As a growing number of physician practices consider behavioral health integration as a way to help more patients receive the hard-to-find mental health care they need, patient privacy can’t be overlooked.

There are many federal and state laws and regulations related to behavioral health information, and they are ever-changing. The goal at the federal level is to balance a patient’s right to privacy and their right to decide who may access to their health information with physicians’ and other providers’ need to share information to provide optimal care, Lucy Hodder, JD, explained during a recent Behavioral Health Integration (BHI) Collaborative webinar hosted by the AMA. Hodder is law professor and director of health law and policy programs at the University of New Hampshire, Franklin Pierce School of Law and the Institute for Health Policy and Practice.

“Privacy rules are drafted to encourage information sharing, to support care management and care coordination. Remember that while it seems like they’re tough and the lawyers can be tough about it, the privacy rules have pathways for you to engage in evidence-based care for your team, amongst your team and for your patients,” Hodder said during the webinar, “Privacy and Security: Know the Rules for Communication of Behavioral Health Information” (slides in PDF).

The AMA established the BHI Collaborative with seven other leading medical associations to help overcome obstacles to integrating behavioral and mental health care into primary care practices. The goal is for the patient to receive mental health care that is coordinated by and is often delivered in the primary care office, with that care being provided by a psychiatrist, other mental health professional or a combination in a team-based care approach.

Learn more about AMA efforts to improve behavioral health, amid COVID-19 and after the pandemic has ended.
Do’s and don’ts of privacy

Here are a few things Hodder said physicians should know:

- Physicians may disclose protected health information (PHI) orally, on paper, by fax or electronically for treatment, payment and health care operations without consent or authorization.
- Health care providers may disclose to other health providers any PHI in the medical record about an individual for treatment, case management and coordination of care.
- Covered entities must obtain individuals’ authorization to disclose separately maintained psychotherapy session notes for such purpose.
- The Health Insurance Portability and Accountability Act (HIPAA) treats mental health information the same as other information.

In practice, communication key

During the webinar, two physician executives—Robin M. Motter-Mast, DO, chief of staff and medical director of care transformation at the GBMC Healthcare in Towson, Maryland, and Todd Peters, MD, vice president and chief medical officer for Sheppard Pratt in Baltimore—discussed how their organizations established integrated behavioral health care.

To address privacy issues, Dr. Motter-Mast said they met with one another and together with lawyers numerous times to figure out exactly what information to protect and from whom.

“We want to protect our patient’s privacy and security, but at the same time we need to communicate with each other as providers to allow people to really know what the root cause of the patient’s issue might be,” said Dr. Motter-Mast, a primary care physician.

She said the only specific information that should be shared is:

- Participation in the program.
- Notes with the diagnosis and recommended treatment.
- The frequency of treatment.
- Notes with results of functional status assessments and notes about the screenings that have occurred in the program to see how patients are progressing with their treatment plan.
Dr. Peters, a child and adolescent psychiatrist, said it’s necessary to invest the time and have a conversation with patients about what is documented in their chart and who can see it. It’s an integral part of medical care that doesn’t get enough “air time” in visits, he said.

“It really helps to build that patient-and-doctor alliance,” he said.

More from the AMA

To help physicians offer mental and behavioral health services their practices, the BHI Collaborative has created the Overcoming Obstacles webinar series.

The Behavioral Health Integration (BHI) Compendium, a one-stop online collection of resources from eight national physician organizations, is designed to help you on your integrated health care journey no matter where you are on the path.