



# SAINT LOUIS UNIVERSITY

## AUTHORIZATION FOR USE OR DISCLOSURE OF PSYCHOTHERAPY NOTES

**Policy Number:** OUC-033

**Version Number:** 2.0

**Effective Date:** 04/14/2003

**Responsible University Official:** Privacy Officer

**Approved By:** Executive Staff

Legal and Compliance Committee

### 1.0 INTRODUCTION

Saint Louis University (hereinafter the “University”) is committed to provide services in compliance with all state and federal laws governing its operations, incorporating the highest levels of business and professional ethics. In most cases, HIPAA requires that covered entities obtain individual authorization before using or disclosing psychotherapy notes. Psychotherapy notes mean any notes recorded, in any medium, by a health care provider who is a mental health professional. These notes could be for use in 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. Psychotherapy notes do not include 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 following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

### 2.0 PURPOSE

The purpose of this policy is to outline the process regarding the use or disclosure of psychotherapy notes. In most cases, HIPAA requires that covered entities obtain individual authorization before using or disclosing PHI.

### 3.0 PERSONNEL AFFECTED

This policy applies to all regular full-time and part-time faculty and staff and volunteers within all divisions of the University, including employees, professional staff members, residents, agents, representatives and consultants with access to patients’ psychotherapy notes.

### 4.0 DEFINITIONS

**Authorization:** A document that gives permission for a specific disclosure of protected health information. Authorizations typically include the name of the person or entity authorized to disclose, name of the person or entity authorized for use or disclosure, purpose of the disclosure, expiration of the authorization, and the patient’s signature.

**Protected Health Information (PHI):** Any individually identifiable health information transmitted or maintained in any form or medium, including oral, written, and electronic. Individually identifiable health information relates to an individual's health status or condition, furnishing health services to an individual or paying or administering health care benefits to an individual. Information is considered PHI where there is a reasonable basis to believe the information can be used to identify an individual.

**Psychotherapy Note:** Any notes recorded, in any medium, by a health care provider who is 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 patient's medical record. Psychotherapy notes do not include 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 following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

**Workforce:** Employees, volunteers, trainees, contractors, and other persons under the direct control of the covered entity, whether or not paid by the covered entity.

## 5.0 POLICY

1. St Louis University will obtain an individual's authorization prior to use or disclosure of psychotherapy notes.
2. St Louis University may use or disclose psychotherapy notes in the following instance without obtaining authorization:
  - a. To carry out treatment, payment or healthcare operations, as long as those functions are consistent with the consent requirements:
    - For use by the originator of the psychotherapy notes for treatment;
    - Use or disclosure by the University in 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;
    - Use or disclosure by Saint Louis University to defend a legal action or other proceeding brought by the individual
  - b. Use or disclosure that is required by HIPAA regulation 164.502(a)(2)(ii):
    - compliance investigations;
    - as required by law
    - health oversight with respect to the oversight of the originator of the psychotherapy notes
    - decedents
    - threat to public safety

## 6.0 PROCEDURES

1. St Louis University will not condition the treatment of an individual on a requirement that the individual provide a specific authorization for the disclosure of psychotherapy notes.
2. The authorization will be written in plain language.
3. The authorization may only be combined with another authorization for a use or disclosure of psychotherapy notes.
4. Any authorization for the use or disclosure of psychotherapy notes will contain the following:
  - a. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;
  - b. The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure;
  - c. The name or other specific identification of the person(s), or class of persons, to whom the covered entity may make the requested use or disclosure;
  - d. The signature of the individual and date;
  - e. An expiration date or an expiration event that relates to the individual or purpose of the use or disclosure;
  - f. A statement of the individual's right to revoke the authorization in writing and the exceptions to the right to revoke;
  - g. A description of how the individual may revoke the authorization;
  - h. A statement that information used or disclosed pursuant to the authorization may be subject to re-disclosure by the recipient.
5. In the event that the authorization is signed by a personal representative of the individual, the authorization will contain a description of the representative's authority to act for the individual.
6. The University will invalidate the authorization if:
  - a. The expiration date has passed or the expiration event is known to have occurred;
  - b. Any material information in the authorization is known by the covered entity to be false;
  - c. The requirements of the authorization have not been filled out completely.
7. Saint Louis University will document and retain the signed authorization for a period of at least six years from the date of its creation or the date when it was last in effect, whichever is first.

## 8.0 SANCTIONS

Individuals who fail to comply with this policy and the procedures associated with it will be subject to disciplinary actions guided by the University's Staff Performance Management Policy, Faculty Manual, or Student Guidelines.

Non-compliance in this Policy can result in disciplinary action, including but not limited to, restricted incentive payments, suspension or termination. It may also result in the enforcement of a corrective action plan, as well as notification of the suspected misconduct and/or violation to government regulatory agencies.

This Policy does not limit the University's ability to impose greater sanctions or impose immediate action against serious violations. Disciplinary actions appropriate to the severity of the infraction will be carried out as needed.

## 9.0 CHANGES TO THIS POLICY

Changes to this policy may be necessary from time to time. At a minimum, the policy and all other program policies, procedures and guidelines will be reviewed on an annual basis.

## 9.0 RELATED POLICY AND DOCUMENTS

- Authorization for Use and Disclosure of PHI
- Authorization for Disclosure (form)

## REVISION HISTORY

EFFECTIVE DATE	VERSION NUMBER	MODIFICATION
4/14/2003	1.0	New Policy
7/01/2008	1.1	Review, Format Change
2/27/2015	1.2	Review, Format Change
[Enter approval date]	2.0	Ownership Shifted from Provost to General Counsel