



American Professional Agency



RISK MANAGEMENT



Risk Management Tips in Behavioral Health

Although this is not an exhaustive list, here are some important risk management issues to consider in behavioral health. If you have questions about risk management issues or liability concerns, consult a risk management professional or attorney.

- Documentation.** Keep in mind that the medical record is a legal document and may be the only evidence available years after care was provided. It is considered a factual description of the care provided. Failing to document can lead to disciplinary action and potentially an inability to defend a lawsuit.
- Consent to Treatment.** During your first visit, ensure that you are obtaining consent to treatment from the person who has legal authority to sign the admitting paperwork. This is particularly important when treating minors, elders or persons who may have diminished capacity to consent to treatment. It is important to be aware of your particular state's regulations on age of consent for behavioral health treatment as it varies between states. Whether you have a pre-printed form or you document in narrative form, documentation of informed consent is critical.
- Record request/release.** Obtain advice prior to releasing records. Depending upon the circumstances and your particular state, you may be required to obtain a subpoena or court order before releasing the records.
- Record retention.** Know your state's obligations for how long you are required to retain a patient's medical records. If you are closing your practice, seek advice to ensure that you are in compliance with state law.
- Suicidal/Violent Patients.** When treating patients who are suicidal or violent, it is important to document reasons for/for not recommending inpatient treatment or a higher level of care. Depending on the focus of treatment, with each session, document whether the patient is suicidal or homicidal.
- Telemedicine/Telepsychiatry.** Know what the licensure requirements are in a particular state where the patient is located prior to providing your first session. Some patients may not be appropriate for telemedicine treatment given risk factors. It is important to assess suitability prior to treatment and if it becomes apparent that they are not suitable, it is important to consider altering care to traditional in-person treatment.
- Supervisory/Collaborative/Consultative Relationships.** It is important to know your role in treatment when working with other professionals. Be aware of your responsibilities within your state and establish clear guidelines.
- Privacy.** HIPAA provides heightened privacy protection for psychotherapy notes and many states also have heightened privacy regulations for behavioral health records.
- Email.** If using email or texting with patients, consider having a policy that you will only discuss scheduling via these methods and not clinical issues. Ensure that it is encrypted.
- Treating Minors.** With minors who have divorced parents, are living with extended relatives or who are in state care, it is important that the person signing the paperwork has the legal authority to do so.

For other timely risk management topics, policyholders can access *In Session*, our risk management newsletter at apamalpractice.com. If you have any questions please contact the American Professional Agency, Inc. at 877-740-1777.

This document is intended as an educational resource. Information contained herein should not be construed as legal or clinical advice. This material cannot be reproduced without the express, written permission of Allied World. © Allied World Assurance Company Holdings, AG. All Rights Reserved. May 2017.

apamalpractice.com

awac.com/risk_control

APA ENDORSED PROGRAM