

20 SUREFIRE WAYS TO INCREASE YOUR RISK OF A MALPRACTICE LAWSUIT OR A BOARD COMPLAINT



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CME DISCLOSURE

I have no financial relationships with any ineligible companies.

DISCLAIMER

Nothing presented today should be construed as legal advice.

OBJECTIVES

- Summarize actual cases of malpractice lawsuits or board complaints against psychiatrists
 - Describe behaviors by psychiatrists that are highly likely to precipitate a malpractice lawsuit or board complaint
 - Implement at least three risk management strategies to reduce the risk of a malpractice lawsuit or board complaint in clinical practice

RESOURCES

Additional reading:

“The Right Way to Avoid Malpractice Lawsuits,” *Psychiatric Times*. www.psychiatrictimes.com/view/the-right-way-to-avoid-malpractice-lawsuits

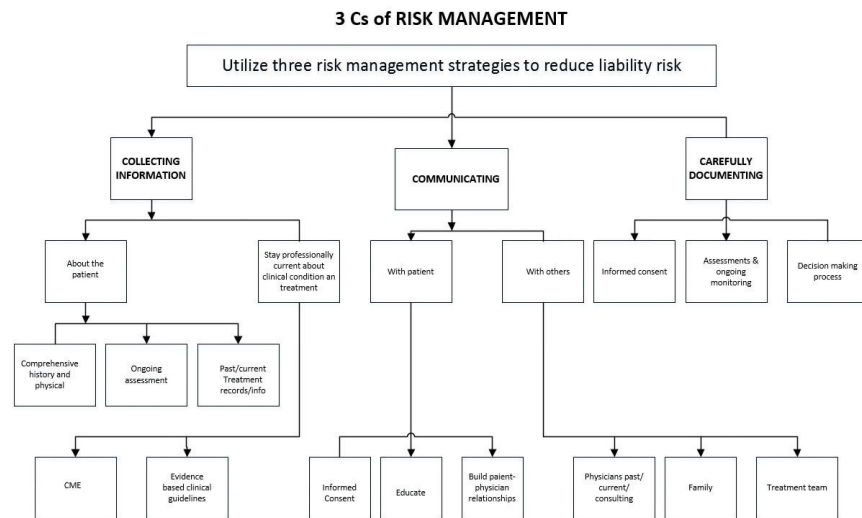
PHE-related regulatory and state licensure waiver information:

www.prms.com/faq

CURRENT TRENDS

20 SUREFIRE WAYS ... BOUNDARY ISSUES

- Agree to assume a “dual role”
- Use information gleaned for treatment purposes for some other purpose
- Allow patients to pay for services by mowing your lawn, washing your car, painting your house, babysitting your kids, etc.
- Employ patients in your practice
- Become involved in a sexual relationship with a patient



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20 SUREFIRE WAYS ... COLLECTING INFORMATION

- Allow a patient at risk of suicide to be lost to follow-up
- Fail to evaluate the safety of the environment for a patient at risk of suicide, e.g., accessibility of firearms and other lethal means
- Prescribe lithium without regular laboratory tests
- Fail to conduct or arrange for a thorough neurologic evaluation on a patient who presents with altered level of consciousness, an altered mental state, or who suffers falls



20 SUREFIRE WAYS ... COMMUNICATING

- Fail to go through the informed consent process (and document it)
- Send a patient's overdue bill straight to collections without reviewing the chart and speaking to the patient about it
- Ignore a subpoena; or, conversely, release the patient's record right away without authorization or a court order
- Post your response to a negative online review

20 SUREFIRE WAYS ... COMMUNICATING *(CONT'D.)*

- Fail to respond to family members who call with concerns about a patient because you don't have an authorization from the patient to release treatment information
- Fail to warn a third party or intervene clinically when a dangerous patient has identified a potential victim
- Assume that the other clinician in a collaborative treatment arrangement will know when to contact you about your shared patient

20 SUREFIRE WAYS ... CAREFULLY DOCUMENTING

- Document only the first risk assessment done on a patient; not ongoing monitoring
- Document only "No SI/HI"
- Fail to document medications ordered or prescribed, and changes to medications

20 SUREFIRE WAYS ... CAREFULLY DOCUMENTING *(CONT'D.)*

- Assume that your clinical rationale or professional judgment behind clinical decisions does not need to be documented in the patient record

20 SUREFIRE WAYS ... CAREFULLY DOCUMENTING *(CONT'D.)*

- Finger point, vent your spleen about other providers, the facility, “the system”
- Agree not to create a patient record for a patient who has very sensitive issues to discuss in treatment
- Alter a patient record after an adverse event

20 SUREFIRE WAYS ... ENDING THE TREATMENT RELATIONSHIP

- Ignore the steps in the termination process
- Summarily terminate treatment with a patient who is in crisis or not responding to treatment believing this will decrease malpractice risk in the event of an adverse clinical outcome
- Assume that a financially embarrassed patient will be grateful and not sue you for providing substandard care to cut costs, because some care is better than no care

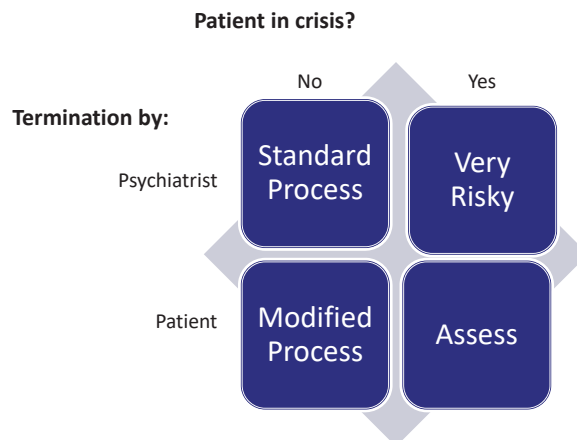
TERMINATION

1. Give reasonable notice/time to find alternative treatment
 - Modal time: 30 days (15 days in California)
2. Educate on treatment recommendations
 - Might include: caution against abrupt discontinuation of medication, reminder of driving restrictions, urge patient to find a new psychiatrist ASAP, others
3. Assist with finding alternative treatment
 - Specific name of willing provider generally not required
4. Offer to provide records, as requested by the patient
5. Send follow-up letter
 - Both certified and regular mail or
 - Delivery confirmation

TERMINATION

Compare:

- Your licensing board
- Facility/group policies & procedures
- Provider contracts



QUESTIONS?

