clark County may ask the patient if the authorization for disclosure is consistent with his or her wishes.
- c. Patient Authorization Not Required
 - 1) Clark County is not required to obtain an authorization for the following uses or disclosures of psychotherapy notes:
 1. To carry out the following treatment, payment or health care operations:
 - a. Use by the originator of the psychotherapy notes for treatment;
 - b. Use by Clark County for our 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
 - c. Use by Clark County to defend ourselves in a legal action or other proceeding brought by the patient.
 2. To respond to the federal Department of Health and Human Services to determine Clark County’s compliance with HIPAA privacy rules;
 3. To comply with the law;
 4. To assist in oversight of the originator of the psychotherapy notes;
 5. To help coroners/medical examiners in the examination of deceased persons;

6. To address serious public health or safety concerns. Special restrictions apply to disclosures made to law enforcement to identify or apprehend an individual who has admitted participation in a crime that Clark County reasonably believes may have caused serious harm to the victim. Specifically, Clark County may not disclose health information, including psychotherapy notes, if Clark County learned of the individual's participation when he or she requested or received treatment, counseling or therapy to affect the propensity to commit such a crime.