HOOT WHAT WHERE

WELCOME TO ANOTHER EDITION OF "HOOT WHAT WHERE," a newsletter developed by Professional Risk Management Services® for the behavioral healthcare network of psychiatrists and mental health professionals. From risk management and claims advice to risk alerts, PRMS announcements, and events, this quarterly newsletter will share relevant news, useful tips, and important updates in the field of psychiatry to help keep you, your patients, and your practice safe.

WHAT YOU'LL FIND INSIDE:

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PRACTICAL POINTERS FOR CLOSING A PRIVATE PRACTICE

Closing a private practice - due to either relocation or retirement - is a time-consuming process which requires thoughtful preparation. Set forth below are risk management tips to consider. Remember also to contact your state medical board, your local medical society, the APA Office of Economic Affairs & Practice Management, and the American Health Information Management Association (AHIMA) for additional information.

GENERAL

DO realize that closing a practice is time-consuming and requires preparation.

DO plan to allow sufficient time- ideally 12 months or more - for closure preparations.

DO budget appropriately for closure costs. Some of the costs to consider include labor, copy equipment and supplies, postage, telephone, storage boxes and supplies, transportation costs, storage and retrieval costs for the retention of records period, insurance costs, and professional advisor fees.

TWELVE (12) MONTHS PRIOR TO CLOSING

DO contact your professional advisors (e.g., attorney, accountant, etc.) and notify them of your intention to close your practice.

DO review the terms of your lease and contact your landlord, if applicable.

SIX (6) MONTHS PRIOR TO CLOSING

DO review and be familiar with contractual obligations regarding termination and closure in all the provider contracts that you have agreed to either explicitly or implicitly.

DO notify your state's medical board, your county/state medical society, the American Medical Association, and the American Psychiatric Association and notify them of your intention to close your practice. These organizations should have additional information regarding closing a practice. In fact, some state organizations have requirements for closing a practice.

DO contact your county/state medical society regarding patient records. Medical societies and other state organizations generally have rules regarding the storage of medical records when closing a practice.

DO consider using a professional records storage company. You can locate professional records storage companies by consulting the phone book, local hospitals' records departments, your local medical society, or your personal attorney/accountant.

DO store records somewhere safe and accessible only to those who have authorization.

DO remember that legal experts advise keeping records indefinitely and, at a minimum, until well after your state’s statute of limitations and/or statute of repose run. Remember, you cannot absolutely rely on your state's statute of limitations or statute of repose to protect you from legal actions. For example, the statutes relating to malpractice actions against physicians would not be applicable in litigation resulting from complaints or allegations involving fraud, conspiracy, criminal acts, or federal laws, rules, and regulations. In addition, there are generally no "statutes of limitations" or "statutes of repose" imposed on disciplinary actions by licensing/medical boards or on ethics proceedings. Patients who find that they are unable to obtain their medical information whenever requested are initiating complaints more frequently. In response, medical boards and state/federal regulators are starting to insist that patient records be available whenever needed.

DO establish written policies and procedures for destroying records. Following an established procedure may help to mitigate future potential allegations that a record was destroyed in order to conceal unfavorable information. It cannot be guaranteed to protect you from situations in which you need the record.

DO destroy completely all records selected for discarding. Different media require different methods of destruction. For example, in order to adequately destroy computerized records, one must delete the files, erase the hard-drive, and thoroughly destroy all back-up materials. Ensure that third-parties cannot discern patient information from destroyed records.

DO plan on keeping important administrative documents indefinitely. For example, keep insurance policies, incorporation documents, important office forms, etc.

THREE (3) MONTHS PRIOR TO CLOSING

DO distribute a closure/termination letter to all active patients. This letter should include the same information present in a standard termination of treatment letter but may include a sentence concerning outstanding account balances.

DO consider running an announcement in a local newspaper and a professional publication. In some jurisdictions, this is required. Contact your county/state medical society for information.

DO notify your peers and colleagues, if you have not already done so.

DO notify your staff, if you have not already done so.

DO notify office operations and maintenance companies/individuals. The list of recipients should include utilities companies, equipment vendors, etc. The notification should be in writing.

DO notify all creditors of your intent to close. Discuss this issue with your professional advisors.

DO notify your professional liability insurance carrier of your intent to close. If you have a claims-made policy, you may need to purchase a "tail" to cover post-closure claims for the past professional services you have rendered.

DO notify other types of insurance carriers of your intent to close. For example, notify business insurance, workers' compensation, etc. Discuss this issue with your professional advisors.

DO notify professional organizations to which you belong of your intent to close.

DO notify the nearest regional office of the DEA of your intent to close. The DEA will explain its procedures for turning in your DEA registration, disposing of drugs, etc.

DO collect as many accounts receivable as possible before closing, and pay as many accounts payable as possible before closing. Discuss this issue with your professional advisors.

DO arrange to have your mail forwarded to you for six (6) to twelve (12) months.

DO arrange to have your calls forwarded to an answering service for six (6) to twelve (12) months.

DO arrange to have your name removed from any stationary, advertisements, and door and/or building signs.

DO contact your state medical board, your local medical society, the APA Office of Economic Affairs & Practice Management, and the American Health Information Management Association (AHIMA) for additional information.

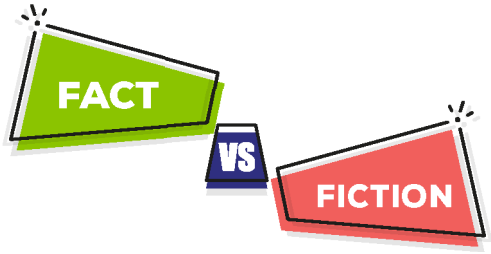
10 THINGS ABOUT COMMUNICATING WITH A PATIENT'S FAMILY MEMBERS

1. Psychiatric disorders often necessitate the involvement of family members and other caregivers to assist the patient in managing his or her condition. As such, effective communication between physician and caregiver is paramount to achieving optimal care. And, because family members are often the impetus to litigation following a less than desired outcome, effective communication is also an important step in minimizing liability risk.
2. At the beginning of treatment, ascertain from adult patients their desires as to family involvement. Particularly if the patient has a large family, suggest that one person be the one with whom you will primarily communicate. Ideally this will be the person most directly responsible for the patient's day-to-day care.
3. A patient's agreement that information may be shared with family members does not mean that you should necessarily reveal all information. You should still consider the purpose for providing that information and what exactly is needed to achieve that purpose. This will vary of course depending on the patient's level of competence and the condition for which you are treating the patient.
4. There is often a disparity between the information the family member/caregiver receives and the information the physician believes he or she is delivering. Caregivers often do not feel that physicians are delivering all of the information they want. The problem may lie in the fact that this information is being presented in such a way that it is not being heard or understood. Other times it is not too little information that is the problem, but rather information overload. Disease and treatment-related information is often complex and difficult to comprehend. Feeling so overwhelmed that they don't even know what questions to ask, some patients and families will keep questions to themselves and never get the needed answers.
5. It is often helpful to provide patients and family members with written information about the patient's condition that can be reviewed in a more relaxed setting and be used later as a reference. The American Psychiatric Association has patient education brochures on various psychiatric disorders and their treatments that may be accessed at www.psychiatry.org/patients-families. This is also a useful way of ensuring that they get their information from reliable sources.
6. Make certain that caregivers understand the patient's medication regimen and what potential side-effects to look for. In addition to putting instructions in writing, consider providing copies of medication information sheets such as those available via the FDA website, www.fda.gov.
7. When treating high-risk patients, family members can be an important part of the process. Make certain that they recognize their role in the patient's care: ensuring medication is taken, providing a stable environment, monitoring for danger signals, etc. Family members should be provided with the knowledge and resources to perform this vital role.
8. In some instances you may wish to discuss with patients the use of a Psychiatric Advance Directive (PAD).

PADs are essentially advance directives planned for mental health decisions. PADs may be used to name a healthcare proxy or may give specific instructions regarding the type of care a patient wishes to receive (or not receive) in the event of a psychiatric crisis. Psychiatric advocacy groups such as NAMI and Mental Health America support the use of PADS as a way to promote patient autonomy. The National Resource Center on Psychiatric Advance Directives is an excellent resource for finding state-specific information on the use of PADS

9. If a family member or other person claims to hold a guardianship/conservatorship or Power of Attorney over the patient, ask to see a copy of that document before discussing the patient's care with that individual. Oftentimes, these documents grant only the powers to make financial decisions and do not entitled the holder to obtain medical information or to make treatment decisions. Other times, they are written in such a way as to only take effect upon the patient being declared incompetent.
10. Always make certain that you clearly document all communication with family members, just as you would the patient. This would include informed consent discussions and copies of materials and other information given to them as well as all telephone communication.

Catch up on our other editions of Hoot What Where on our website!



WHAT DO YOU THINK - FACT OR FICTION?

FACT OR FICTION?

When the psychiatrist for whom I was covering returned from vacation, they asked for my notes on the patients I had spoken with. I let them know that I was going to keep my original notes and send them a copy. While my colleague felt this was unnecessary and seemed uncomfortable with me retaining notes of interactions with their patients, it is prudent to keep my notes from my covering activities.

What do you think - fact or fiction?

Fact!

While it is certainly appropriate to forward copies of your notes of your interactions with the other psychiatrist's patients to the other psychiatrist, the risk management advice is to also keep a copy of those notes for yourself. In the unlikely event of a lawsuit by the other psychiatrist's patient, you could become enmeshed, either as a defendant or a witness, depending on the allegations. In either event, your notes from your interactions are crucial to your ability to explain your interactions with the patient, if required to do so.

This holiday season, PRMS is proud to support organizations working to support wellbeing and mental health in our local community and across the country. Join us in supporting: **Arlington Food Assistance Center,** which provides dignified access to free groceries and allows families to devote their limited financial resources to obligations such as housing, utilities, medication, and other basic needs in the Northern Virginia area; **Trevor Project**, whose mission is to end suicide in LGBTQ+ young people through research, advocacy and support programs; **World Central Kitchen**, a global organization developing a new model for disaster relief by providing meals to humanitarian, climate, and community crises.

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