



Information Blocking Compliance Bootcamp

Office Hours: Questions from Boot Camp Session 4

March 10, 2021

Questions Submitted for 3/24/2021 Office Hours

I'm researching release of BH notes. On the Forum post *Release of Behavioral Health Progress Notes (9/11/2020)*, which provided a lot of great insight, a user wrote of the ability to block Psychotherapy notes (quoted below), which prompted my question.

HIPAA definition: "Psychotherapy notes means 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 individual's medical record**. 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 following items: Diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date."

Question: In looking at the HIPAA definition of Psychotherapy notes: if the BH/MH provider uses a section of the progress note in (i.e., not separated) an EMR to document psychotherapy notes, does that mean the whole note can/should be withheld under the Infeasibility exception? The EMR has no way to segment the data **OR** do they have to make the whole note available because the psychotherapy notes aren't 'separated' out

Interoperability Matters

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