

## **0730.14 SENSITIVE INFORMATION POLICY (TEXAS)**

### **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 or similar agreement under which CMT provides the Services (“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 which falls into specific categories according to applicable federal or state law, in each case as defined or described in this Policy.

C. Sensitive Information may only be included in Patient Data uploaded through 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 Texas 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. Other State-Specific Categories of Sensitive Information**

3.1. To the extent that the state laws applicable to the Subscriber impose additional restrictions and/or consent requirements beyond those applicable to Patient Data generally, Subscriber is responsible for knowing and complying with all such restrictions and requirements. By way of example only, the state laws which apply to the Subscriber may impose specific restrictions or other obligations with respect to the use and disclosure of (a) certain types or sources of mental health information, (b) certain HIV and other sexually-transmitted disease information, and (c) certain types or sources of drug or alcohol treatment information.

3.2. Any Patient Data which is subject to additional restrictions and/or consent requirements under applicable state law as described in the preceding Section 3.1 is considered to be Sensitive Information under this Policy and may not be shared through the Services, except where the individual to whom the Sensitive Information pertains has provided legally sufficient written consent to such sharing.

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