Home Visits

written by Richard Leslie | May 24, 2016

Avoiding Liability Bulletin – September 2009

… Michael Jackson's death, and the investigation of several doctors, including one or more "concierge doctors," raised the question of home visits for me. What would a licensing board do if it found out that a licensed professional counselor or licensed marriage and family therapist was living with a patient or client in order to provide around the clock monitoring and care for his/her mental health problems? What if this were done with a suicidal patient? I suspect that the licensee would be in considerable jeopardy, both ethically and legally, to say the least.

On the other end of the spectrum is the simple home visit to a patient or client, who for any number of reasons, may prefer or need to be seen in his or her home. There is nothing wrong, in my view, with a therapist or counselor seeing a patient or client in that manner. In the fine tradition of family medicine, as it was practiced for many years in our country, and in recognition that home health services are an important part of our current and future health care delivery system, home visits should not garner undue concern. One can certainly argue that when services are delivered in the home, the therapist or counselor might gain useful knowledge about the client that might otherwise not be apparent. That does not mean that there aren't certain considerations and issues involved with respect to home visits.

For example, if a pre-licensed person working under supervision for a nonprofit and charitable corporation or for a private practitioner were to make home visits, what special considerations or issues might there be? One that comes to mind is the possible liability for the employer in the case of an accident on the way to the client's home or from the home. If the supervisee is at fault in an auto accident, the employer might have some liability since the driving was for business purposes. Additionally, I would assume that in many states, since the employee was injured on the job (or on the way to or from the job), the employer might have liability under the workers' compensation system.

There may also be issues with respect to supervision that will arise. Will the supervisor make one or more home visits? Will the supervisor assure that home visits are appropriate for a particular client with this particular intern? What time of day or night will these visits be made? Suppose that an intern engaged in sexual relations with the patient at the patient's home. Suppose further that the supervisor had not made a home visit to examine the environment or to observe and talk with the client first. Suppose that the supervisor never observed any of the therapy sessions? Might not the supervisor and the employer have some vulnerability? Of course, these same issues can arise in an office setting as well.

On a separate note, but of concern and importance, employers should make sure that patient or client records are not being transported out of the employer's place of business, or if they are, persons are

adequately trained or educated about the necessity to safeguard the records and the manner in which that can be done. If this topic is neglected, a confidentiality crisis can unexpectedly appear when records are lost, misplaced, or stolen, or when the records are kept in the home of the employee. Also of concern is the issue of insurance billing, to the extent that becomes relevant. Practitioners must be careful not to misrepresent the place where the services were rendered by using incorrect procedure code numbers. Confidentiality and privacy concerns are always relevant. For example, where will services be rendered – in what room? Will anyone else be in the house or likely to visit? Will the client or patient tell the other people that may be present that you are a therapist or counselor – or will he/she want that information to remain private?

If a practitioner is in an automobile accident on the way to or from a home visit with a client or patient, and if there is a claim from an injured party with the practitioner's automobile insurance company, will the insured practitioner tell the insurer that he or she regularly uses the car for business purposes – that is, to make home visits? Has the insured previously informed the insurer of this kind of use of the automobile? I would hope that coverage would not be jeopardized, but the insurer may look for an increased premium or may want to deny future coverage.

None of these considerations, however, seem to me significant enough to deter one from deciding to deliver services by making home visits. One must simply think of the different issues that may arise and be prepared to deal with them in an ethical and lawful manner. I've advanced a few of my thoughts in this short piece about home visits, but certainly have not touched upon all of the issues and considerations that may be involved in any particular situation.