

# A TEACHING RESOURCE FOR PSYCHIATRY RESIDENTS

## VIEW FROM THE JURY BOX:

# Clark v. Stover

## *A Psychiatric Malpractice Mock Trial*

### THE LITIGATION PROCESS

#### **SETTLE OR DEFEND?**

While everyone envisions a big courtroom drama when they hear the word “lawsuit,” in fact, vast majority of cases are either dismissed or settled out of court. Once the discovery process is concluded (or sometimes prior to this time), a decision will be made whether to defend the case or to settle the matter before trial. Many considerations will go into this decision: whether the facts are favorable to the defendant, whether there are experts who will support the defendant’s actions, the likelihood of winning at trial, etc. While your defense attorney and PRMS will make recommendations, rest assured that under the terms of your policy, you will have the ultimate decision of whether to settle or defend your case.

### FREQUENTLY ASKED QUESTION

#### ***I’m concerned about the National Practitioner Data Bank. What has to be reported, and what is the effect of such a report?***

Congress established the National Practitioner Data Bank as a flagging system, a central location for information affecting a healthcare practitioner’s qualifications to practice medicine. State licensing boards, professional societies, and hospitals must report adverse actions affecting the licensure, membership, and clinical privileges of a healthcare practitioner. Professional Liability Insurance carriers (such as PRMS) are required to report any medical malpractice insurance payments made on your behalf to the Data Bank, regardless of the amount. This report is submitted online and consists of demographic information about you and the patient, information about the alleged malpractice and injury, and payment information. After PRMS submits the report, you will receive a copy and be given an opportunity to add your own comments.

Of the entities permitted to access Data Bank records, hospitals are the only entities that are required to query the database as a part of the process of granting, expanding, or reviewing clinical privileges. Your state licensing board and professional societies may but are not required to access the Data Bank. The report is intended to put these entities on notice that there has been a malpractice payment made on behalf of a particular practitioner, so that the entities may inquire further as appropriate.

This information *is not available to the general public*. The information in the Data Bank is confidential and only eligible entities, as defined by Federal regulation, are entitled to access it. Data Bank records are available to your State licensing board; hospitals and other health care entities; professional societies; and certain Federal agencies. Also, a *pro se* plaintiff or a plaintiff's attorney may query the Data Bank under certain limited circumstances. Of course, practitioners are entitled to self-query at any time. However, the general public - including your colleagues and patients - may not access Data Bank reports.

