



AHIMA Public Policy Statement: Behavioral Health

AHIMA's Position:

AHIMA supports policies that promote access to behavioral health services, improve integration and coordination of behavioral health information with physical health information, and safeguard sensitive health information contained in such records. Health information (HI) professionals are the frontline professionals when individuals seek access to their health information, and are tasked with ensuring the privacy, security, confidentiality, and integrity of these records. HI professionals have the expertise and knowledge to inform and enhance public policy that promotes access to behavioral health services as well as the secure integration of such information. For that reason, AHIMA believes that public policy must:

- 1. Simplify and harmonize regulatory requirements governing behavioral health information.** Policy should promote alignment between the HIPAA Privacy Rule, requirements under 42 CFR Part 2, and state regulations for purposes of treatment, payment, and healthcare operations to further integrate behavioral health information with physical health information to improve the coordination and delivery of high-quality care and reduce provider burden
- 2. Ensure adequate funding to promote health IT adoption and information sharing in the behavioral health setting.** The rate of adoption and use of interoperable health IT among behavioral health facilities continues to lag behind acute and ambulatory care providers. As a result, data exchange between behavioral health facilities and other provider types remains a challenge. Positive incentives should be considered to support behavioral health providers in the transition to interoperable EHRs and related technologies.
- 3. Prioritize privacy and security.** Increased sharing of health information across payers, providers, and social service organizations requires careful consideration of privacy issues, including ensuring that only the minimum necessary information is shared, and uses beyond the specific transaction are limited. Policy should advance efforts that will allow for electronic data segmentation of patient data within the health record to provide patients with more granular control over the exchange and use of their health information. Addressing privacy and security successfully also involves ensuring clear policies for both technical and operational solutions that are consistent across all sectors.
- 4. Promote improved access to care through new and innovative technologies, including telehealth and audio-only services.** Efforts to expand the use of telehealth requires consideration of appropriate privacy and security policies, including consent management and limits on the collection, use and disclosure of health information to that which is minimally necessary to the specific transaction in question. Care delivery models should also emphasize the need for open access to care to ensure that patients in crisis can rapidly be seen by a behavioral health professional.

- 5. Emphasize the need for greater equity in access to behavioral health services.** Historically marginalized populations and patients in urban and rural settings face unique barriers to accessing care in their local communities. A distinct focus on marginalized urban and rural populations will be necessary to meet the needs of diverse populations and to reduce health disparities and inequities. Care delivery models should also be designed to ensure that patients receive care in accessible settings that are appropriate to their life stage and socio-economic circumstance.
- 6. Embrace the role of health information professionals.** Policy must recognize the expertise HI professionals have in maintaining the confidentiality, privacy, and security of an individual's behavioral health information, and the role they play in facilitating and supporting individuals' access to their health information while adhering to state and federal requirements. The unique skillset of credentialed HIM professionals is critical to supporting operations in the behavioral health setting including ongoing workforce shortages which can jeopardize patient privacy as well as patient access to care for behavioral health services.

Background

The Substance Abuse and Mental Health Services Administration (SAMHSA) defines behavioral health as the promotion of mental health, resilience and wellbeing; the treatment of mental and substance use disorders; and the support of those who experience and/or are in recovery from these conditions, along with their families and communities.¹ As noted by SAMHSA, "behavioral health conditions and the behavioral health field have historically been financed, authorized, structured, researched, and regulated differently than other health conditions."² The distinct policy and regulatory environment for behavioral health settings poses distinct challenges for clinicians and the HI workforce. While working in behavioral health settings, HI professionals frequently must navigate a rapidly changing and complex framework of federal and state laws and regulations, including the legal system. HI professionals in these settings also often require unique training to support patients experiencing mental health crises.

Treatment of substance use disorders is a significant component of behavioral health. Opioid misuse, abuse and overdose has become an epidemic in the United States and has led to a crisis in the healthcare system. The ongoing opioid epidemic has elevated the need for improved integration of behavioral health information with physical health information. The sensitive nature of records pertaining to behavioral health and substance use disorder creates challenges that can at times hinder providers' ability to safely coordinate the high-quality care that patients need. Lack of alignment across regulatory requirements and a lack of technical solutions that allow for granular segmentation of patient data creates burdens for stakeholders that are incongruous with new care delivery models that rely on providers' ability to share health information, while ensuring that sensitive health information is protected.

Recently, in response to the Covid-19 pandemic, healthcare experienced a trend of rapid adoption of telehealth and other virtual care services. This rapid shift in the manner in which care is provided has been particularly impactful for providers of behavioral health services. Recent data indicates that adoption of telehealth services for mental healthcare significantly

¹ "SAMHSA – Behavioral Health Integration." SAMHSA.gov, Substance Abuse and Mental Health Services Administration, www.samhsa.gov/sites/default/files/samhsa-behavioral-health-integration.pdf.

² Id.

outpaces other specialties.³ Throughout the pandemic, federal and state governments have worked to temporarily ease restrictions on telehealth services to ensure that patients do not lose access to care. Legislation has recently been passed to allow for the permanent easing of key restrictions on the provision of mental health telehealth services.⁴ The ongoing pandemic has also highlighted the need to address ongoing workforce shortages in behavioral health programs.⁵

Key Points

Policies that promote access to behavioral health services, integrate and coordinate behavioral health information with physical health information, and safeguard sensitive health information contained in such records may yield significant benefits. These benefits include:

- Interoperable access to and the exchange and use of behavioral health information as part of routine care can help to improve care continuity and coordination, leading to improved outcomes and decreases in utilization of unnecessary or avoidable care.
- Improved data sharing across the healthcare ecosystem is a critical element in combatting inappropriate prescribing of opioid medication, while ensuring that patients do not lose access to necessary care.
- Addressing workforce shortages, administrative burdens, and disparities to access in care will promote a more equitable healthcare system that better serves patients. Prioritizing these issues is also likely to reduce clinician burnout, promote long-term sustainability of federally funded healthcare programs, and improve quality of care.
- Addressing the needs of historically marginalized communities can improve patient trust in the healthcare system, which is likely to benefit whole person health and public health priorities.

To realize these benefits, a number of challenges must be addressed, including:

- Historic investment that has been made in other settings to support the transition to a broader interoperable health information technology infrastructure has often bypassed behavioral health settings. Many behavioral health facilities may lack the resources, expertise, and training needed to support adoption of interoperable EHRs and technologies.
- The acute nature of conditions in behavioral health often requires innovative forms of care delivery that can be impacted by lack of infrastructure, including broadband, lack of technical literacy, and availability of resources needed for care delivery and crisis intervention.

³ "Athenahealth Telehealth Adoption Report." Athenahealth, 8 Mar. 2021, www.athenahealth.com/knowledge-hub/clinical-trends/the-athenahealth-telehealth-insights-dashboard.

⁴ Consolidated Appropriations Act of 2021, Section 123(a) of Division CC

⁵ "Behavioral Health Workforce Projections." Behavioral Health Workforce Projections | Bureau of Health Workforce, Health Resources and Services Administration, Dec. 2020, bhw.hrsa.gov/data-research/projecting-health-workforce-supply-demand/behavioral-health.

- Lack of technical solutions to allow for granular data segmentation remains a persistent challenge that creates substantial administrative complexity when disclosing patient health information for the purposes of care coordination. Data segmentation solutions are not widespread among vendors and may not meet 42 CFR Part 2 requirements. In other circumstances, when available, they are often cost-prohibitive.
- Societal stigma remains a substantial barrier that hinders patient access to care and may dissuade patients from seeking out behavioral health services. Efforts to promote access to care must address societally ingrained beliefs that deter patients from accessing necessary behavioral health services.
- Ongoing privacy and security challenges face stakeholders across the healthcare system. Additionally, potential breaches of sensitive behavioral health information can create confounding repercussions for patients and providers. Cybersecurity remains a top concern for the federal government across healthcare settings. Federal support must be adequate to facilitate information sharing, the creation of cyber-hygiene best practices, and the monitoring of cyber threats.

Current Situation

In response to the ongoing opioid epidemic, significant attention has been paid by policymakers to the need to combat misuse of opioids by increasing access to care, improving information sharing, and reducing over-prescribing. In March 2018, the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, also known as the SUPPORT for Patients and Communities Act was signed into law.⁶ This act significantly expanded the type of health care providers who can prescribe or dispense medication-assisted treatment (MAT), modified reimbursement for MAT under the Medicaid program, increased access to substance use disorder treatment via telehealth, required the adoption of electronic prescribing of controlled substances for all regulated substances covered in Medicare Part D, and required that states have a qualified prescription drug monitoring program.

Significant progress has also been made in recent years to better align consent and disclosure practices. In March 2020, the Coronavirus Aid, Relief and Economic Security (CARES) Act was signed into law.⁷ Section 3221, also known as the Protecting Jessica Grubb's Legacy Act, promoted care coordination by more closely aligning the 42 CFR Part 2 regulation, which governs the confidentiality and sharing of substance use disorder treatment records, with the Health Insurance Portability and Accountability Act (HIPAA). Under this legislation, once initial affirmative consent is obtained, Part 2 information may be redisclosed in accordance with the HIPAA Privacy Rule for purposes of treatment, payment, and healthcare operations, unless the patient revokes such consent in writing. As of the release of this policy statement, implementing regulations are still forthcoming.

The Consolidated Appropriations Act (CAA) of 2021⁸ substantially modified coverage policies for mental health telehealth services under the Medicare program. Prior to passage of this legislation, site restrictions have been cited as a significant barrier preventing expansion of

⁶ "SUPPORT for Patients and Communities Act." Congress.gov, United States Congress, 24 Oct. 2018, www.congress.gov/bill/115th-congress/house-bill/6/text.

⁷ The Coronavirus Aid, Relief and Economic Security (CARES) Act, Section 3221

⁸ Consolidated Appropriations Act of 2021, Section 123(a) of Division CC.

telehealth services. In response to the Covid-19 public health emergency, numerous restrictions on telehealth services, including site restrictions, were temporarily eased to maintain patient access to necessary care. The CAA makes permanent changes within the Medicare program that remove existing geographic restrictions and permit a patient's home to be an originating site for telehealth services furnished for the purpose of diagnosis, evaluation, or treatment of mental health disorders.

As policymakers continue to consider efforts to promote access to behavioral healthcare services, integrate the coordination of behavioral health information with physical health information, and determine how such sensitive information may continue to be safeguarded, AHIMA stands ready to lend its expertise and perspective to the conversation.