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Opinion Regarding Release of Psychotherapy Notes:

A question regarding the release of psychotherapy notes has been posed on several occasions by multiple counselors. Due to this, LCA has asked for an opinion by Rittenberg, Samuel & Phillips, L.L.C., Attorneys at Law. To follow is a summarization regarding their opinion:

Are counselors required to give copies of complete records, including psychotherapy notes to clients?

“Louisiana law requires access to records and copies of records when requested by competent clients, except that counselors may limit access to any portion of a record where there is compelling evidence that such access would cause harm to the client.”

- Rittenberg, Samuel & Phillips, L.L.C., Attorneys at Law, opinion dated August 30, 2013.

“Federal law (HIPAA) does not require health care providers to provide access to psychotherapy notes that are separated from the rest of the individual’s medical records.”

- Rittenberg, Samuel & Phillips, L.L.C., Attorneys at Law, opinion dated August 30, 2013.

Definition of psychotherapy notes:

“Notes recorded in any medium by a health care provider who is a mental health professional documenting or analyzing the contents of a 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 medications, prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, result of clinical tests and any summary of the following items: Diagnosis, functional status, the treatment plan, symptoms, prognosis and progress to date (45 CFR 164.501)”

Summary:

With written permission from the client/patient or their legal guardian, a counselor CAN provide copies of psychotherapy notes. According to Federal Law, a counselor does not have to provide such notes. However, the attorney's do state that no case regarding such, has been brought before the courts in the State of Louisiana. Therefore, all counselors should proceed with caution regarding this issue. It is also important that counselors review their code of ethics regarding such matters and consult with peers.

- Please note that my statements (those not including a citation from the attorney's), are strictly my opinion regarding the letter from Rittenberg, Samuel & Phillips, L.L.C., Attorneys at Law, opinion dated August 30, 2013. In no way do I have a education in law nor am I an attorney. It is recommended that if faced with such issues, counselors should consult with an attorney who specializes in this area. A full copy of the cited attorney's opinion is available through LCA.

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