

Resource Document on Risk Management and Liability Issues in Integrated Care¹

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In the wake of the implementation of the Affordable Care Act, more than 30 million previously uninsured Americans will gain access to health care. Some of these individuals may never have interfaced with the behavioral health system. In response to an increasing need for behavioral health services, improved outcomes, and cost containment, there is a growing shift from independent behavioral health and primary care practices to collaborative care practice models. These new models have psychiatrists working with primary care providers (PCPs) and behavioral health providers (BHPs, typically social workers or psychologists) using a systematic approach to concurrently treat behavioral health and physical health conditions. By following this approach it allows the extension of psychiatric expertise to more patients.

From early studies in the 1990's to improve the detection and treatment of depression in elderly patients in primary care settings, to more recent work on outcomes in the management of depression in patients with multiple chronic conditions, a vast body of research has demonstrated the benefit of collaborative care models. However, as with any new treatment modality, psychiatrists may approach collaborative care models with a degree of uncertainty about liability risks. While there are several documents as well as case law addressing the potential malpractice risk of consultation in other medical specialties, a review of the literature revealed few publications offering guidelines for psychiatric consultations. Previous publications have been limited in scope by focusing on interactions between psychiatrists with non-physician treatment providers and have not addressed the potential liability exposure in the overlapping roles of the psychiatrist within an integrated care setting. However, these authors likely could not have anticipated the change in scope of practice of psychiatry in recent years. This resource document provides background information on medical malpractice cases, defines the doctor-patient relationship, and distinguishes the different forms of "split treatment" and how this applies to psychiatric consultation offered to

PCPs and BHPs in primary care settings. In addition, it describes the duty of the psychiatrist across the spectrum of roles on an integrated care team and makes recommendations to reduce the risk of medical malpractice issues.

Close proximity can foster a culture of cooperation and mutual education between PCPs and psychiatrists. This approach, often referred to as "co-location," has several benefits for patients. The PCP may or may not choose to communicate with the psychiatrist about the behavioral health of patients or make referrals, but the contiguity may increase the chances of successful referral. Limitations in this model have given rise to new treatment paradigms for improving care. In integrated care settings, behavioral health specialists are incorporated into the primary care practice with the psychiatrist providing consultation to the PCP and BHP for management of a patient's behavioral health conditions. These recommendations may be based upon an informal or "curbside" consultation request by the PCP or BHP, a review of the medical record or registry, and, less frequently, by formal evaluation of the patient in person or by televideo.

There are a number of integrated care models including the Improving Mood Promoting Access to Collaborative Treatment (IMPACT) model and Massachusetts Child Psychiatry Access Project (MCPAP). In these models of care, the psychiatry consultant's role may include key aspects of both formal and informal consultation and varying aspects of "split treatment" (including what have traditionally been referred to as supervisory, consultative or collaborative roles for non-physicians).

This resource document provides a framework for some of the issues to consider when working in practices offering integrated care, and provides practical points to consider in managing liability concerns. Keep in mind that issues regarding liability may not always be clear, particularly in specialty areas that are rapidly evolving. Where indicated, the psychiatrist should clarify the extent of their involvement clinically and the level of interaction with the patient and care team. Whether there is liability for malpractice depends upon specific circumstances surrounding each case and each state has different laws, regulations and caselaw. Finally, consulting an attorney or risk manager for guidance on specific issues is strongly encouraged.

The full Resource Document accompanies the online version of this APA Official Action (ajp.psychiatryonline.org).

¹This report summarizes the "Resource Document on Risk Management and Liability Issues in Integrated Care Settings" (approved by the APA Joint Reference Committee, September 2013) which provides recommendations to help psychiatrists manage their liability risk when engaging in integrated care practice models. **Legal Disclaimer:** This information is provided as a risk management resource and should not be construed as legal, technical or clinical advice. This information may refer to specific local regulatory or legal issues that may not be relevant to your organization. Consult your professional advisors or legal counsel for guidance on issues specific to you.