



## **PRMS Risk Management Educational Offerings**

### **INTEGRATED PRACTICE**

#### **Professional Liability Implications of the Affordable Care Act**

- Examine the impact of the increased number of individuals with health insurance on psychiatrists' professional liability exposure.
- Discuss the potential impact of an ACO on the standard of care and malpractice litigation.
- Recognize the significant professional liability exposure related to electronic patient information.
- Choose appropriate risk management strategies to minimize patient harm and minimize professional liability exposure.

#### **Liability for Acts of Others**

- Distinguish collaborative and split treatment arrangements and implement risk management strategies to reduce liability in each arrangement
- Identify and implement risk management strategies to minimize liability exposure for the acts of support staff, contractors and non-physician providers
- Identify at least three ways a psychiatrist might be held liable for the acts of others

### **TECHNOLOGY**

#### **EHRs/e-Prescribing**

- Recognize the risks to patient safety and potential increase in liability exposure posed by certain features within EHR systems
- Explain metadata and its impact upon the defensibility of medical malpractice cases
- Identify risks associated with the use of e-Prescribing systems
- Recognize liability traps hidden in EHR and e-prescribing system vendor agreements

### **Social Media**

- Recognize areas of risk exposure created by the use of social media in the medical office
- How to use social media to benefit your practice while minimizing risks
- Recognize ways in which privacy may be breached through the use of social media

### **Telepsychiatry**

- Discuss, recognize and address potential legal and clinical hurdles in telemedicine practice
- Identify the factors that evidence the standard of care in telepsychiatry
- Identify the major professional liability risks associated with telepsychiatry
- Utilize methods for maximizing patient care and minimizing risk exposure during the telemedicine encounter.

## **DANGEROUS PATIENTS**

### **Patients with Suicidal behaviors**

- Explain the importance of documentation of initial and ongoing suicide assessments
- Assess and document suicidal risk initially and at critical junctures in treatment
- Document the decision-making process when assessing and treating patients at risk for suicide
- Evaluate when to communicate with the family of a patient with suicidal behavior, even if the patient did not give consent for such communication
- Explain the standard of care factors that will be assessed in a medical malpractice lawsuit involving patient suicide

### **Working with Potentially Dangerous Patients**

- Explain the importance of knowing the legal standard of “duty to warn” in the state(s) where he/she practices
- Recognize online activity and impact on patients
- Recognize when to withdraw from care and how to do so while protecting patient safety and minimizing liability
- Implement 3 strategies to minimize the risks inherent in treating dangerous patients.

## **PSYCHOPHARMACOLOGY**

### **Risk Management and Legal implications of Prescribing**

- Integrate the informed consent process into patient interactions
- Know the common allegations associated w/ prescribing medication
- Incorporate discussion of off-label use with patient into the informed consent process
- Manage medication monitoring with a formal monitoring system

### **Prescribing Controlled Substances**

- Implement 3 strategies to minimize the risks when prescribing controlled substances.
- Implement strategies to minimize risks associated with DEA inspections/audits.
- Describe the appropriate response to an investigator's request for patient information

### **Medication Management for Minors**

- Integrate the informed consent process into the patient/family interaction
- Document the decision-making process so as to minimize professional liability risk when prescribing off-label for minors
- Explain the importance of scientific support for off-label treatments

## **NON-ADHERENT PATIENTS**

- Determine a variety of causes of patient non-adherence with the treatment plan
- Utilize risk management strategies to decrease patient non-adherence
- Meeting the standard of care with non-adherent patients

## **CONSENT TO TREATMENT**

### **Consent to Treatment**

- Describe the purpose and necessary steps in the informed consent process
- Recognize special issues involved in obtaining consent for treatment of minors, and incompetent or incapacitated patients

### **Consent to Treatment of Minors**

- Determine who may consent to treatment of a minor patient in varying situations
- Choose strategies to balance minor patients' need for confidentiality with parents' right to be informed about treatment
- Recognize the risks of off-label prescribing for minors and how to implement this into the informed consent process

## **CONFIDENTIALITY**

### **Confidentiality in Psychiatric Practice**

- Respond appropriately to maintain patient confidentiality when contacted by a family member or friend regarding a patient
- Understand the obligations to maintain patient confidentiality when contacted by a law enforcement officer regarding a patient under investigation
- Identify three standard exceptions to confidentiality
- Utilize the appropriate response to requests for patient information
- Understand the confidentiality issues specific to treatment of minors

### **Enforcement of HIPAA's privacy rule by the OCR, DOJ, and the Courts**

- Identify the number and types of complaints about Privacy Rule violations that are being filed with OCR, as well as general information about resolution of these complaints by OCR
- Understand the holdings and implications of various cases involving the Privacy Rule that have been decided by the state and federal courts
- Understand recent HIPAA enforcement actions to gain a greater appreciation for compliance with HIPAA

### **Protecting and Disclosing Patient Information**

- Understand exceptions to confidentiality and privilege
- Comply with legal requirements to respond to record requests, subpoenas, and court orders without breaching confidentiality
- Describe the appropriate response to an investigator's request for patient information
- Understand a patient's right to access information and what is necessary to release records

## **CREATION AND TERMINATION OF THE PSYCHIATRIST – PATIENT RELATIONSHIP**

- Recognize the ways in which a treatment relationship may be established by mutual agreement or inadvertence
- Understand the ways in which the treatment relationship may be terminated by the psychiatrist and/or the patient and develop procedures for each scenario
- Evaluate whether a patient can be terminated in a crisis situation and take appropriate steps to do so while maximizing patient safety and minimizing liability exposure.
- Implement termination procedures to insulate themselves from allegations of abandonment

## **LIABILITY FOR ACTS OF OTHERS**

- Identify and manage risks associated with collaborative and supervisory relationships
- Distinguish collaborative and split treatment arrangements and implement risk management strategies to reduce liability in each arrangement
- Identify and implement risk management strategies to minimize liability exposure for the acts of support staff, contractors and non-physician providers
- Identify at least three ways a psychiatrist might be held liable for the acts of others

## **FORENSIC PRACTICE**

- Describe the risks of assuming the dual roles of forensic evaluator and treatment provider
- Explain potential professional liability risk when providing expert testimony
- Formulate a plan to address the duties owed to evaluatees when conducting Independent Medical Evaluations (IMEs)

## **MINORS**

### **Minors**

- Determine who may consent to treatment of a minor patient in varying situations
- Recognize the risks of off-label prescribing for minors
- Choose strategies to balance minor patients' need for confidentiality versus parents' right to be informed about treatment

### **Minors' Claim Review**

- Identify the elements of a medical malpractice lawsuit
- Identify the highest exposure cases in terms of frequency and severity
- Implement strategies for decreasing the use of defensive medicine while assuring that the standard of care is met

### **GERIATRIC PSYCHIATRY**

- Identify the major professional liability risks associated with geropsychiatry
- Identify two risk management strategies to minimize risks associated with geropsychiatry

### **WHAT WOULD YOU DO?**

- Describe the most frequent types risk management concerns of psychiatrists in private practice
- Incorporate into clinical practice two risk management strategies to increase patient safety and reduce professional liability risk

### **COMMUNICATION**

#### **Communication**

- Discuss ways in which to establish and maintain rapport while preserving appropriate boundaries
- Recognize barriers to effective communications and ways to overcome these barriers
- Evaluate emerging communication risks created by the use of technology and social media
- Develop procedures for communicating with other healthcare providers to minimize risk and maximize patient safety

#### **Does Saying You're Sorry Mean You Won't be Sued?**

- Differentiate between expressions of empathy and admissions of fault
- Importance of knowing individual state's laws
- how to disclose/discuss a bad or unanticipated outcome with patients or family members

## **DOCUMENTATION**

### **Documentation and record keeping**

- Discuss the importance of appropriate documentation in minimizing malpractice liability exposure
- Identify key elements that should be included in every patient record
- Understanding the significance of documenting the reasoning behind clinical decision making
- Explain why treatment records might need to be retained beyond the minimum period set forth in state regulations.

## **BOUNDARY ISSUES**

- Identify the types of boundary violations
- Understand the risk management strategies to avoid boundary violations
- Plan for withdrawing from care when boundaries have been crossed

## **LEGAL/LITIGATION**

### **Basics of Medical Malpractice Lawsuits**

- Identify the highest exposure cases in terms of frequency and severity
- Name the 4 elements of a medical malpractice lawsuit
- Explain the role of the expert medical witness in malpractice litigation
- Explain the difference between the concepts of Standard of Care and Quality of Care

### **Managing Litigation Stress**

- Integrate into practice at least two risk management and patient safety actions that can prevent and/or reduce patient adverse outcomes.
- Describe three actions a physician can take after an adverse patient outcome, or other event, to mitigate risk and improve legal defense.
- Identify at least three stressors for physicians during a medical professional liability action.
- Contrast the legal perspective and the medical perspective during a medical professional liability action.



## **PRACTICE ISSUES**

### **Contingency Planning**

- Explain the importance of having contingency plans for an office-based practice
- Describe the elements of an office contingency plan

### **Evaluating Professional Liability Insurance Policies**

- Identify the two types of medical malpractice liability policies
- Discuss and understand medical malpractice policy limits
- Describe consent to settle agreements in medical malpractice liability policies

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