Ask An Attorney

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We are considering the possibility of group medical visits to better serve the needs of our patients. What are some of the legal issues we should consider?

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Group medical visits, sometimes also called shared medical appointments, are gaining in popularity among both physicians and patients. In a group setting, over a 90-minute to two-hour period, the physician performs a series of one-on-one patient encounters, to manage the health of each patient and educate and advise the group of patients. Sometimes offered as a cooperative health clinic to patients with a single disease focus (e.g., diabetes, high blood pressure or high cholesterol), and sometimes offered on a drop-in basis to patients with multiple diagnoses, these programs have been found to provide patients with increased access to their physician, improve the quality of their care through enhanced education and support, make patients more active participants in their care and offer patients peer support. From the practice perspective, this model can improve physician and staff productivity, decrease costs and reduce patient scheduling congestion.

The first legal issue to consider is patient confidentiality and privacy. Each patient wishing to participate in a shared medical appointment must sign a HIPAA compliant release and waiver acknowledging that their protected health information will be shared with other participants in the group visit. The patient should also pledge confidentiality as to the protected health information of other participants, agreeing not to share any protected health information of other patients outside the group setting. The patient should also acknowledge that while each patient in the group visit has signed a similar confidentiality pledge, neither the physician nor the physician group can guarantee the confidentiality of protected health information received by the other group members. Finally, where the shared health information may include HIV or mental health status, there are special New York State rules to follow for a valid waiver and release agreement.

From a patient care and risk management perspective, the physician should document the visit in each participating patient's medical record in the same manner as an individual visit. Vital signs should be recorded, patient evaluation, counseling and education noted, and each medical decision and advice to the specific patient documented. The chart notes should reflect all individual medical examinations and services provided to the patient, as well as the services provided to the group as a whole. The chart details will serve the physician well for purposes of back-up of the billing to a third-party payor or in the event of a malpractice claim. The physician should be mindful that in the group setting the other patients may be witnesses in the event of any malpractice claim by a group participant. To the extent practice staff assist the group, their activities should be within the scope of their respective licenses (nurse, nurse practitioner or physician assistant).

Next, the physician will need to carefully consider the coding and billing of the shared medical appointment to third-party payors. The American Academy of Family Physicians web site provides guidance on these matters. Since no official payment or coding rules have been published by Medicare, the AAFP asked CMS for guidance. The response from CMS was, "…under existing CPT codes and Medicare rules, a physician could furnish a medically necessary face-to-face E/M visit (CPT code 99213 or similar code depending on level of complexity) to a patient that is observed by other patients. From a payment perspective, there is no prohibition on group members observing while a physician provides a service to another beneficiary." The reply letter went on to state that any activities of the group (including group counseling activities) should not impact the level of code reported for the individual patient. It is important to note that medical insurance company coverage and payment rules may very well differ from this Medicare guidance. The physician should seek written advice from each insurance plan in which they are a participating provider to confirm that shared medical appointments are covered services and as to how to properly code and bill a medically necessary, physician-patient encounter conducted as a group medical visit.

Group visits should be voluntary and not mandatory, even where the physician believes the patient would benefit from the group. Traditional office visits should be available for patients who refuse the group, or decide to leave the group. Moreover, the shared medical appointments should not completely replace individual visits, and when necessary or desirable to the patient, individual medical appointments should remain available. Finally, the physician should receive written confirmation from his or her malpractice insurance carrier that full coverage will be available in the event of a HIPAA compliance claim or malpractice claim arising in the context of a group medical visit.