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**CHAPTER 2: Medical Errors in the Mental Health Profession**

**2 CE Hours**

**By: Staff Writer**

**Learning objectives**

- Define medical error as it pertains to the practice of licensed mental health practitioner psychotherapy.
- Describe medical error responsibility for mental health practitioners.
- List causal factors behind medical errors.
- Describe how medical errors impact mental health clients.
- Inform licensed mental health practitioners about their legal responsibility in reporting medical errors.

**Medical error – definition**

Medical errors are defined and governed by various entities, such as state legislatures, mental health associations and best practice institutions, to help preserve the health, safety and welfare of the public.

As members of a health care prevention, intervention and oversight team, mental health professionals have a responsibility to be aware of medical errors, as well as learn strategies to minimize risk for them.

**Remember:** Medical errors can occur at any point in treatment, even in preventive care, and are not limited to patient injury or death.

In some states, a medical errors CE course is required to meet professional continuing education standards for licensed mental health professionals. In many states, medical errors are governed not through CE requirement, but by ongoing professional conduct as required by mental health associations and licensing boards.

As more and more mental health clients are being treated for complex physical and mental co-occurring conditions, mental health professionals often work with teams of intervention specialists. Any of these professionals or work roles can create and contribute to medical error for mental health clients. They are part of the hierarchical medical community and include:

- Psychiatrists.
- Psychologists.
- Physician’s assistants.
- Nurse practitioners.
- Mental health professionals:
  - Clinical social worker.
  - Marriage and family therapist.
  - Mental health counselor.
- Other medical community members include:
  - General medical practitioners.
  - Surgeons.
  - Medical specialists such as gynecologists, pediatricians, internists, and others.
  - Nutritionists.
  - Physical and occupational therapists.
  - Pain management specialists.
- Other treatment team members may not be medical personnel but are involved with mental health clients. They include:
  - Certified addiction professionals.
  - Pastor/ religion/faith leaders.
  - Relatives.

Medical errors occur anywhere in the health care system, including:

- Hospitals.
- Clinics.
- Nursing homes.
- Physician and mental health offices.
- Pharmacies.
- Patient’s homes.
- Outpatient surgery centers.

Increasingly, mental health professionals have clients who are following medication protocols and other medical therapies, many of which are potentially lethal when taken improperly.

Consequently, mental health professionals are often in contact with doctors and other licensed medical personnel, and in a position to communicate concerns to both providers and clients. Mental health professionals are susceptible to making medical errors as well, and are obligated to report any medical errors by others.

Health care personnel and institutions are held accountable for establishing a safe health care environment for clients/patients. Careful review and analysis of sentinel events and near-misses (situations in which medical error occurred but did not cause harm to the client/patient), suggests examination of sentinel events can be essential to determining whether adverse events, such as client/patient injury or death, were caused by the client/patient’s diagnosed condition, a medical intervention, or inaction on the part of the mental health or medical personnel. Sentinel events signal the need for immediate attention and investigation in order to reduce occurrence of medical error.

The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) requires health care organizations to establish internal processes to recognize sentinel events, conduct cause analyses, identify and document areas of risk, and implement a risk reduction plan that outlines risk reduction measures. Usually, all personnel involved in the systems and processes under review must participate.

Whether working as a mental health practitioner within a health care organization such as a hospital and subject to JCAHO rules and regulations or working in private practice, medical error is defined similarly as:

**An event over which health care personnel could exercise control and which is associated in whole or in part with medical intervention, rather than just the condition for which such intervention occurred, and includes intentional or unintentional mistake of practice and judgment that creates harm to a patient/client. The intervention could be medical or specialized medical procedures such as diagnosis and treatment of a mental health illness.**

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In summary, a medical error is a failure of a planned intervention or the use of a wrong plan or inadequate oversight of ethical protocols that causes an adverse event or near-miss that is preventable under the current state of knowledge.

Examples of medical error harm include:

- **Permanent loss of trust by client/patient**
  - As a result of medical error, mental health clients can:
    - Lose trust that their personal information will be properly shared.
    - Lose trust in the psychological or medical community due to the medical team’s inability to share information pertinent only to specific team members.
    - In 1996, the U.S. Supreme Court decision in Jaffee v. Redmond established the psychotherapist/patient privilege in the federal courts, on grounds that only the trust that a guarantee of confidentiality could provide would foster effective psychotherapeutic treatment.
    - The passage of the federal Health Insurance Portability and Accountability Act (HIPAA) has placed significant responsibility on health care providers with regard to preserving patient privacy and confidentiality. HIPAA provides special protections for psychotherapy notes. For example, in order for them to qualify as “therapy notes,” they must meet certain conditions that include:
      - Being maintained separately from the patient’s other health care records.
      - Not being the only source of information for treatment or payment.
      - Being solely for the use of provider that created them.
      - Outside of very limited exceptions explicit within the statute, they may not be disclosed under virtually any circumstances without the patient’s expressed authorization.
  - Loss of trust to the extent that they drop out of medical and psychological treatment and consequently relapse or exacerbate their conditions.
  - Loss of trust that accurate information will be passed to them and other support services or that information will not be withheld from them.

Family, friends, co-workers or other supportive caregivers can also lose trust and subsequently impact a mental health client’s psychological, financial, and physical conditions.

- **Reversal or relapse of mental health and other physical conditions in client/patient**
  - Mental health clients can experience a reversal in their mental or physical conditions. As a result of medical error, a client may:
    - Choose to discontinue medication when medications are not reviewed or renewed, or when clients are not able to finance their health and well-being.
    - Take the wrong medication and cause overdose or other physical or mental harm when the medical team works at cross purposes because of poor communication or separate diagnosis.
    - Halt necessary medical visits, causing mental illness relapse or reversal in their physical and mental functions when they are under the impression that they are not in need of continuing medical or mental health supervision, or when a mental health practitioner or medical staff fail to schedule necessary sessions or appointments.
    - Abuse medications to the extent that multiple and/or inappropriate medications are taken when mental health practitioners are not in communication with other team members, or medical practitioners fail to document or properly communicate with one another.
    - Seek unnecessary additional treatment when a mental health practitioner recommends unconventional medical or mental health practices or practices that do not have significant data to back them up.

- **Loss of funds by client/patient or client/patient’s family**
  - Mental health clients may become financially negatively impacted if mental health professionals demonstrate insensitivity to, or take advantage of their clients’ inherent vulnerability to suggestions or recommendations. For example, they may:
    - Seek unnecessary treatment protocols that have neither best practice nor scientific merit.
    - Continue treatments long after they are needed due to a medical error in billing or profit-minded-only practitioners.
    - Pay exaggerated fees for service due to an overexaggerated sense of importance by the mental health practitioner.

- **Loss of client/patient’s necessary support systems**
  - As a result of medical errors by mental health professionals mental health clients can:
    - Lose important wraparound services due to poor communication among the intervention team or through lack of necessary paperwork that could be explained by staff.
    - Lose family support if psychological and financial assistance is withdrawn or reduced through lack of follow-up with insurance or completed recommendations by any team member(s).
    - Follow improper advice and sabotage healthy relationships if support team members are not fully informed regarding client background.

- **Loss of client/patient safety**
  - Safety systems extended to mental health clients must encompass all elements of practice, including personnel, operational processes, technologies, environment and materials.
  - As a result of medical errors, mental health clients can lose the ability to feel psychologically or physically safe. They can:
    - Experience anxiety or apprehension about new or particular environmental settings, and/or the introduction of new or other medical/mental health professionals, as well as treatment protocols when proper referrals are not completed or appropriate information shared.
    - Place themselves in unnecessary physical or emotional danger because of their inability to use sound judgment and be exposed to toxic substances, become over-medicated, and continue to be involved with dangerous individuals such as an abusive spouse or partner.

- **Worsen existing or create new physical or mental health conditions**
  - Experiencing trauma as a result of medical error can cause mental health clients to develop acute stress or post-traumatic stress disorder.
  - As a result of trauma incurred through medical error, a client’s medical condition can worsen or he/she can acquire a new mental health diagnosis such as post-traumatic stress disorder or other anxiety disorder that includes acute stress disorder, panic disorder, phobias, or generalized anxiety disorder. Clients are susceptible as well to acquiring mood disorders such as depression.
  - Panic disorders can result from trauma created by medical errors as well as mood, behavior, other anxiety conditions and regressed mental health conditions.
  - Trauma caused by medical error can substantially affect the quality of life for clients. Mary Ann is an example of how someone can be traumatized by a medical error made by a physician.

Case: Mary Ann had been seen by John, a licensed social worker for her depression, for two years. At age 15, Mary Ann’s mother took her for her first gynecological appointment. During her appointment, her doctor took her aside and stated that she was very pretty. He also stated that if she ever needed his help in understanding how to reach orgasm, he would be happy to spend time explaining the process.

Mary Ann was confused and upset by her doctor’s behavior. She began to awaken with nightmares and found herself crying more than usual. During one session she tentatively approached John,
trying to understand why she would be so shaken by her medical visit. John reported the incident to the doctor’s state licensing board.

Mental health clients may experience weakened nervous, autonomic, immune, and endocrine system function, in addition to a decline in their general physical well-being because of trauma created by medical error. In Mary Ann’s case, her trauma reactions were reduced by her disclosure to her therapist and her subsequent reprocessing and integration of her experience with her gynecologist.

- Loss of client/patient’s life or permanent physical or mental damage or disfigurement
  Death or limitation of neurological, physical or sensory function can occur as a result of medical error.

<table>
<thead>
<tr>
<th>Medical error categories and occurrences</th>
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<tr>
<td>Medical errors generally occur when there is direct, (active) client involvement, or indirect, (latent) client involvement through contact with other professionals, family, agencies, hospitals, etc.</td>
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<td>Whether the errors occur through direct or indirect client involvement, they can happen as a result of omission or commission acts. Omission acts represent negligence or omission of information. Commission acts are overt/covert actions that cause medical error.</td>
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<td>Mental health professionals have serious responsibilities to their clients, colleagues and to the mental health profession. The focal point of these interrelated responsibilities is a fiduciary relationship in which the client places trust in the practitioner with the expectation that the practitioner is working in the client’s best interest. This expectation is the foundation of a therapeutic relationship.</td>
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<td>Through the therapeutic relationship each party assumes separate and distinct roles. The practitioner bears the burden of accountability within the relationship because she/he assumes an expert role. This role impacts the client/practitioner interpersonal dynamic, and creates a power differential within the relationship.</td>
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<td>By virtue of expertise through education, degree, license, skills and experience, mental health professionals generally acquire an authoritative advantage over clients, thus, setting the stage for potential misuse of power. With any position of power comes the risk for abuse that can range from minor improprieties to egregious misconduct and crime.</td>
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<td>Licensed practitioners are bound by their professional affiliation to act responsibly, even when the client does not.</td>
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<td>Greatest risk for committing medical error occurs through:</td>
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<td>- Multiple professional involvement.</td>
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<td>- Misdiagnosis.</td>
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<td>- Intimidation.</td>
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<td>- Over-treatment.</td>
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<td>- Lack of involvement.</td>
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<td>Mental health professionals are responsible for maintaining protective boundaries that ensure their clients’ physical and emotional safety. When this does not happen, the following common medical errors can occur when mental health professionals:</td>
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<td>- Omit professional background information.</td>
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<td>- Relay false client/patient or their own personal information.</td>
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<td>- Inappropriately share or distort information.</td>
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<td>- Are inappropriately assigned to a client.</td>
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<td>- Attempt to treat out of the realm of expertise.</td>
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<td>- Do not consult with medical professionals.</td>
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<td>- Do not thoroughly collect background histories.</td>
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<td>- Do not thoroughly complete assessments.</td>
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<td>- Provide inadequate safety or security of physical environment.</td>
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<td>- Assign false diagnosis.</td>
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<td>- Recommend inappropriate or dangerous treatment protocol.</td>
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<td>While most medical errors are unintentional, some are intentional. Most fall under the following categories:</td>
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<td>Due to medical errors mental health clients may:</td>
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<td>- Take unnecessary personal risk, engage in passive suicide behaviors.</td>
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<td>- Lose their lives due to consuming excessive medication or the wrong type of medication.</td>
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<td>- Overdose on drugs or alcohol.</td>
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<td>- Commit suicide.</td>
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<td>- Cause harm to others.</td>
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<tr>
<td>Remember – Relatives and friends of mental health clients can be traumatized by client loss of life or harm to others.</td>
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Intentional harm by mental health professionals is reflected through medical error when they:
- Unnecessarily or inappropriately assign diagnoses in order to continue treatment and bill for more fees.
- Knowingly or flagrantly overcharge a client or wrongly submit a bill to a client, insurance company or other third-party payer.
- Fail to maintain billing records properly, which can be a criminal offense as well.
- Project personal need onto the client through negative countertransference. (Countertransference refers to projected feelings and behaviors onto clients that reflect practitioner psychological and physical personal history and negatively impact the therapeutic relationship).
- Do not adhere to professional boundary ethics such as ignoring proper consent protocol or becoming physically demonstrative.
- Accept favors, free merchandise or confidential information, such as stock tips from clients.
- Commit intentional harm that includes actual crime, particularly when mental health professionals do not adhere to strict professional guidelines and ethics. Intentional harm can be considered a crime when mental health professionals mindfully:
  - Become romantically and/or sexually involved with clients. Romantic or sexual innuendo are medical errors. Physical touch does not need to occur for wrong action.
  - Falsely bill and/or charge fees to clients or insurance.
  - Administer inappropriate or grossly wrong methods of treatment.
  - Fail to contact medical personnel or law enforcement when clients threaten to or actually harm themselves or others.
  - Fail to report child abuse or make other appropriate reports to monitoring agencies or personnel.
  - Prescribe medications without sufficient licensing or expertise.

Case: Sam was briefly hospitalized for suicidal ideation and severe depression. Because he’d not seen a psychiatrist prior to his admission, he was assigned a very busy doctor who supervised residents at the same hospital. After an initial consultation, the psychiatrist turned the case over to the resident doctor. However, the resident doctor was unable to consult regularly with his supervisor. While in session one day, Sam disclosed that he was not sleeping at all. The resident adjusted Sam’s medication with the subsequent result that Sam’s ulcer was severely affected, requiring a medical procedure.
- Abandon clients. It is imperative that mental health professionals do not abandon their clients due to failure to pay or incompatibility. It is the professional’s job to transition clients and pursue alternative treatment avenues before closing a case.
- Falsify records.
- Falsely claim curative abilities.
- Breach confidentiality.

Reporting misconduct

Mental health professionals have an obligation to report medical error by other practitioners to governing bodies as well as to client caregivers and clients themselves.

Generally, each state has an oversight or governing agency where practitioners can make reports and or access complaint forms. They can differ in complaint procedure and action. Nationally, The Joint Commission on Accreditation of Health care Organizations (JCAHO) conducts investigations. Professional associations monitor membership and usually have established protocols to investigate complaints as well. These oversight or governing entities gather and analyze complaints, and determine probable cause and disciplinary action. If a complaint is determined to be a possible violation of law, it will be investigated by a legal designate.

In general, JCAHO utilizes “root cause analysis” to examine what factors and associated processes relate most directly to the medical error event, as well as root causes. In addition, JCAHO will examine other risk factors and possible improvements or systems inserted to reduce risk of further error. Personnel are assigned responsibility for implementing necessary improvements. The improvements are evaluated to determine their degree of efficacy.

The following glossary defines common terms used in medical error analysis:
- **Adverse event**: An injury that was caused by medical management and that results in measurable disability.
- **Error**: The failure of a planned action to be completed as intended or the use of a wrong plan to achieve an aim. Errors can include problems in practice, products, procedures and systems.

Unpreventable adverse event: An adverse event resulting from a complication that cannot be prevented given the current state of knowledge.

Medical error: An adverse event or near-miss that is preventable with the current state of knowledge.

Near-miss: An event or situation that could have resulted in an accident, injury or illness, but did not, either by chance or through timely intervention.

System: A regularly interacting or interdependent group of items forming a unified whole.

Systems error: An error that is not the result of an individual’s actions, but the predictable outcome of a series of actions and factors that comprise a diagnostic or treatment process.

Since the inception of its sentinel event policy in 1995, JCAHO has compiled data, reflecting more than a thousand incidents. Root causes for medical error include:
- Inadequate safety or security of the physical environment.
- Inadequate assessment or incomplete reassessment of the patient. Inappropriate assignment of the patient.
- Incomplete examination of the patient.
- Infrequent or incomplete patient observations.
- Inadequate staffing or lack of staff competency.
- Factors related to the unavailability or miscommunication of information among health care personnel and other caregivers.
Preventing medical error

In order to avoid committing medical error, mental health practitioners need to be proactive and conscientious beginning with first contact and working with a continuum of care model by following an appropriate chain of communication that is initiated by obtaining consent, face to face or phone conference, staff meetings and written communication.

Remember: Confidentiality rules and regulations apply to e-mail communication as well.

There are many steps practitioners can take to prevent medical error and ensure best practice treatment, in addition to assessing for medical error by other professionals. Practitioners must be mindful about their personal capabilities and seek medical or mental health assistance when needed. Mental health practitioners should also:

- **Gather complete client background**
  - Gather a thorough medical and social history.
  - Assess for substance abuse.
  - Obtain consent or waiver for release of information for all other treating professionals.
  - Obtain medical and psychological test results.
  - Gather a compliance or noncompliance history.

- **Obtain informed client consent**
  The content of informed consent may vary depending upon the client and treatment plan; however, informed consent generally necessitates that a client:
  - Has the capacity to consent.
  - Has been adequately informed of significant information concerning treatment processes and procedures.
  - Has been adequately informed of potential risks and benefits of treatments for which generally recognized standards do not yet exist.
  - Has freely and without undue influence expressed consent.
  - Has provided consent that is appropriately documented.

When persons, due to age or mental status, are legally incapable of giving informed consent, mental health professionals must gain consent from a legally authorized person; such substitute consent is legally permissible.

- **Thoroughly assess client by:**
  - Understanding client medications and his/her medication protocol. (If client’s medication has not been routinely reviewed, appears ineffective or has been abused and has been overly prescribed, the practitioner is obligated to contact the prescribing physician, but not suggest alteration to client.)
  - Observe client for signs that indicate a previous misdiagnosis or lack of diagnosis.
  - Observe client for signs of personality disorders.
  - Observe client for signs of violence or paranoia.
  - Examine client for indicators of substance abuse.
  - Monitor client for signs of medical treatment noncompliance through ongoing medication review that includes self-report regarding side effects.

- **Build client trust by:**
  - Reviewing guidelines for practitioner/client affiliation, such as professional practice boundaries and client rights.
  - Reviewing fees for professional service.
  - Discussing mental health treatment protocol.
  - Sharing under what circumstances confidentiality can legally be breached, such as reporting child abuse.
  - Avoiding intimidation or abusing professional authority.
  - Working at partnering with clients.
  - Being consistently on time, returning phone calls and responding to other communication.
  - Being authentic about advocating on behalf of client.
  - Utilizing proper channels to investigate a complaint.
  - Being honest.

- Encouraging clients to ask questions and seek out answers regarding their medical treatment as an active member of their health care team.
- Teaching assertiveness and encouraging questions.
- Understanding professional limitations and making referrals.

**Case:** Sara had established an excellent therapeutic relationship with her client, Georgia, an older woman. As time progressed however, it was evident that Georgia was experiencing lapsing judgment and forgetfulness. At Sara’s request, Georgia consulted with her physician who referred her to a neurologist who diagnosed her with early Alzheimer’s disease. The neurologist in turn referred Georgia to a mental health practitioner who specialized in Alzheimer’s protocol. Sara’s bond with Georgia was blurred as she continued to see Georgia regularly, often comparing her work to the other specialized practitioner. Sara encouraged her elder client not to mention that she was continuing to be seen by Sara.
- Checking in frequently with client/patient about their medical or mental health treatment progress.
- Preventing medical error by other professionals. Practitioners must be mindful about their professional practice boundaries and client rights.

**Note:** The content of informed consent may vary depending upon the client and treatment plan; however, informed consent generally necessitates that a client:
- Has the capacity to consent.
- Has been adequately informed of significant information concerning treatment processes and procedures.
- Has been adequately informed of potential risks and benefits of treatments for which generally recognized standards do not yet exist.
- Has freely and without undue influence expressed consent.
- Has provided consent that is appropriately documented.

Remember: In 2003, the United States Department of Health and Human Services (HHS) issued new guidelines that apply specifically to psychiatrists. Because of HIPAA guidelines, psychiatrists now must maintain two sets of records for each patient: regular medical records and separate psychotherapy records entitled, “psychotherapy notes.”
• More often than not, confidentiality is breached informally. According to one study, over half of all psychologists have unintentionally disclosed confidential data.

• **Stay current in best practice methodologies by:**
  ○ Participating in peer review and supervision.
  ○ Utilizing consultants.
  ○ Participating in professional enhancement courses in standards of practice.
  ○ Reading professional literature.
  ○ Membership and participation in professional associations.
  ○ Attending professional conferences.
  ○ Professional networking.

• **Professionally terminating or concluding treatment**
  Mental health professionals should establish a plan for the custody and control of records in the event of the practitioner’s death, and should plan for the safe and effective transfer of client records to another practitioner.

• Considerations for terminating or concluding care:
  ○ Assess professional and personal limitations.
  ○ Assess client/patient potential for therapeutic benefits through examining best interest of client.
  ○ Develop a plan for termination that reflects client consideration with attention to the possibility that it will be received with emotion or distress.
  ○ Invite client into the process by reassessing therapy goals and objects.
  ○ Allow time to process termination with client. Begin the termination process with enough time for your client to be transitioned to a new therapist and/or process closure. Not allowing enough time misses an essential therapeutic step and can place the practitioner at risk for medical error.

**Conclusion**

Medical error is a serious consideration in the rapidly changing health care arena and is defined as “a failure of a planned intervention or the use of a wrong plan; as well as oversight of proper use of ethical protocol that causes an adverse event or near-miss that is preventable under the current state of knowledge.”

Mental health professionals have a responsibility to be aware of medical error, as well as learn strategies to minimize potential risk for error. Medical errors can occur at any point in treatment, even in preventive care, and are not limited to patient injury or death.

Depending on where they practice, mental health professionals are governed by oversight entities that include, but are not limited to state licensing boards, professional associations and the Joint Commission on Accreditation of Health Care Organizations.

Mental health professionals are often working within health care teams to provide client/patient care, and in a position to communicate concerns to other providers and clients. Consequently, they are susceptible to making medical errors and obligated to report medical errors by others.

Client/patient harm due to medical error includes permanent loss of trust, medical reversal or relapse, loss of funds, loss of necessary support systems, loss of client/patient safety, exacerbated medical/physical conditions, loss of life or permanent physical or mental damage or disfigurement.

Medical errors occur when health care practitioners demonstrate negligence, poor habituated behavior, lack of knowledge and intentional harm.

Medical error can be reduced by gathering thorough client/patient background, thorough assessments, building client trust, maintaining proper record keeping and keeping current in best practice methodologies.

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### MEDICAL ERRORS IN THE MENTAL HEALTH PROFESSION

**Final Examination Questions**

Select the best answer for each question and mark your answers on the answer sheet found on page 147 or complete your test online at SocialWork.EliteCME.com.

1. The Health Insurance Portability and Accountability Act placed significant responsibility on health care providers with regard to preserving patient privacy and confidentiality?
   a. True.
   b. False.

2. Written consent is needed in order for Mental Health practitioners to become romantically involved with clients/patients.
   a. True.
   b. False.

3. An injury that was caused by medical management and that results in measurable disability is a system error.
   a. True.
   b. False.

4. An event or situation that could have resulted in an accident, injury or illness, but did not, either by chance or through timely intervention is a near miss.
   a. True.
   b. False.

5. Root causes for medical error include infrequent or incomplete patient observations.
   a. True.
   b. False.