The practice of medicine has changed dramatically in the last 25 years and no specialty has been more impacted than that of psychiatry. Rising patient utilization rates are expected to increase the likelihood of malpractice litigation. While it is impossible to completely eliminate all liability potential, the risk can be substantially reduced through the use of the following strategies.

**First, Know the Law**
It is essential that psychiatrists learn and adhere to applicable laws and policies regarding the practice of psychiatry in their state, including requirements for involuntary patient hospitalization. Psychiatrists should be vigilant about staying up to date with state and federal regulations regarding patient privacy as these continue to evolve with expanded use of the electronic medical record (EMR). True informed consent must be obtained for all phases of care, especially when prescribing medication. Brief chart notations are acceptable; however patient signatures verifying consent afford the best protection.

**Document Everything**
Accurate and thorough documentation remains one of the best defenses against a malpractice claim. All patient interactions should be recorded with objective and detailed notations; however, brief and concise entries are acceptable when time is limited. The record should include not only the diagnosis, but the details of all treatment protocols and the rationale for each. Patient response to therapy and results of all laboratory and other diagnostic studies should be included.

Missed appointments and prolonged gaps between visits should be logged. Follow up with the patient and formally terminate the relationship, in writing if possible, if he or she does not plan to continue treatment. Failure to do so may lead to liability for events, such as suicide, that may occur after the last visit.

The use of EMRs may further increase legal exposure because of the potential for both human and technological error. Accordingly, office procedures should be established and maintained to ensure efficient and secure use of EMRs.

Finally, and perhaps most importantly, the medical record should never be altered. Appropriate amendments can be made with dated entries; however, changes made after an inquiry or claim has been initiated may compromise physician credibility, defense and malpractice insurance coverage.

**Maintain Positive and Professional Patient Interactions**
Patients are more likely to initiate a malpractice suit if they view their interactions with the psychiatrist as unsatisfactory, and patient perception is key. The psychiatrist should acknowledge all patient concerns and communicate in a manner that is genuine, direct and compassionate. Interactions over the telephone or through email should never replace direct patient care.

The patient should be provided with the contact information for the psychiatrist and other healthcare professionals after hours. However, it is imperative that the psychiatrist remain mindful of potential boundary violations. These include not only sexual encounters but business or social relationships that may increase the risk for dual relationship claims, regardless of intent.

**Guard Patient Confidentiality**
Despite the federal mandates incorporated into the Health Insurance Portability and Accountability Act (HIPAA), the security of patient’s confidential information cannot be guaranteed, especially with the expanding interconnectivity of EMRs. Because the psychiatrist can be sued for privacy breaches, protocols must be established to diligently protect patient records. These include restricting access to authorized personnel, incorporating security safeguards, developing procedures to manage breaches and implementing strict procedures pertaining to the use and transmission of confidential information.

**Establish Policies Regarding Medication**
The physician must stay informed about new medications and updated information about established agents, and prescriptions should only be provided within the context of the patient-psychiatrist relationship. Patients should be monitored throughout treatments especially those with suicidal tendencies. To further minimize risk, all medications and, supplements that the patient may be taking should be documented. In addition, the psychiatrist should refuse to prescribe without an initial office visit, if months have lapsed since the previous visit, or for a prolonged period without a routine follow-up appointment.

**Remember the Basics**
Perhaps the best approach to optimizing patient outcomes and reducing legal exposure is through the use of established practice. Providing quality care, staying informed about recent advancements in both psychiatry and technology and consulting with other professionals may be the most efficient strategies for shielding the psychiatrist’s practice over the course of his or her career.

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