



Office of Regulatory Compliance

HIPAA Policy 3.3

Title: Authorization Required to Use or Disclose PHI Contained in Psychotherapy Notes

Source: Office of Regulatory Compliance

Prepared by: Assistant Vice Chancellor for Regulatory Affairs

Approved by: Vice Chancellor for Research

Effective Date: July 1, 2013

Replaces: 02/26/03

Applies: All UCD campuses

Introduction

Purpose

To outline the policy on use or disclosure of PHI contained in psychotherapy notes and identify under what circumstances those notes, or the contents of those notes, may be used or disclosed.

Reference

45 C.F.R. § 164.508

Applicability

It is the responsibility of any UCD workforce member who has access to psychotherapy notes to follow this policy when using PHI contained in those notes and when disclosing PHI contained in those notes to anyone outside of UCD to assure that such use or disclosure is made consistent with this policy.

Policy

Given the sensitive nature of psychotherapy notes, no member of the UCD workforce may use or disclose PHI contained in psychotherapy notes without a valid authorization from the subject of the notes unless the use or disclosure is:

1. To carry out the following treatment, payment, or health care operations:
 - a. Use by the originator of the notes (e.g. therapist) for treatment;
 - b. Use or disclosure by the UCD 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
 - c. Use or disclosure by the UCD to defend itself in legal action provided that such use or disclosure has been approved in advance by the Office of University Counsel; or
2. To the Secretary of HHS as required by HIPAA;
3. Required by law as provided in UCD HIPAA policy;
4. To a health oversight agency with respect to oversight of the originator of the notes;
5. 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; or
6. Consistent with applicable law and standards of ethical conduct, the UCD believes in good faith that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and the use or disclosure is to a person(s) reasonably able to prevent or lessen the threat, including the target of the threat.

Procedures

A. Compound authorizations for disclosure of psychotherapy notes.

An authorization for the use or disclosure of psychotherapy notes may only be combined with another authorization for the use or disclosure of psychotherapy notes.

B. Prohibition on conditioning psychotherapy note authorizations.

Access to treatment, payment, enrollment in a health plan, or eligibility for benefits may not be conditioned on an individual signing an authorization permitting the use or disclosure of psychotherapy notes. (See UCD HIPAA Policy 3.4.)

C. Appropriate authorization form for psychotherapy notes.

The only authorization form that is permitted for the use or disclosure of psychotherapy notes is the UCD Authorization Template.