

## **0730.4 SENSITIVE INFORMATION POLICY (MASSACHUSETTS)**

### **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 which falls into specific categories according to applicable federal or Massachusetts state law, in each case as defined in this Policy.

C. Sensitive Information may only be included in Patient Data uploaded to the Patient Data Repository and requested for disclosure by a Subscriber or User through the Network 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 the use of the Services by all Subscribers and Users in the Commonwealth of Massachusetts and is in addition to all other policies and requirements for use of the Network. 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.

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.

### **2. Information from Certain Mental Health Facilities**

- 2.1. Definition of Mental Health Facility under Massachusetts Law. A Mental Health Facility is a Department [of Mental Health]-operated hospital, community mental health center with inpatient unit, or psychiatric unit within a public health hospital; a Department-licensed psychiatric hospital; a Department-licensed psychiatric unit within a general hospital; or a secure intensive residential treatment program for adolescents that is either designated as a facility under the control of the Department or licensed by the Department.
- 2.2. No Mental Health Facility Information in the Services. Patient information from a Mental Health Facility may not be uploaded into or requested through the Services, except where an individual has provided consent for sharing such information through the Services.

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

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

3.1.1. Alcohol and drug treatment program information (“Treatment 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:

3.1.1.1. 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; and

3.1.1.2. 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.

3.1.2. Treatment 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 Treatment Program Information under this Policy.

#### **3.2. Sharing Treatment Program Information for Emergencies.**

3.2.1. Treatment 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.

3.2.2. 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.

### **4. HIV Test Information**

4.1. Definition Under Massachusetts Law. HIV Test Information means the results or the identity of the subject of a test for the presence of the HIV antibody or antigen.

4.2. No HIV Test Information in the Services. 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 Results for Non-Diagnostic Purposes**

#### **5.1. Definition under Massachusetts Law.**

5.1.1. Massachusetts law prohibits the disclosure of genetic test results without the patient’s consent where such test is conducted for purposes other than for drugs, alcohol, cholesterol, or HIV or diagnostic testing.

- 5.1.2. Genetic Test is defined as a test of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purpose of identifying genes, inherited or acquired genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material. The term genetic test shall not include tests given for drugs, alcohol, cholesterol, or HIV; or any test for the purpose of diagnosing or detecting an existing disease, illness, impairment or disorder.
- 5.1.3. Sharing Genetic Test Information. Subscribers may exchange Genetic Test Information through the Services where such test is conducted for purposes of testing for drugs, alcohol, or cholesterol, or for diagnosing or detecting an existing disease, illness, impairment or disorder. Subscribers may exchange Genetic Test Information using the Services for any other purpose not listed in this subsection only if the individual has expressly consented to the disclosure of such Genetic Test Information through the Services.