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# CLOSING A PSYCHIATRIC PRACTICE ON SHORT NOTICE

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Closing a psychiatric practice is a daunting task even under ideal circumstances. Not surprisingly, closing a practice quickly following the death of a physician or some other emergency is fraught with additional challenges. There are, however, proactive risk management strategies that can ease the burden of those left to both cope with their loss and manage the practice closure, while still supporting adequate patient care during the transition.

Consider the following recent calls to the Risk Management Consultation Service (RMCS):

- Q.** A local physician has died while away at a conference. I am not his covering physician, but how do I respond to any of his patients who may contact me?
  
- Q.** My husband, a solo practitioner, has suffered an aneurism and is not expected to fully recover. How do I notify all of his patients and dispose of the records?
  
- Q.** I am the office manager in a group practice. One of the psychiatrists has died in an accident. The group members had an agreement that each would maintain their own records should they leave the group. Is the group still responsible for the records?
  
- Q.** I have to quickly relocate to another state to care for a sick parent. What steps should I take to ensure the best outcomes for my patients?

## **Before the Emergency**

The best time to plan how to respond to an emergency is before the emergency exists. Accordingly, psychiatrists should take steps to ensure that their staff and loved ones know how to respond should the psychiatrist become suddenly unavailable.

- **Know to whom the records belong.** While this may seem obvious to those working in private practices with only one treatment provider, it is not uncommon for surviving partners or group members to be unclear regarding custodianship of records after a provider has died or become disabled.

As a general rule, records remain in the custody of the group or facility. However, different arrangements may be agreed upon. At the outset of the formation of the group or partnership, psychiatrists should clarify the custodianship of medical records in the event that someone leaves the practice.

Private practitioners, as a part of their estate planning, should seek out a responsible person, ideally another psychiatrist, who would be willing to act as records custodian in the event of sudden incapacitation. In addition, all practitioners should become familiar with the state rules governing record retention, disposal, and patient confidentiality.

- **Educate the office staff.** Office staff, whether medical or non-medical, need to know that requests for records should be in writing, that copies of the record rather than the original documents should be released, and that staff members can act only within the scope of their particular training. For example, a receptionist cannot authorize refills or perform other medical tasks. Staff should also be educated about how to direct patients to appropriate resources for appointments, prescriptions refills, or emergencies.
- **Educate patients.** Patients should be made aware of what to do in the event their psychiatrist is not available for any reason. This ongoing education may include specific numbers to call, information about prescriptions and refills, and what to do in an emergency situation.
- **Develop a written plan.** The plan should include contact information for the psychiatrist's significant others, pre-arranged emergency coverage, and medical malpractice insurance carrier. The plan should also state who has the authority to call these individuals and at what point calls should be made. Finally, the plan should give some guidance regarding prescriptions and medical records; it should be updated regularly to reflect changes in the practice. The following is a list of suggested items to include in a contingency plan:
  1. A statement instructing specific persons to contact particular friends, family members and/or colleagues in the event of the psychiatrist's unexplained absence or sudden incapacitation
  2. The names, phone numbers and e-mail addresses of family, friends, or colleagues who usually know the psychiatrist's whereabouts
  3. The names, addresses and phone numbers of colleagues who would be willing to cover for the psychiatrist during an emergency situation
  4. The contact information of local mental health resources
  5. A statement giving instructions regarding prescriptions and refills, specifically who may or may not write prescriptions or authorize refills
  6. A statement clarifying that decisions about who may have access to medical records should be made by a professional with the authority to make such decisions and with an understanding of applicable legal, professional, and ethical requirements, e.g., a medical colleague who has agreed to provide coverage in an emergency, a partner in a group practice, or an attorney (It should be anticipated that there will be many situations where access to patient records will be required in your absence. For example, a covering psychiatrist would need access or a patient may need a copy in order to facilitate a timely transfer of care.)
  7. The contact information of the psychiatrist's medical malpractice insurance carrier

Contact a personal attorney for other items to include in the contingency plan.

## The Immediate Aftermath

- **Notifying the patients.** Office staff will need to notify patients of the office closure as soon as possible after a psychiatrist becomes unavailable.

While some patients may be informed as they call for or arrive to appointments, it is recommended that staff call all patients with previously scheduled appointments.

Staff should also change the outgoing phone message to reflect the imminent closure of the practice and instructions as to how/when to obtain or transfer medical records, how to obtain refills, and what to do in an emergency.

Also, practice websites should be updated as soon as possible.

- **Records.** During the days immediately following the news of a psychiatrist's death or incapacitation, the goal is to ensure that records are available for patients' continuing care while maintaining patient confidentiality.

As a general rule, patients may access or authorize the release of their own records by completing an authorization form.

Some third party requests may necessitate a call to the psychiatrist's risk manager or attorney.

Never release original records. Only release copies.

- **Prescriptions.** All states have rules, statutes, or regulations governing who may lawfully prescribe or renew prescriptions or medications. In the event of a psychiatrist's sudden incapacitation, it is imperative that office staff continue to act only within the scope of their own training and/or licensure.
- **Referrals.** In a group practice or facility, other physicians in the same practice may make themselves at least temporarily available to care for patients who are suddenly without a treating psychiatrist.

A solo practitioner should nurture professional relationships with colleagues in the community and educate staff or another responsible persons on managing referrals to covering psychiatrists, the community mental health facility, the patients' health insurance providers, or the local emergency room if warranted.

- **Contact the psychiatrist's professional liability insurance carrier.** Most policies require any significant change in practice to be reported within thirty days. During that phone call, an underwriter can discuss coverage and explain the necessary documentation to be completed.

## After the Storm

- **Notification Letters.** While many, if not most, active patients will already have heard about the sudden practice closure or death of their psychiatrist, a formal notification letter is an excellent means of sharing information and otherwise guiding patients to resources. This letter should also instruct patients as to the methods by which they may access or authorize the release of their record to a subsequent clinician.
- **Record Retention.** Many states require that records be maintained for a certain length of time after the closure of a practice. These statutes, however, do not take into account the fact that a former patient may, in some instances, sue a physician or the estate after the medical record has been destroyed. The risk management recommendation, therefore, is to retain records for as close to indefinitely as possible.
- **Records Storage.** Records should always be stored in a secure location, accessible only to authorized individuals. If a records storage company is used, a confidentiality agreement (covered providers under HIPAA need a business associate agreement) with that company addressing release of information and destruction of information, among other topics. Colleagues or your personal attorney may be able to suggest a reputable company.
- **Public Notices.** Many states require specific actions following the closure of a medical practice, regardless of the reason for the closure. Maryland, for example, requires the publishing of a notice designating the location, date, and time where records may be retrieved in a daily newspaper that is circulated locally for two consecutive weeks before records can be destroyed or transferred. [MCR, sec. 4-403(b)(2)]. Your state may have a similar regulation, so it is important to contact your state medical board or attorney as part of your planning before an emergency occurs.
- **Contact the psychiatrist's state licensing board.** There may be specific guidance or additional resources available.

Compliments of:



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