

Integrated Care: Confidentiality and Release of Information Fact Sheet

Developed by the Ohio Coordinating Center for Integrating Care
and the Ohio Department of Mental Health

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This document is intended to provide guidance to mental health and health care providers about the exchange of health care information to support effective implementation of integrated care.

The information provided below is not provided as legal advice. Providers are advised to consult with their legal counsel to insure compliance with all State and Federal regulations about the exchange of health information and how best to incorporate these regulations in program policies and procedures.

Laws/Rules

O.R.C. 5122.31 (A) (7) (ODMH)

ODMH recognized the need for alignment of Ohio law regarding confidentiality and HIPAA regulations in order to reduce unnecessary barriers to providers' access to treatment information for improved continuity of care. O.R.C. 5122.31 (A) (7) (see attached statute) was proposed in order to facilitate a more effective exchange of mental health records between community mental health care providers and other health care providers for the purposes of continuity of care. This amendment to the statute became effective on October 16, 2009.

The specific language of the amendment is:

“That hospitals within the department, other institutions and facilities within the department, and community mental health agencies may exchange psychiatric records and other pertinent information with other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient;”

This amendment changes state law and impacts access to treatment information in the following ways:

- authorizes the exchange of psychiatric treatment information between community mental health

agencies and other health care providers for the purposes of continuity of health care

- improves quality and expedites continuity of care for Ohio's recipients of mental health services

As with any new provision of law, the details of its breadth will evolve through the process of judicial interpretation.

Community mental health providers will no longer be required to obtain written authorization through a release of information form to exchange information with each specific treatment or health service provider when the purpose of the exchange is to facilitate continuity of care for a consumer. Community mental health providers can now integrate information in the consent for treatment to include permission for the exchange of mental health information with other treatment and health service providers. However, HIPAA regulations permit consumers to request specific restrictions on disclosures of information, including disclosures for treatment purposes.

Continuity of care

Continuity of care has been seen as a necessary attribute of high-quality care and is especially important for and valued by vulnerable populations such as clients being served in the community mental health system. Continuity of care is challenging to achieve in our health care system and effective communication among all of the key health care providers is essential. “Ideally, all people involved in a person's health care, including the person receiving care, communicate and work with each other to coordinate health care. Also, all should agree on and understand the goals for health care. Then, changes in practitioners and places of care would occur smoothly, without disrupting care. This ideal is called continuity of care.” (Beers M, Jones T, et al: The Merck Manual of Health & Aging- The comprehensive guide for older adults and those who care for and about them. Merck & Co., Inc., West Point, PA, 2004).

In order for their health care needs to be met, a client may engage a variety of practitioners and health service providers in various settings.

- Example Practitioners:
 - Other Behavioral Healthcare Providers (psychiatrists, trained others, psychologists, counselors, social workers, marriage and family therapists)
 - Physicians (family practice, internists, specialists)
 - Nurses (RNs, LPNs, nurse practitioners)
 - Physician Assistants
 - Pharmacists
 - Dietitians
 - Physical and occupational therapists
 - Nurses' aides
 - Home Health Aides
 - Care Managers
- Example Health Service Providers:
 - Primary Care Providers
 - Family Medicine Providers
 - Specialty Care Providers
 - Hospitals
 - Care Managers/Community Health Workers
 - Other Behavioral Healthcare Providers
 - Managed Care Organizations and Care Managers working at these organizations and other social service agencies who coordinate care of clients
- Example Settings:
 - Other Behavioral Healthcare Provider Offices and Organizations
 - Physician's office or clinic
 - Hospitals
 - Rehabilitation facilities (hospital or nursing home)
 - Home health care
 - Electronic Communications

Examples of continuity of care:

- Psychiatrist at community mental health agency performs a medical lab test for client who does not have access to primary care and shares results of test with clinic client is referred to.
- CPST staff arranges respite care for client who is at risk of being hospitalized and provides psychiatric treatment information to respite staff.

- Outpatient nurse practitioner provides psychiatric treatment information to hospital staff and tries to prevent client from being prematurely discharged from hospital.
- CPST worker attends treatment team meeting for hospitalized client to promote smooth transition to the community and shares treatment information about client's outpatient psychiatric care.
- Nurse at the mental health center provides information to community pharmacist about types of medications that the client needs.
- Psychiatrist at the community mental health center provides information about client's outpatient psychiatric treatment with the staff at the crisis stabilization unit.
- Counselor at the community mental health center refers client to additional services at another provider or client is being discharged from one provider to another.
- CPST staff coordinates hospital discharge with Care Manager from an MCO.
- CPST staff collect and share medication and treatment information with a primary care provider to coordinate behavioral and physical health care.

Examples of information to be exchanged by providers to facilitate continuity of care:

- Demographics
- History
- Treatment
- Medications
- Diagnostics
- Utilization

Suggested Actions

This change will necessitate behavioral healthcare providers reviewing/amending their:

- **HIPAA Policy/Notice Form**

It is suggested that community mental health providers review and, as appropriate, update definitions of treatment and permitted use and disclosure of Protected Health Information (PHI) in the following documents to reflect these changes in state law:

- HIPAA policies and procedures
- HIPAA Privacy Notice

- Request to Restrict Information Form**
Providers may want to develop a “Request to Restrict Information” form. Under HIPAA, providers must have a policy and process for the client to request a restriction of the use of their PHI. The request from the client must identify the specific information restricted and the entities it is restricted from. The provider does not have to accept the client’s request for the restriction if the provider determines it would interfere with the ability to engage in treatment, payment, or health oversight activities. The provider is also not obligated to retrospectively restrict information that has already been shared.
- Consent for Treatment Forms/Policy**
This change in law means that a mental health consumer’s consent for treatment (link to rule: 5122-27-04 Consent for treatment-- <http://codes.ohio.gov/oac/5122-27-04>) includes permission for the exchange of mental health information with other health and service providers, such as: mental health professionals (psychiatrists, psychologists, social workers, counselors, therapists), primary care providers, health specialists and managed care plans.
- Release of Information Form(s)/Policy**
Providers will need to continue to use a Release of Information form when the exchange of information is for reasons other than continuity of care, or when the party is not a provider of healthcare services. Refer to OAC 5122-27-08 Release of information (link: <http://codes.ohio.gov/oac/5122-27-08>) for specific elements required to include in an authorization for release of information. Exceptions regarding the release of information are listed in section 5122.31 of the Ohio Revised Code.
- Staff Training and Education**
As providers amend and update their forms and policy, they will need to provide training and education to staff.

Special Note: Compliance with 42 C.F.R. Part 2

Disclosure of alcohol and drug abuse client information and records by programs are restricted by 42 C.F.R. Part 2 (link: http://lac.org/doc_library/lac/publications/42cfr_2_regs.pdf). Providers will need to obtain written authorization from alcohol and drug abuse clients to exchange information and records with any person, treatment program or healthcare provider. Refer to OAC 3793:2-1-06 (at <http://codes.ohio.gov/oac/3793%3A2-1-06>) for requirements about confidentiality of client records for alcohol and drug addiction treatment programs. OAC 3793:2-1-06 Client records (G) and (H) includes all of the required elements for disclosure of client information forms for certified alcohol and drug addiction treatment programs. An approved authorization to disclose client information form can be found at the ODADAS web site at <http://www.odadas.state.oh.us/public/ContentLinks.aspx?SectionID=8e066211-ab3a-4063-b088-24eefc5851ee>.

Specific questions about confidentiality of alcohol and drug abuse client information and records can be directed to ODADAS Division of Quality, Compliance and Accountability (614-644-8442) or the Legal Action Center (1-800-223-4044).

“ODMH will work with stakeholders to develop Frequently Asked Questions and other tools to assist in dissemination of information about these important changes.”

Please forward further questions and comments to:

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