



Department of
Mental Health

Ted Strickland, Governor
Sandra Stephenson, Director

October 13, 2009

TO: Stakeholders, Ohio Community Mental Health System

FROM: Sandra Stephenson, MSW, MA
Director

SUBJECT: Amendment to Ohio's Statute Governing Exchange of Psychiatric Treatment Information in the Publicly Funded Mental Health System

I am writing to inform you of a language change in ODMH statute that was included in the operating budget bill (HB 1) passed in July, 2009. This memorandum outlines the details and intent behind this amendment to O.R.C. 5122.31 (A) (7) (attached for reference). This change becomes effective October 16, 2009.

ODMH recognized that a gap existed between current Ohio statutory provisions and HIPAA regulations which had the effect of limiting the exchange of mental health information among treatment providers for treatment purposes. Unnecessary barriers to providers' access to treatment information negatively impacts quality and continuity of care. ODMH felt it was critical that Ohio law be brought in line with HIPAA and broadened to permit exchange of mental health records between community mental health care providers and other health care providers for purposes of continuity of care.

HIPAA regulations authorize the exchange of protected health information (PHI) among health care providers for treatment purposes. Substitute HB 1 aligns Ohio's mental health law with this element of HIPAA by authorizing the exchange of psychiatric treatment information between community mental health agencies and other health care providers for purposes of continuity of health care. This amendment does not extend to non-treatment related areas such as the coordination and provision of housing, education, and employment services. This change has the effect of promoting consumer safety and quality of care while protecting privacy equivalent to the current guidelines for other healthcare information. If an individual wishes to restrict releases relating to his or her health information, HIPAA regulations provide consumers the right to request that a provider limit specified disclosures of information, including disclosures for treatment purposes.

These changes mean that a consumer's consent for treatment includes permission for the exchange of mental health information with other treatment and health services providers, such as: private therapists, psychologists or psychiatrists; primary care providers; health

specialists; and Medicaid managed care plans. Community mental health providers will no longer be required to obtain written authorization (i.e. release of information) to exchange information with each specific treatment or health service provider when the purpose of the exchange is to facilitate continuity of care. Providers still must comply with 42 CFR Part 2 as it relates to the confidentiality of alcohol and drug abuse patient records. Community mental health providers should review and, as appropriate, update definitions of treatment and permitted use and disclosure of PHI in their HIPAA policies and procedures, HIPAA privacy notice, and general consent for treatment documents to reflect these changes in state law.

I recognize this is a significant change and one that is intended to improve overall quality of care by facilitating continuity of care. Consumer and provider education will be necessary across the system so that:

- consumers understand how their PHI may be used for treatment purposes and their right to request restriction of specific information; and
- providers understand the new permitted disclosure of mental health PHI under state law, internal HIPAA policy changes (as applicable), and provide information to consumers on the use of their PHI and their right to request a restriction to the use and disclosure of specific PHI.

In summary, this amendment changes state law to:

- improve quality and expedite continuity of care for Ohio's recipients of mental health services;
- bring mental health information exchange requirements in Ohio in line with HIPAA regulations and other health information exchange standards;
- decrease unnecessary administrative burden for Ohio's community mental health providers who are struggling to survive in the current financial crisis; and
- better position ODMH and the mental health system to integrate with electronic medical record and electronic health record exchange policy and technology development.

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

Thank you for your attention in this matter.