Treatment Records – Providing a Summary

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… What right, if any, does a mental health practitioner in your state have to provide the patient with a summary of the treatment records in lieu of allowing the patient to obtain a copy of the records or to inspect the records? In California, a psychotherapist may elect to provide the patient with a summary, and may do so for any reason. For those who are HIPAA –covered providers, summaries can only be provided where the patient agrees to receive the summary as an alternative to the actual record. HIPAA regulations do provide that the patient is not entitled to inspect or obtain copies of the "psychotherapy notes" (not the same as psychotherapy records) of the HIPAA-covered practitioner.

Under California law, the summary must contain specified information, such as, but not limited to, chief complaints and pertinent history, diagnosis, treatment plan, progress of treatment, and prognosis. If the mental health practitioner was not allowed the discretion to provide a summary in lieu of the actual records, this might increase the likelihood that the practitioner will deny access to the patient under other provisions of applicable state law. Some states allow a denial of access to occur where, for example, there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of the mental health records.

Each state's law must be consulted in order to determine when denials may properly occur and when or whether a summary may be provided. Where access to the records may lawfully be denied by the therapist, the option to provide a summary may help the patient to obtain substantial and relevant information pertaining to his or her treatment. In some circumstances, receiving a summary of the records may provide the patient with more information than he or she might receive from a review of a copy of the records.