



Professional Services - Loss Prevention

Seminars | Surveys | Online Advice | Publications

ABOUT MIEC GROUP

SERVICES

RATE CALCULATOR

APPLICATIONS & FORMS

RELATED RESOURCES

ACUPUNCTURE PROGRAM

HOME

Special Report

MIEC Claims Alert

Number 37A

June 2005

Challenge for psychiatrists: collaborative treatment with nonphysician co-treaters

- [Frequent questions](#)
- [Protecting your patients](#)
- [Other suggestions](#)
- [To reach MIEC](#)
- [Loss Prevention resources](#)
- [Psychiatry progress note template](#)
- [Charting essentials](#)
- [Patient information brochure](#)
- [Co-treater form](#)
- [Informed consent: Medication](#)
- [MCR](#)

*With increasing frequency, psychiatrists share patient care with nonphysician therapists. In these cases, responsibility is split between a psychiatrist, who is responsible for medication management, and a nonphysician therapist, responsible for the patient's ongoing psychotherapy. This article addresses some of the liability issues related to this type of collaborative care, and recommends ways psychiatrists can protect themselves and their patients when co-treating with a nonphysician.**

*This article does not address the risks for psychiatrists who provide consultative services to non-physician therapists (who then choose to follow, partially follow, or disregard the consultant's recommendations); nor does it address psychiatrists' supervision of non-physician therapists (in which case the therapist must follow the physician's advice in managing patient care).

Here are two of the most frequent collaborative care-related questions posed by psychiatrists:

1. An agency with which I work has asked me to prescribe medications for patients they want me to see for 15-20 minutes, between two and four times per year. Common sense medical standards and my own ethics require that I see patients at clinically sound intervals if I'm going to prescribe medications. There's no guarantee that agency-determined intervals will be

safe for each patient even if they are seeing a midlevel therapist as an adjunct to his/her medication management. I also know that ordering drugs without a good-faith evaluation (which takes more than 15-20 minutes) is unethical and is probably illegal. I need the work. **What should I do?**

2. I manage medications for a number of private patients who are seen for ongoing therapy by a mid-level therapist. I suspect that because I don't know these nonphysician therapists, and therefore have no meaningful collaborative communication with them, I may be increasing my own liability. I'm afraid that there is potential for patient injury when the right hand doesn't know what the left hand is doing. I don't know if these nonphysicians can diagnose properly, understand the psychopharmacology and its related problems, recognize medical conditions, assess a patient's potential for harming self or others, or manage suicidality. The therapist, the patient and I are all at a disadvantage because the therapist and I don't know one another. **What can I do to decrease my risks?**

How to protect your patients and you

If you are a psychiatrist who is considering a collaborative care arrangement to manage medications, or currently manages medications for patients who see nonphysician therapists, consider the following recommendations:

Don't compromise yourself or your patients: If a third-party payer is involved in the collaborative care plan, don't sign an agreement that compromises your professional integrity. Consider whether the authorized intervals for patient examination and treatment are sufficient; whether the psychopharmaceutical selection available to you is broad enough; and whether the delineation between the duties of the psychiatrist and the duties of the nonphysician therapist is clear. Do not allow yourself to be persuaded to provide care that is less than clinically or ethically appropriate for your patients.

Knowledge is power. Know your co-treater: Get acquainted with the nonphysician therapist with whom you share responsibility. Establish scheduled and as-needed communication guidelines and satisfy yourself that the therapist is competent in his or her discipline, adequately experienced, appropriately certified or licensed, and insured. Discuss with the co-treater what you believe is essential about diagnosis, treatment, the options and goals of treatment, on-going practical issues, boundary issues, the indications for medication, medication efficacy and side effects, and how to detect early signs of instability or suicidality. Develop agreements about who is responsible for what aspects of care, what you need to know and when you need to know it, what the therapist needs to know and in what time frame, and how to handle emergencies.

Encourage the patient's cooperation: Clarify the three-way relationship with the patient—in writing. Educate the patient about the therapist's, the patient's and your responsibilities in the three-way relationship. Although co-treaters can legally

communicate with one another about their mutual patient under certain circumstances, in the interest of openness, you must obtain the patient's written agreement for ongoing mutual communication with the therapist. Ascertain that the patient knows when to call the therapist and for what concerns, and when the patient should call you, and for what purposes. Send a copy of the signed agreement to the co-treater. (See [Figure 2^b](#) for a sample *psychiatrist/therapist/patient agreement*.)

Other liability-reducing suggestions:

- *Communicate with your patients:* Inform patients about yourself, your practice, your policies, and your patients' responsibilities in a patient information brochure. Patients are less likely to profess surprise at or deny knowledge of your policies if they are informed in advance of your hours; how and when they may contact you; their responsibilities in the doctor-patient relationship; under what circumstances, when and how they can obtain medication refills; and what they should do if you are not available when they call. (See [Figure 3^c](#) for a sample patient information brochure; the brochure was designed for psychotherapists, but may be adapted for medication-management-only.)
- Obtain the necessary information for a thorough evaluation, diagnosis and treatment. Psychiatrists reduce their liability by obtaining baseline medical information to rule out clinical pathology related to presenting symptoms. Ask about each patient's medical, social, family, and psychiatric history; allergies, medications and other physicians the patient sees; and drug and sexual histories, when appropriate.
- When it is clinically appropriate to do so, inform patients about their diagnosis, treatment, and medications. Provide written information about medications, including why the medication is prescribed, the directions for use, the possible side effects, and when to call you about medication reactions. Document that you have done so.
- Make certain that patients are adequately informed prior to making decisions for which they must give you their consent. If patients fail to follow your advice, inform them of the likely consequences of their refusal. (See [Figure 5^e](#) for a sample form to document informed consent for medication use. For further information on informed consent and refusal, see MIEC's Claims Alert #17.)
- Document all important aspects of patient care and related communication. Make certain that your progress notes justify the medication(s) you prescribe, support the fees you assess, and distinguish between the patient's (and co-treater's) actions, statements, and responsibilities—and your own. If your care deviates from that usually indicated in similar situations, document the rationale for your decision. (See [Figure 1^a](#) for a *Psychiatric Progress Note*

Template form.)

- Include in patients' charts: (1) patients' consent to treatment; (2) the substance of significant telephone calls to and from patients, other doctors, managed care plans, and co-treaters; (3) all patient education, oral and written; (4) unambiguous referral information; and (5) patients' noncompliant behavior or patients' refusal to follow recommendations. (See [Figure 4^d](#) "For Complete Psychiatric Medical Records ...")
- Include in progress notes the indications for medications; their efficacy and/or indications for continued use; and test results of drugs that must be monitored. Prescriptions and subsequent refill documentation should include the medication name, the dose, the directions for use, the amount prescribed, and the number of refills allowed, if any. Keep in mind that a complete record of a patient's medication treatment is the best defense of medication-related allegations of negligence. Use a Medication Control Record (MCR) for accessible and readable documentation of prescriptions and refills. (See [Figure 6^f](#) for a prototype of an MCR.)

If in doubt about a situation in which you provide--or are asked to provide--collaborative medication management, call MIEC for advice about your particular circumstances.

We thank Ann H. Larson, Esq., of McNamara, Dodge, Ney, Beatty, Slattery & Pfalzer, Walnut Creek, California, for her review, and advice for this edition of Special Report Claims Alert.

How to reach MIEC

Oakland Office: 510/428-9411
Honolulu Office: 808/545-7231
Boise Office: 208/344-6378
Outside: 800/227-4527

Loss Prevention Fax: 510/420-7066
Main Oakland Fax: 510/654-4634
Honolulu Fax: 808/531-5224
Boise Fax: 208/344-7903

E-Mail: Lossprevention@miec.com
E-Mail: Underwriting@miec.com
E-Mail: Claims@miec.com

Resources from MIEC’s Loss Prevention Department

Answers to professional liability questions. The Loss Prevention Department responds to a wide range of general questions about malpractice liability, and obtains legal advice for policyholders when indicated. *Sample questions:* How long must a physician keep medical records? How does a doctor properly withdraw from a patient’s care? What is the best method to obtain informed consent and how should consent be documented? (*Direct questions about specific patients to an MIEC claims representative.*)

Medical Records text. MIEC’s booklet, *Medical Record Documentation for Patient Safety and Physician Defensibility*, offers practical advice for maintaining defensible medical records and avoiding documentation deficiencies that can compromise a medical defense. The book includes useful chart forms, answers to questions about medical records, and a self-assessment form to review documentation quality. The book is free to MIEC policyholders.

Forms, templates and letters. MIEC’s *Sample Forms, Templates and Letters*, offered free to MIEC policyholders, is a packet that includes ready-to-use forms and templates that help physicians and staff organize medical charts, find data easily, and document important information that protects patients and physicians. Camera-ready forms can be reproduced for office use.

Extensive resource library. Policyholders can request sample medical record chart and consent forms; patient education materials; articles on medical-legal topics; lists of resources for practice guidelines; vendors of electronic and voice recognition medical records systems; and more.

REQUEST A PUBLICATION

On-site loss prevention survey. MIEC’s loss prevention specialists conduct complimentary individual or group practice surveys in which record-keeping, office procedures and practice policies are analyzed. Surveyors meet separately with physicians and their office staff to discuss liability issues relevant to the practice and specialty, and offer practical advice for reducing liability exposure. A written report summarizes the survey findings and provides constructive suggestions for improvements.

Newsletters and alerts: MIEC publishes the *Claims Alert*; *Special Report*; *We Get Letters...*; *New Law Alert*; and *Managing Your Practice* newsletter series, and other publications that offer helpful and timely solutions to practice problems and answers to policyholders’ questions. Contact the Loss Prevention Department or visit our website for a list of titles and ordering information.



6250 Claremont Avenue, Oakland, CA 94618 800.227.4527 Fax 510.654.4634

Copyright © 2005 Medical Insurance Exchange of CA

Progress Note Template

Patient: _____

Date: _____

Subjective issues: (Problems/symptoms)

Objective observations: (Med hx update; neuro; drug; alcohol; exam; tests, affect, etc.)

Today's discussion:

Assessment (if changed from last visit):

I:

II:

III:

IV:

V:

Medications:

Meds from other MDs: (What, who, why)

(Name, details, compliance, efficacy, labs)

Plan:

Return visit date: _____

Written educational material given

Referral to: _____ for: _____

Details: (or see Consultation Request Form)

Page _____

Figure 1

To a potential patient

I am a psychiatrist who provides medication treatment for patients who also see therapists for mental health care. You have been referred to me by your therapist (psychologist, social worker, or psychotherapist) for assistance in your care. You will continue to work with your therapist, who will be the person primarily responsible for your overall treatment. I will manage your medications. If you have a problem related to your care and are unsure whom to call, call your therapist first.

Once you have read this page, please ask your therapist any questions you have of him/her about how the three of us will work together. When we meet, please ask me to answer any additional questions that have occurred to you.

I do not supervise your therapist, but I do collaborate with him/her to ensure that your treatment works for you. The bottom part of this letter is a release form that allows me to communicate with your therapist. Please sign this form to acknowledge that you know your therapist and I will collaborate in your care. We will give you a copy of the form for your files.

Sincerely, _____
(psychiatrist's name)

I, _____, hereby acknowledge and give my permission to my therapist, _____, and my psychiatrist, _____, to communicate with one another about my mental health treatment to better meet my needs. I have asked my therapist and my psychiatrist all the questions I have about this collaboration and they have answered my questions to my satisfaction. This form will be in effect while I am Dr.

_____’s patient, or unless I revoke my consent in writing.
(Psychiatrist's name)

Signature _____ Date _____
(Patient's name)

Witness _____ Date _____

Figure 2

[Doctor's name and/or logo]

Welcome to My Practice

GENERAL INFORMATION AND POLICIES

This information sheet covers a number of important issues related to your therapy, which I will be glad to discuss further with you if you have questions.

Confidentiality – All information discussed in psychotherapy is confidential, and I am obligated by law and the psychiatry code of ethics to protect your right to confidentiality. This means I must have your permission before revealing any information about you to anyone, with the following exceptions:

Legal limitations – I am obligated by law to disclose information you tell me in psychotherapy under certain legally-defined situations. These situations include: (1) if you are a danger to yourself or others; (2) if you tell me about an incident of child abuse by you or someone else; (3) if you tell me about an incident of abuse of someone over age 65 or of a disabled adult. There are other specific legal limitations which rarely occur. We can discuss these situations if you have questions or if the specific conditions arise.

Insurance information – If you submit my monthly statement to your insurance company, be aware that the company may request certain information from me as a requirement of your reimbursement. This information could include date of appointments, diagnoses, medications prescribed, and treatment summary (the minimum necessary). It is my policy not to release copies of my psychotherapy notes to an insurance carrier.¹

Communications with other professionals – It is possible that I will need to communicate with other health care professionals working with you, which is permissible by law, if necessary, under certain circumstances. I will discuss these communications with you and obtain your written consent before they take place.

Scheduling and cancellation – Psychotherapy is most effective when we are able to meet consistently at least once a week. When I agree to work with you, I make a commitment to set aside time in my schedule for that purpose. Therefore I ask for payment for our scheduled appointment times once we have established a regular time and frequency for your sessions. My usual policy for different types of cancellations is outlined below. We can discuss any questions or unusual circumstances as they arise.

Holidays or my vacation – There is no charge for regularly scheduled appointments that occur on a holiday or during my vacation. I usually recommend that we schedule an alternate time for an appointment missed because of a holiday in order to maintain the consistency for our sessions. However, you are under no obligation to do so. The holidays I usually take are President’s Day, Memorial Day, July 4th, Labor Day, Thanksgiving (Thursday and Friday), Christmas Day, and New Year’s Day. I generally take four weeks of vacation during the year and will give you ample notice of those dates.

Vacation or other planned absences – I generally charge for missed appointments if you give me less than two weeks notice, with the option of rescheduling the appointment to an alternate time. With two weeks notice or more, I generally do not charge for the missed appointment. I prefer to discuss individual circumstances as they arise.

Fees and payment – My fee is _____ per session. Reduced fees may be negotiated based on financial circumstances and will be adjusted as those circumstances change. Fees will be increased approximately _____ % each year, and I will give you approximately one month’s notice before a fee increase goes into effect.

Sessions are 50 minutes in length. I schedule appointments to begin and end on time, which means that your session time is reduced if you are late in arriving. If you need to talk with me between scheduled sessions, you may leave a message on my answering machine at any time (510/555/0000). I will usually call you back within _____ hours.

I do not charge for telephone calls of less than 10 minutes. My charge for telephone calls of 10 minutes or more is prorated based on the fee for a 50-minute session. (For example, the charge for a 10-minute telephone call would be one-fifth of your session fee.)

Payment for each session is due at the time of the session. Payment for telephone calls is due at a next scheduled session. If you have insurance coverage for psychotherapy, I will give you a statement at the end of each month to send to your insurance company for reimbursement.

Emergencies – We can discuss what constitutes a psychiatric emergency vs. an urgent psychiatric matter, if you wish. However, if you experience what you believe is a psychiatric emergency, please call or go to your nearest emergency department.

And finally – If you have questions, please ask me and I will do my best to answer them. I look forward to working with you.

Effective date: _____

[1] Physicians who contract with 3rd -party payers, or submit statements directly to 3rd -party payers, should revise this paragraph to reflect the information requirements of those carriers.

FOR COMPLETE PSYCHIATRIC MEDICAL RECORDS ...

Take a good initial history. Document ...

- A baseline medical history and exam to rule out pathology;
- The names of other physicians a patient sees;
- A drug and sexual history (Even if a patient misrepresents facts, the quality and quantity of your documentation are evidence that you asked the questions.).

Obtain and document pertinent information.

Ensure that progress notes include ..

- A synopsis of the patient's subjective complaints, using quotes when it is important to distinguish between the patient's narrative and your own observations or opinions;
- Your objective observations of the patient's affect;
- Documentation of objective data relevant to the patient's care (e.g., medications taken, other doctors seen, family and social history, lab test results, etc.);
- A treatment plan and rationale for your recommendations and treatment. For potentially suicidal or homicidal patients, document actions you have taken—or those you have considered but rejected or deferred—and the reasons for your decisions;
- Sufficient detail—to justify treatment recommended and drugs prescribed; to justify payment; and to distinguish between the patients' statements, behaviors and responsibilities, and your own.
- The substance of significant phone conversations (with patients, other doctors, mid-level therapists, managed care plans, etc.)
- Evidence of the patient education you provide (both oral and written).
- Precise documentation of referrals to other physicians.
- Documentation of patients' failure to follow your advice.
- Thorough documentation of informed consent discussions.
- Documentation of patients' "informed refusal" of your advice.
- Evidence of the timeliness with which you review, correct and sign transcription of hospital and office reports.

Figure 4

- Properly corrected errors (no write-overs or cross-outs).

Prevent medication-related problems. Be sure to ...

- Ask patients about allergies and medication use (including OTC, alternative and complementary remedies, and street drugs);
- Use a Medication Control Record to track prescriptions, samples given, changes in medication regimen, and all refills (see Figure 6 for a prototype of an MCR).
- Limit refills in accordance with accepted medical standards.
- Monitor and document each drug's effectiveness to justify continued prescribing.
- If lab tests are required, or are recommended by manufacturer, don't forego them without documentation of your reasons.
- Be wary of "lost drug" excuses and other ploys to obtain additional medications.
- Have an agreement with your call group colleagues about prescribing refills for one another's patients.

Ask patients ...

- To authorize release of a copy of other physicians' medical records, if needed;
- For written permission to share drug and diagnostic information with his or her other physicians and/or mid-level therapist; or ask the patient to inform other physicians about medications you prescribe, and document that you have done so. Document subsequent communication with those individuals.

Figure 4

Informed Consent for Medication

Date:

Patient name: _____

Medication (name, dosage, amount, no. of refills, directions):

- Discussed benefits, risks, alternatives and their risks, of medication
- Discussed important side effects and what to do in event of occurrence
- Discussed potential drug interactions
- Discussed necessary related tests (blood levels, etc.)
- Patient gave consent after discussion and his/her questions answered
- Written educational information dispensed to patient
- Other _____

Date:

Patient name: _____

Medication (name, dosage, amount, no. of refills, directions):

- Discussed benefits, risks, alternatives and their risks, of medication
- Discussed important side effects and what to do in event of occurrence
- Discussed potential drug interactions
- Discussed necessary related tests (blood levels, etc.)
- Patient gave consent after discussion and his/her questions answered
- Written educational information dispensed to patient
- Other _____

Date:

Patient name: _____

Medication (name, dosage, amount, no. of refills, directions):

- Discussed benefits, risks, alternatives and their risks, of medication
- Discussed important side effects and what to do in event of occurrence
- Discussed potential drug interactions
- Discussed necessary related tests (blood levels, etc.)
- Patient gave consent after discussion and his/her questions answered
- Written educational information dispensed to patient
- Other _____

Figure 5

Patient's Name: _____ D.O.B. _____

ALLERGIES: _____

Medication Control Record

| MEDICATION and DIRECTIONS | Refill Date | CHANGES | Init'l | Refill Date | CHANGES | Init'l |
|---|--------------------|----------------|---------------|--------------------|----------------|---------------|
| Date | | | | | | |
| Rx'd for | | | | | | |
| Details | | | | | | |
| Refills x | | | | | | |
| <input type="checkbox"/> Written instructions given | | | | | | |
| MEDICATION and DIRECTIONS | Refill Date | CHANGES | Init'l | Refill Date | CHANGES | Init'l |
| Date | | | | | | |
| Rx'd for | | | | | | |
| Details | | | | | | |
| Refills x | | | | | | |
| <input type="checkbox"/> Written instructions given | | | | | | |
| MEDICATION and DIRECTIONS | Refill Date | CHANGES | Init'l | Refill Date | CHANGES | Init'l |
| Date | | | | | | |
| Rx'd for | | | | | | |
| Details | | | | | | |
| Refills x | | | | | | |
| <input type="checkbox"/> Written instructions given | | | | | | |
| MEDICATION and DIRECTIONS | Refill Date | CHANGES | Init'l | Refill Date | CHANGES | Init'l |
| Date | | | | | | |
| Rx'd for | | | | | | |
| Details | | | | | | |
| Refills x | | | | | | |
| <input type="checkbox"/> Written instructions given | | | | | | |

Figure 6