Originating Unit	[ ] Administration [ ] Patient Services Response	[ ] Alice! [X] CPS [ ] Disability Services [ ] Medical Services [ ] Sexual Violence	
Originally Issued	04/1993	**Date Revised**	10/10/2021
Author/Title	R. Eichler, Executive Director, Counseling & Psychological Services		

SUBJECT: CONFIDENTIALITY AND THE RELEASE OF INFORMATION

SCOPE
Applies to all staff in Counseling and Psychological Services (CPS) with access to or responsibility for medical records.

POLICY
Communication between a clinician and patient is privileged and confidential. Mental health information will be released only in a manner consistent with the well-being of patients, standards of informed consent, and New York State and federal law. The Notice of Privacy Practices specifies the circumstances under which health information will be shared without specific patient authorization.

Except under certain emergent circumstances, outlined below, under the direction of a court, or as otherwise required by law, confidential information will be released outside of Columbia Health or for purposes other than treatment planning only with a patient's written consent on the appropriate forms.

NOTE: A request submitted by e-mail does not meet the requirement for a written request as there is no way to verify the identity of the person sending the e-mail.

PROTOCOL:

General Considerations
1. **Administrative staff** will not respond to telephone inquiries or other requests for information from persons outside Health about any patient's treatment, past or present, at CPS. Such requests will be directed to the Executive Director or Director for Clinical Services, or, in their absence, to one of the following: Associate Director for Outreach, Associate Director for Eating Disorders, Associate Director for Postdoctoral Training, Senior Social Worker, or the Psychiatry Quality Assurance Coordinator. In determining what, if any, information to share, the clinician responding to the inquiry will be guided by the principles articulated throughout this policy and by accepted ethical and legal standards regarding the release of information.

2. In communicating with or about patients, care will be exercised to protect patient's privacy and to preserve confidentiality. Clinicians and administrative staff will be attentive to the limited privacy afforded by messages left on answering machines or conveyed through email, which will not be used to convey any protected health information; secure messaging is available for this purpose. This does not preclude scheduling appointments by email when this is a student's preferred means of communication, or the only means practical for contacting a student.

3. **Work-study students** will, under no circumstances, have access to patient records or to other confidential materials.

4. **Charts** and other confidential documents will be maintained and stored in a secure fashion (see CPS-EH REC 2 – Patient Electronic Health Record).

5. When no longer needed, materials containing confidential information will be shredded or otherwise disposed of in a manner that protects privacy and is consistent with applicable laws.

6. All written communications about patients to persons outside Columbia Health will be routed through either the Executive Director or Director for Clinical Services or their designee. This includes reports to Deans (e.g., administrative referrals, support of incompletes, exemptions from course requirements, medical leaves of absence) and reports to outside agencies, clinics, lawyers, etc.

Releasing Information:
Only photocopies or printouts of electronic health records will be released; original records will be retained by CPS.

1. Records are to be released no later than ten business days after proper consent is obtained.

2. When records are released to a patient, or to any third party, the appropriate release form(s) will be scanned in the chart, and the date on which records were transmitted will be recorded in the Release of Information Log.

3. Except under certain emergency conditions described below, or as otherwise required by law, patient information may not be communicated to any person or agency outside Columbia Health without the patient's signature on the "Authorization for Release of Health Information Pursuant to HIPAA" and, if necessary, the additional "Authorization for Verbal Disclosure of Health Information" form (sample attached).

4. The "Authorization for Release of Health Information Pursuant to HIPAA" is used whenever **written** materials are to be released; it may also be used to authorize **verbal** communication with the student's attorney or a governmental agency. When a student wishes to authorize verbal communication with another party, such as a Dean or parent, the "Authorization for Verbal Disclosure of Health Information" form must be completed in addition to the "Authorization for Release of Health Information Pursuant to HIPAA" form.

5. In overseeing the completion of these forms, clinicians will ensure that a student has:

    - Initialed next to the appropriate item authorizing the release of mental health information
    - Initialed that HIV-related information and alcohol/drug treatment information may be released, if the student desires the release of this information
    - Understood that if consent is denied to release HIV-related and alcohol/drug treatment information contained within a chart, that chart will be marked as redacted prior to release
    - Completed every required item

6. Before a health record is released, the patient will generally be made aware of the kind of material to be released, and offered an opportunity to discuss this material and to raise questions and concerns. This is part of *informed* consent.

7. HIV-related information and alcohol/drug treatment information may **only** be released with specific consent, as noted above. When consent is denied, the primary therapist will review a copy of the record prior to release and redact all references to AIDS or HIV status or testing or to preoccupations with same (if any) and will remove all references to alcohol/drug treatment, as appropriate to the conditions of the release. As an added precaution, a clinic administrator will review the record a second time prior to its release. Redacted records will be marked "Redacted" on every page.

   University counsel will be consulted as needed in responding to legal subpoenas for records containing confidential HIV and alcohol/drug treatment information that are not accompanied by patient consent specifically authorizing the release of this information.

8. When former patients of the clinic seek the release of information, they will ordinarily discuss the material to be released with the clinician by whom they were treated at CPS. In the absence of this clinician, the Executive Director or Director for Clinical Services or their designee will ordinarily assume this function.

9. When students or former students unknown to the current clinic staff request the release of materials they must produce identification, such as a driver's license, a Columbia University ID, or other government issued photo ID.

10. When requests for the release of materials are received by mail signatures will be verified against those in the electronic health record. If the electronic health record lacks a signature, or if there is doubt as to the authenticity of the signature on the consent form, or if the records are to be used in legal proceedings, a notarized signature may be required. Once again, separate consent is required to release HIV-related information.

11. When requests are received by mail, a good faith effort will be made to contact the patient by phone or correspondence, in order to discuss the materials to be released, and to insure that consent is *informed*. However, an inability to contact a patient in a timely fashion will not prevent CPS from acting on a properly executed release.

12. While an effort will always be made to obtain informed consent before releasing information, under certain circumstances, notably those involving a threat to life, it may be necessary to release information without written consent. Before releasing information without consent, the Executive Director or Director for Clinical Services, or in their absence, the Psychiatry Quality Assurance Coordinator or another senior staff member will be consulted if at all possible. For further reference, see CPS-EMERG 1 Psychological/Psychiatric Emergencies

13. Consent to release otherwise privileged information is not required when reporting suspected child abuse or under the circumstances stipulated in the New York State SAFE Act (see PT RTS 7 Mandatory Reporting of Child Abuse).

Special Considerations

Subpoenas and Release of Records to Attorneys or for Use in Legal Proceedings:
(Note that items 1-4 were prepared by the University's Office of General Counsel)

1. All subpoenas and requests for the release of documents for use in legal proceedings will **always** be brought to the immediate attention of the Executive Director, or in the Executive Director's Absence, the Director for Clinical Services or their designee; materials will be released only under their supervision, in consultation, as appropriate, with the University's Office of General Counsel and the Senior Vice President for Columbia Health.

2. Generally speaking, a subpoena is a legal process by which a person is required to give information. There are two different kinds of subpoenas. The first seeks to secure testimony from a witness. The second is a subpoena "duces tecum" which seeks documents and things from a person having possession, custody, or control of the item sought. A subpoena duces tecum may also require the testimony of the custodian of the item sought.

3. As a general rule, due to confidentiality concerns, patient records should **not** be released or disclosed except in response to:

   (ii) subpoenas "so ordered" and signed by a New York court (i.e., a New York state court or a federal court located within the State of New York), or
   (ii) a written release signed by the patient. (Quite often, a subpoena will be accompanied by a notarized release signed by the patient.)

   In the event a subpoena does not satisfy these requirements, it may be necessary to object to such subpoena within a certain time period. In these instances, the Executive Director or designee will review the matter and may contact the party issuing the subpoena to request a written, notarized release or take other appropriate action in consultation with the University's Office of General Counsel regarding appropriate action.

4. In rare instances in which releasing records would have a detrimental effect on the patient or another person, it may be necessary to object to a subpoena or a request for such records within a certain time period. In these instances, the Executive Director designee will review the matter and consult, on a timely basis, with the University's Office of General Counsel regarding appropriate action.

5. The Executive Director and the Senior Vice President for Columbia Health will always be made aware as soon as practical of any request pursuant to a possible claim against the University or in other circumstances of concern and they will enlist the advice of University Counsel.

6. Following the general protocol for responding to patients' authorization to release information, when CPS is required to respond to a subpoena because it is accompanied by a properly executed release, CPS will seek, if possible, to contact the patient, and offer to discuss the kinds of information to be released. However, an inability to contact a patient in a timely fashion will not prevent CPS from responding to a subpoena accompanied by properly executed release.

7. Behavioral Health staff have access to legal counsel when necessary and are provided information regarding legal issues such as handling of subpoenas, warrants, etc. as described above.

Release of Written Information to Patients

1. Patients generally have a right to inspect copies of their records within 10 business days of making a written request to do so. A written copy of patient information must be provided in a reasonable period of time, as mandated by law.

2. To avoid misunderstandings of technical terminology and to otherwise make a review of records as meaningful as possible, patients will be encouraged to review records with the clinicians by whom they were seen. However, patients are entitled to a copy of their records even if they decline to first review them with a clinician.

3. Patients must sign an Acknowledgement of Receipt of Records form (sample attached) upon receipt of their records.

4. In rare instances, it is judged that releasing records to a patient could be expected to cause substantial physical harm to the patient or others, CPS may refuse to release such records. Such cases will be reviewed with the Executive Director or their designee who will, as appropriate, consult with the Senior Vice President for Columbia Health and the University's Office of General Counsel regarding appropriate action.

Release of Records for Background Checks

Occasionally, CPS receives inquiries from agencies such as the Peace Corps, licensing boards, etc. All such requests will be brought to the attention of the Director for Clinical Services or designee. Although CPS may acknowledge such inquiries, it does not routinely respond with information. Whenever possible, however, the student who is the subject of the inquiry will be contacted. If the student wishes information released, CPS will do so upon receipt of appropriate written consent, following all relevant guidelines above. When a student does not give informed consent for the release of information, the Director for Clinical Services sends a letter to the requesting organization (sample attached) declining to release the information.

Communications with Other Divisions of Columbia Health

The CPS *Treatment Consent* which must be signed by all students using CPS, indicates specifically that information will, if necessary, be shared within Columbia Health for purposes of coordination of care. Staff will, nevertheless, remain sensitive to privacy issues, and release information beyond that which is shared with Medical Services in the clinical record on a need-to-know basis, whenever possible (e.g., under non-emergent conditions) in consultation with their student-patient. This protocol is intended to preserve students' sense of autonomy and privacy, which may be especially important in safeguarding the therapeutic relationship with survivors of abuse; especially suspicious students; students who experience high levels of shame and so forth.

RELATED POLICIES:

CPS-EMERG 1	Mental Health Emergencies: Psychiatric Hospitalizations and Afterhours Coverage
PT SVC-PT RTS 7	Mandatory Reporting of Child Abuse
CPS-EH REC 2	Patient Electronic Health Record

APPROVALS



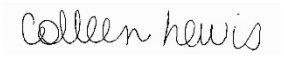
[x] Senior Vice President — 11/11/21 Date



[x] Executive Director, Medical Services — 11/11/21 Date



[x] Executive Director, Counseling and Psychological Services — 11/11/21 Date



[x] Executive Director, Disability Services — 11/11/21 Date



[x] Executive Director, Alice! Health Promotion — 11/11/21 Date



[x] Executive Director, Sexual Violence Response — 11/11/21 Date



[x] Chief of Administration — 11/11/21 Date

SAMPLE FORM LETTER:
Response to outside agencies
(e.g., graduate and professional schools, potential employers, government agencies)
when patient does not consent to release of information

Date

Dear _____:

This is in reply to your request for information about _____.

We are ordinarily not able to respond to requests for information, even the fact of whether or not a given student might have been seen here. It should be stressed that this policy is a general one which is based on ethical and legal standards of doctor-patient privilege. This letter in no way should be taken either as a positive or negative report.

We therefore respectfully decline comment on your inquiry. We trust our policy will not adversely affect your decision regarding _____'s status.

Sincerely,

Richard J. Eichler, PhD
Executive Director

ACKNOWLEDGMENT OF RECEIPT OF RECORDS

I, _____, hereby acknowledge, that, at my request, a copy of the following otherwise confidential document(s) will be transmitted to me by Columbia Health, Counseling and Psychological Services (CPS):

☐ **A letter dated _____ in support of modification of academic requirements.**

☐ **My entire CPS record**

☐ **Other (Specify) _____**

I understand that in accepting these copies I assume all responsibility for their disposition and safekeeping.

Signature: _____

Name (print) _____

Date: _____

ID Verified by CUID Number _____
Photo ID License Number _____
Other (Indicate) _____
Initial _____