

## 0730.13 SENSITIVE INFORMATION POLICY (IDAHO)

### PRIVACY POLICIES

Collective Medical Technologies, Inc.

## Objective

This **Idaho Sensitive Information Policy 0730.13** (“**Policy**”) applies to all Services provided by Collective Medical Technologies, Inc. (“**CMT**”) pursuant to a Master Subscription Agreement or similar instrument whereby Subscribers subscribe to CMT 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**”).

B. “**Sensitive Information**” is Patient Data which falls into specific categories according to applicable federal or Idaho State law, in each case as defined in this Policy.

C. Sensitive Information may only be included in Patient Data uploaded to the CMT Network and requested for disclosure by a Subscriber or User through the CMT Network in compliance with this Policy. Any upload of Sensitive Information 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 the use of the Services by all Subscribers and Users in the State of Idaho and is in addition to all other policies and requirements for use of the CMT Network. Capitalized terms not defined herein shall have the definitions established in the Underlying Agreement or in the Special Consent Policy referenced below.

## 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> (SEP)

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.<sup>2</sup>

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 a valid consent or authorization for sharing such information through the Services.

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<sup>1</sup> 45 C.F.R. § 164.501.

<sup>2</sup> *Id.*

## 2. Alcohol & Drug Treatment Centers and/or Programs under Federal Law

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

- 2.1.1. Alcohol and drug treatment program information (“**Substance Use Disorder Information**” or “**SUDI**”) 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>3</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.<sup>4</sup> 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 as described in Section 3 below.
- 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. Permissible Disclosures of Sensitive Information

- 3.1. General. Subscribers may share Sensitive Information (“**Permissible SI Disclosures**”) to the CMT Network through the CMT Services where one or more of Sections 3.2. or 3.3. apply.
- 3.2. CMT Special Consent Form. Subscribers may share Sensitive Information pursuant to the Company’s **Special Consent Policy (Policy 0740)** where a patient has signed the Special Consent Form.
- 3.3. Exceptions under Applicable Law.
- 3.3.1. *Qualified Service Organizations.* Subscribers may wish to use the Services to share, disclose, access or use SUDI for certain Qualified Service Organization (“**QSO**”) related activities as permitted by 42 CFR Part 2, including population health management and data processing activities (“**QSO Activities**”). CMT may act either as a QSO, or agent or contractor of a Subscriber serving as a QSO, for performing certain functions related to QSO Activities through the Services pursuant to a valid QSO agreement (whether included in the parties Business Associate Agreement or otherwise), provided that the Subscriber accessing or using SUDI complies with the Redisclosure Limitation described in Section 3.4. below.
- 3.3.2. *Audit & Evaluation.* Subscribers which are contracted with state or federal agencies (e.g., state Medicaid programs, Centers for Medicare & Medicaid Services) to perform services (“**A&E Subscribers**”)

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<sup>3</sup> 42 C.F.R. §§ 2.11 (b), (c).

<sup>4</sup> *Id.*

may access and use SUDI from Subscribers which are covered by 42 CFR Part 2 in order to perform audit and evaluation activities as permitted by the 42 CFR Part 2. A&E Subscribers may disclose SUDI to their agents or contractors for purposes of performing audit and evaluation activities, provided that they do so in compliance with applicable requirements of 42 CFR Part 2, including without limitation complying with the Redisdisclosure Limitation described in Section 3.4. below.

- 3.3.3. *Other Exceptions or Authority.* Subscribers may share, disclose, access or use Sensitive Information as may be permitted by other exceptions or authority under Applicable Law not identified in this Policy ("**Other Permitted SI Disclosures**"), provided that CMT does not provide technical or operational support for any such Other Permitted SI Disclosures and Subscriber will be solely responsible for ensuring that such use or disclosures meet the requirements of Applicable Law.
- 3.4. Redisdisclosure Following Permissible SI Disclosures. 42 CFR Part 2 prohibits redisdisclosure of SUDI by a recipient of such information, even when such receipt is pursuant to a valid patient consent or a valid exception under the Part 2 regulation. Similarly, some Other SI Laws may also prohibit redisdisclosure of Sensitive Information, although no such redisdisclosure prohibition is applicable based on Idaho state law. Subscribers which access Patient Data pursuant to Section 3.2. or 3.3. of this Policy may not redisdisclose such information thereafter except as permitted by Applicable SI Laws ("**Redisdisclosure Limitation**").