

Office Sharing and Liability Risks

Written by
PRMS

Can a psychiatrist be sued and held liable for the activities of a professional with whom he/she merely shares office space? YES!

Here are the typical facts: Patient began her treatment with Doctor A based on her perception that Doctor A was affiliated with Doctor B. Later, when the patient sued Doctor A for malpractice, she also sued Doctor B. Doctor A merely shared office space with Doctor B, but because of their arrangement, the patient *believed* that Doctor B was involved in and responsible for her care.

Remember that perception is the observer's reality. Your very presence in a shared office may be the only factor that leads a person to believe that you associate with, employ, control or supervise your office mate(s). In the shared office setting this may generate legal obligations and professional responsibilities that you have never before considered. You risk being held liable if a court finds the patient's perception reasonable.

To minimize your liability risks when I am sharing office space:

Check with your personal business attorney to assess whether your shared office arrangement may be perceived as a legal entity, (e.g., a limited or general partnership), despite your intent.

Be sure that your office mates have not had any serious complaints or sanctions leveled against them by any licensing agency or professional organization.

Know your office mates' insurance carrier and limits of professional liability coverage. Their limits should at least be equal to yours. If your limits are higher than your office mates' limits, you could become the "deep pocket" if you are named in litigation involving your office mates.

Avoid the appearance of any control of or supervision of your office mates.

Refrain from engaging in any contract with your office mates which could be construed as an employment contract.

Keep patient and business records separate from those of your office mates.

Eliminate as many objective indicators of association with your office mates as possible. This might include shared outdoor signs, letterhead, office telephone numbers, billing personnel, etc.

Inform office staff and your office mates about the liability risks involved when professionals share staff, phones, receptionists and billing personnel.

Post and provide to every patient a fact sheet or disclosure statement stating, at a minimum:

- that all of the professionals are independent practitioners
- that you are not in partnership with them
- that you have no responsibility for their billing
- that you neither control nor supervise the services that they provide

This should be a part of the written information that you provide for your patients to read, discuss with you, and sign during their first visit.

Periodically check to confirm that your written protocols and procedures are being followed. For example, call your office and your answering service to assure that the receptionist and operators are answering your phone line with words that identify you and your office only and not with a phrase such as “The *offices* of _____ and _____”.

Keep in mind that there may be ethical and legal issues related to fee-splitting if you accept or pay a percentage of fees collected for office space, secretarial services, and other administrative support. To avoid the appearance of fee-splitting, psychiatrists should negotiate a mutually agreed upon specific, set, reasonable fee for the use of the space and other expenses. Personal counsel should be consulted when developing office sharing arrangements to ensure compliance with all relevant statutes and regulations.

PRMS

Manager of The Psychiatrists' Program
Medical Professional Liability Insurance for Psychiatrists

1-800-245-3333

Email: TheProgram@prms.com

Visit: www.psychprogram.com

Twitter: @PsychProgram