

## 0730.3 SENSITIVE INFORMATION POLICY (CALIFORNIA)

### PRIVACY POLICIES

Collective Medical Technologies, Inc.

## Objective

This Sensitive Information Policy (“Policy”) applies to all Services provided by Collective Medical Technologies, Inc. (“CMT”) pursuant to a Master Subscription Agreement (“Underlying Agreement”) and may be updated or amended by CMT from time to time in its sole discretion.

A. CMT provides access to remotely hosted applications and underlying technical services in support of the CMT Network (“Services”) to support the exchange of information among health care organizations (“Subscribers”) within and across certain geographies who have entered into the Underlying Agreement for purposes of coordinating, collaborating and supporting treatment, payment, health care operations and public health activities for the benefit of patients (“CMT Network”). The Subscriber is a health care organization which has entered into the Agreement and uses the Services.

B. “Sensitive Information” is Patient Data originating from a Subscriber located in California which falls into specific categories according to applicable federal or California state law, in each case as defined in this Policy.

C. Sensitive Information may only be included in Patient Data uploaded to the Services or requested for disclosure by a Subscriber or User through the Services in compliance with this Policy. Any upload of Sensitive Information, access or attempted access to Sensitive Information, or request for Sensitive Information made using the Services in violation of this Policy is a material breach of the Underlying Agreement and may violate applicable federal and/or state laws, or ethical or licensure obligations of a Subscriber or User.

D. This Policy applies to Patient Data originating from and the use of the Services by all Subscribers and Users in the State of California, and is in addition to all other policies and requirements for use of the Services. Capitalized terms not defined herein shall have the definitions established in the Underlying Agreement.

## Policy

### 1. Psychotherapy Notes

#### 1.1. Definition under HIPAA.

1.1.1. Psychotherapy Notes are notes recorded (in any medium) 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 that are separated from the rest of the individual's medical record.<sup>1</sup>

1.1.2. Psychotherapy notes excludes 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 patient’s diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

1.2. No Psychotherapy Notes in the Services. Psychotherapy Notes may not be uploaded into or requested through the Services, except where an individual has provided consent for sharing such information through the Services.

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<sup>1</sup> 45 C.F.R. § 164.501.

## **2. Alcohol & Drug Treatment Centers and/or Programs**

### **2.1. Definition under 42 CFR Part 2.**

2.1.1. Alcohol and drug treatment program information (“Substance Abuse Program Information”) is any information which would identify any individual as having applied for or been diagnosed or treated by any health care provider or health care facility which holds itself out as providing, and provides, alcohol or drug abuse diagnosis, treatment or referral for treatment services, including:

2.1.1.1. An identified unit within a general medical facility which holds itself out as providing, and provides, alcohol or drug abuse diagnosis, treatment or referral for treatment (including, for example, an inpatient detoxification unit); and

2.1.1.2. Medical personnel or other staff in a general medical care facility whose primary function is the provision of alcohol or drug abuse diagnosis, treatment or referral for treatment and who are identified as such providers.<sup>2</sup>

2.1.2. Substance Abuse Program Information does not include diagnostic or treatment information from a general health care facility which does not hold itself out as providing alcohol or drug abuse diagnosis, treatment, or referrals for treatment. Hospital Emergency Departments are generally not covered by 42 CFR Part 2 (except where they hold themselves out specifically as providing alcohol and drug abuse treatment or referral services) and information from them is not included in Substance Abuse Program Information under this Policy.

### **2.2. Sharing Substance Abuse Program Information for Emergencies.**

2.2.1. Substance Abuse Program Information may only be uploaded or requested through the Services (i) to medical personnel to the extent necessary to meet a bona fide medical emergency in which the patient’s prior informed consent cannot be obtained (“Emergency Disclosure”); or (ii) where an individual has provided consent for sharing such information through the Services.

2.2.2. In the event of an Emergency Disclosure, the Subscriber must document, or arrange for system documentation of, the following information (1) the name of the medical personnel to whom disclosure was made and their healthcare facility, (2) the name of the individual making the disclosure, (3) the date and time of the disclosure, and (4) the nature of the emergency.

## **3. Mental Health Information**

3.1. Definition under LPS and CMIA. For this Policy, Mental Health Information means information and records generated or obtained in the course of providing mental health and developmental services to patients treated in acute psychiatric hospitals, inpatient psychiatric units, facilities that provide psychiatric emergency services, governmental- operated mental health hospitals and clinics, institutions that treat involuntarily detained mental health patients, certain rehabilitation centers and community programs funded by the Bronzan-McCorquodale Act, and any information relating to a patient’s participation in outpatient treatment with a psychotherapist.<sup>3</sup>

3.2. Sharing Mental Health Information. Subscribers who are treating providers may share, disclose, access or receive Mental Health Information for purpose of diagnosis or treatment of a patient. Subscribers which are not treating providers may not share, disclose, access or receive Mental Health Information. For patients which have provided a valid consent, any Subscriber with a relationship with the patient for purposes of treatment, payment or health care operations (as defined under HIPAA) may share, disclose, access or receive Mental Health Information while the consent is valid.

## **4. HIV Test Information**

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<sup>2</sup> 42 C.F.R. §§ 2.11 (b), (c).

<sup>3</sup> Cal. Welf. & Inst .Code § 5328.

- 4.1. Definition Under California Law. The results and any other information with respect any clinical test, laboratory or otherwise, used to identify HIV, a component of HIV, or antibodies or antigens to HIV.<sup>4</sup>
- 4.2. Sharing HIV Test Information. HIV Test Information may not be shared through the Services, except where an individual has provided consent for sharing such information through the Services.

5. **Genetic Test Information**

- 5.1. Definition Under California Law. Genetic Test Information means results from a laboratory test which is generally accepted in the scientific and medical communities for the determination of the presence or absence of genetic characteristics.<sup>5</sup>
- 5.2. Sharing Genetic Test Information. Subscribers which are treating providers may access or disclose Genetic Test Information. Subscribers which are health care service plans, multiple employer welfare arrangements or self-insured welfare benefit plans may not share or disclose Genetic Test Information, but they may access or receive Genetic Test Information disclosed by a Subscriber that is a treating provider.

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<sup>4</sup> Cal. Health & Safety Code § 120775(c).

<sup>5</sup> Cal. Ins. Code § 10147(e).