Exception

written by Richard Leslie | May 24, 2016

Avoiding Liability Bulletin – May 2008

… What is the right of a therapist or counselor to communicate with other health care providers or facilities without the patient's written authorization? This is an important question to answer. Each state may treat the answer somewhat differently. For HIPAA covered providers, the federal government has enacted regulations that make clear that such communications may be made without the patient's written authorization – provided that the disclosures are for the purposes of the diagnosis or treatment of the patient. Pursuant to these federal regulations (known as the "Privacy Rule"), patients are required to be informed of this information in the required Notice of Privacy Practices" document. For those who are not covered by HIPAA, state law applies.

HIPAA regulations in this area of the law (confidentiality and privacy) were in large part patterned after California law – the Confidentiality of Medical Information Act. That act, which covers physicians, psychotherapists, and others, has long recognized that disclosures can be made between health care providers, without the patient's written authorization, for purposes of diagnosis or treatment of the patient. California law imposes no requirement upon the practitioner to first disclose this information to the patient, although practitioners may do so in a disclosure statement that, among other things, describes the exceptions to confidentiality. Thus, practitioners in California may consult with their licensed colleagues about a case (and disclose the name of the patient) without the patient's prior written authorization. Is there a similar law in your state? What exactly does it allow and/or require?