Applicability: UW Medicine

Policy Title: Psychotherapy Notes Management

Policy Number: PP-17

Superseded Policy(ies) or Entity Policy: N/A

Date Established: November 21, 2002

Date Effective: July 1, 2014

Dates Revised: January 31, 2003; December 14, 2006; November 12, 2009; September 13, 2012; July 30, 2013

Next Review Date: July 1, 2017

PURPOSE AND SCOPE
This policy describes how UW Medicine handles psychotherapy notes and designates where these records may be maintained.

This policy is applicable to all UW Medicine entities.

POLICY PRINCIPLES/STATEMENT
Psychotherapy notes is a narrowly defined subset of protected health information (PHI) that has stronger protection provisions under the Health Insurance Portability and Accountability Act (HIPAA) than other types of PHI. The purpose for the heightened protection is to foster effective treatment by increasing patient confidence that intimate mental healthcare information will not be used or disclosed without the patient’s authorization, except in certain instances.

DEFINITIONS

1. Mental Health Records. Mental healthcare professionals maintain information as necessary to document the provision of mental health treatment. Mental health information includes information typically shared with a patient and by definition is part of a mental health note.

Examples of information found in the designated record set include:

   a. Strategies for promoting treatment adherence and optimizing disease management;
   b. Medication prescription and monitoring;
   c. Counseling session start and stop times;
   d. Objective behavioral assessments upon which clinical treatment decisions are made;
e. The modalities and frequencies of treatment furnished;

f. Results of clinical tests, and

g. Any summary assessment of the following items: diagnosis, functional state, treatment plan, patient’s presenting symptoms, prognosis, and progress to date.

Examples of notes that are included in the designated record set include:

a. Physician progress notes;
b. Nursing notes;
c. Case management notes;
d. Individual and group therapy notes; and
e. Other mental health notes.

Generally, all of this information is found within the UW Medicine entity’s designated record set.

2. **Psychotherapy Notes** are notes recorded in any medium, by a mental health professional analyzing or detailing the explicit 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.

Examples of psychotherapy notes include:

a. Documentation of intimate personal content;
b. Details of fantasies and dreams;
c. Process interactions;
d. Sensitive information about other individuals in the patient’s life; or
e. The mental health provider's personal reactions, hypotheses or speculations as a result of a patient or group interaction.

See UW Medicine Compliance Policy: *PP-00 Glossary of Terms*.

**POLICY**

At UW Medicine, psychotherapy notes are only used by the mental health provider who creates the notes except as set forth below. Mental health records that do not qualify as psychotherapy notes are subject to the general privacy and access requirements as for other PHI. The general exceptions allowing use or disclosure of PHI without patient authorization do not apply to psychotherapy notes.

An authorization for a use or disclosure of psychotherapy notes may only be combined with another authorization for a use or disclosure of psychotherapy notes. Even if the use is an internal UW Medicine use, access to and use of psychotherapy notes is restricted.
Psychotherapy notes may be used and disclosed, absent patient authorization, only for the following purposes:

A. The mental health professional that created the psychotherapy notes can use the notes for treatment purposes. Psychotherapy notes maintained in electronic format must only be accessible by the author of the notes. The author of psychotherapy notes is responsible for the maintenance, storage and safeguarding of the notes. The author of the notes can determine the retention timeframe based upon when the notes are no longer useful for treatment and/or after treatment has been concluded. Psychotherapy notes must be destroyed in accordance with UW Medicine destruction policies and procedures;

B. The UW Medicine entity may use or disclose psychotherapy notes to conduct UW Medicine training programs in which students, trainees or practitioners in mental health learn, under supervision, to practice or improve their skill in group, joint, family or individual counseling. De-identified information should be used when appropriate for these activities. See UW Medicine Privacy Policy: PP.19 Protected Health Information, Limited Data Set, and De-Identification of Protected Health Information;

C. A UW Medicine entity may use psychotherapy notes to defend a legal action or other proceeding brought by the individual who is the subject of the notes. The mental health provider who created the psychotherapy notes may disclose the psychotherapy notes to the UW Medicine attorney for the purpose of defending against the action or proceeding. Disclosure of psychotherapy notes in the course of any other type of judicial or administrative process is governed by UW Medicine Privacy Policy, PP.16g Use & Disclosure of Protected Health Information Permitted for Judicial and Administrative Proceedings;

D. To the Secretary of the U.S. Department of Health and Human Services (DHHS), to assure compliance with HIPAA;

E. When required by law;

F. To a health oversight agency for the purpose of oversight of the provider who created the notes, see UW Medicine Privacy Policy PP.16c Use & Disclosure of Protected Health Information Permitted for Health Oversight Activities;

G. To a coroner or medical examiner for official duties, See UW Medicine Privacy Policy PP.16d Use & Disclosure of Protected Health Information Permitted for Decedents; or

H. To prevent or lessen a serious and imminent threat to health or safety of a person or the public, to a person(s) reasonably able to prevent or lessen the threat, including the target of the threat, See UW Medicine Privacy Policy, PP.16e Use & Disclosure of Protected Health Information Permitted to Avert a Serious Threat to Health or Safety.
The patient does not have the right to access psychotherapy notes. In the event that a patient submits a written request for access to psychotherapy notes, the mental health provider may deny the individual’s request from the individual. Any denial must be in writing. The provider is not required to make a determination that release of the notes would be harmful to the patient. The patient does not have a right to review or appeal of the denial.

Each UW Medicine mental healthcare professional is responsible to maintain his or her own psychotherapy notes for individuals under the professional’s care. Psychotherapy notes are to be destroyed as soon as the notes are no longer useful for treatment and/or after treatment has been concluded. UW Medicine general policy and procedures for destruction of records govern destruction of psychotherapy notes.

**REGULATORY/LEGISLATION/REFERENCES**

- 45 CFR Parts 160 and 164; Section 164.502(a) - “Uses and Disclosures of Protected Health Information”
- 45 CFR Part 160 and 164; Section 164.508 - “Uses and disclosures for which an authorization is required”
- 45 CFR Parts 160 and 164; Section 164.524(a) - “Access to Protected Health Information”
- RCW 70.02 – Medical Records – Healthcare Information Access and Disclosure

**PROCEDURE ADDENDUM(s) REFERENCES/LINKS**

- UW Medicine Compliance Policy: PP-00 Glossary of Terms
- UW Medicine Compliance Policy: PP-16c Use & Disclosure of PHI Permitted for Health Oversight Activities
- UW Medicine Compliance Policy: PP-16d Use & Disclosure of PHI Permitted for Decedents
- UW Medicine Compliance Policy: PP-16e Use & Disclosure of PHI Permitted to Avert a Serious Threat to Health or Safety
- UW Medicine Compliance Policy: PP-16g Use & Disclosure of PHI Permitted for Judicial and Administrative Proceedings
- UW Medicine Compliance Policy: PP-19 PHI, Limited Data Set, and De-Identification of PHI

**ROLES AND RESPONSIBILITIES**

Defined within POLICY.
AUTHORITIES

<table>
<thead>
<tr>
<th>Custodian</th>
<th>Responsible Officer</th>
<th>Implementation Officer</th>
<th>Administrative Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
</tr>
<tr>
<td>Author</td>
<td>Owner</td>
<td>Auditor</td>
<td>Endorser</td>
</tr>
<tr>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Compliance</td>
<td>UW Medicine Executive Compliance Committee</td>
</tr>
</tbody>
</table>

APPROVALS

UW Privacy Official
Johnese M. Spisso, Chief Health System Officer,
UW Medicine & Vice President for Medical Affairs, UW