

# Forensic Psychiatry

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**Forensic psychiatry** is a medical subspecialty that includes areas in which psychiatry is applied to legal matters. Forensic psychiatrists often conduct evaluations requested by the court or attorneys.

While some (forensic) psychiatrists specialize exclusively in legal issues, almost all psychiatrists have to work within one of the many spheres where the mental health and legal system overlap

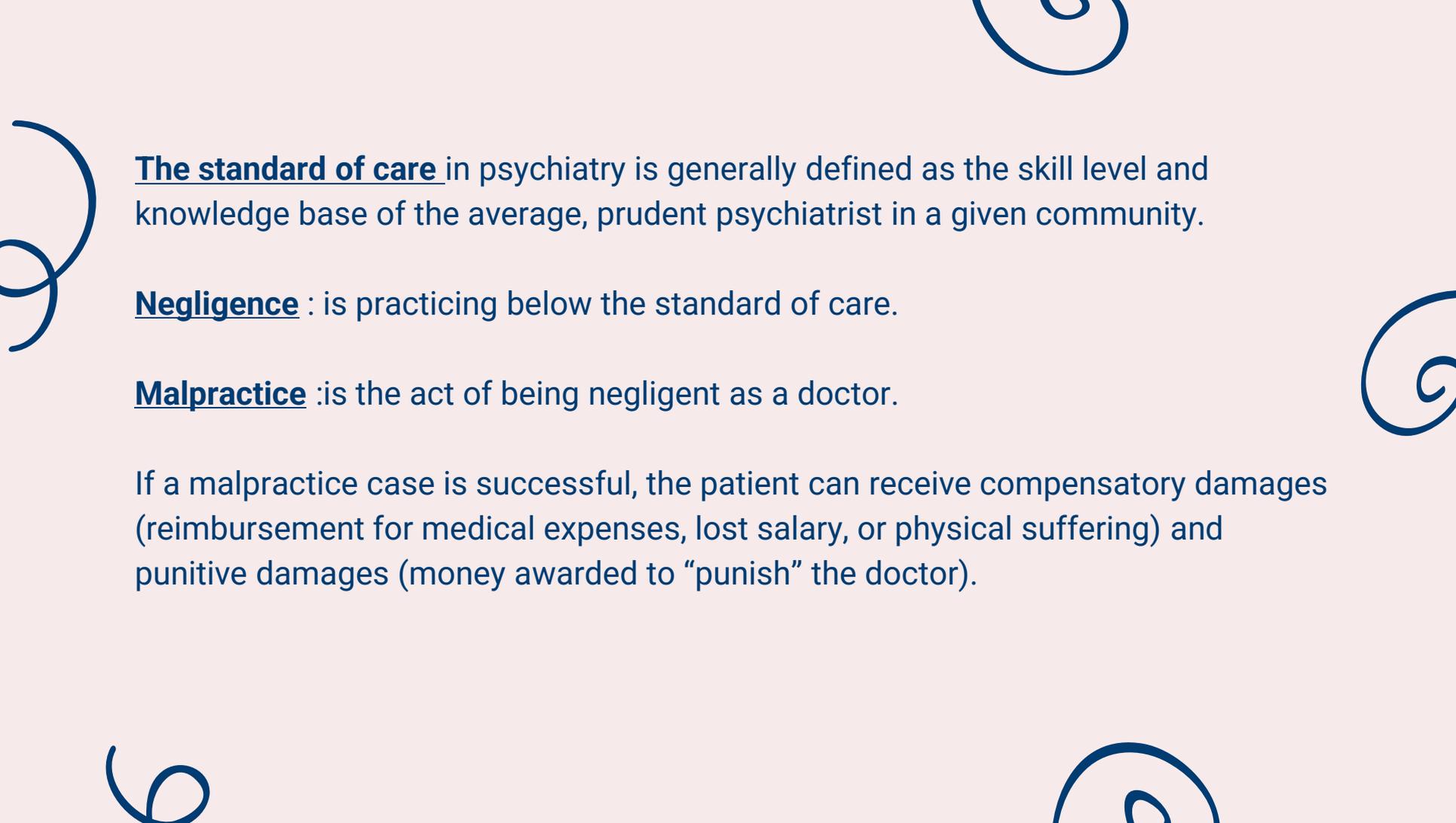




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# Standard of care



**The standard of care** in psychiatry is generally defined as the skill level and knowledge base of the average, prudent psychiatrist in a given community.

**Negligence** : is practicing below the standard of care.

**Malpractice** :is the act of being negligent as a doctor.

If a malpractice case is successful, the patient can receive compensatory damages (reimbursement for medical expenses, lost salary, or physical suffering) and punitive damages (money awarded to “punish” the doctor).

# Deviation (neglect) from Duty that was the Direct cause of Damage.

The physician had a duty of care (psychiatrist–patient relationship).

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The physician breached his or her duty by practice that did not meet the standard of care (negligence).

The patient was harmed.

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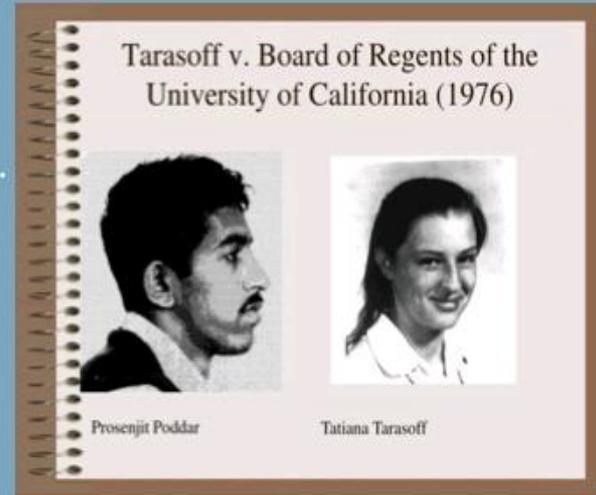
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The harm was directly caused by the physician's negligence

A wrong prediction or a bad outcome is not necessarily proof of bad doctoring (malpractice).



The obligation of a physician to report patients who are potentially dangerous to others is called *the "Tarasoff duty" or duty to warn*, which was based on a landmark legal case.





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# Confidentiality

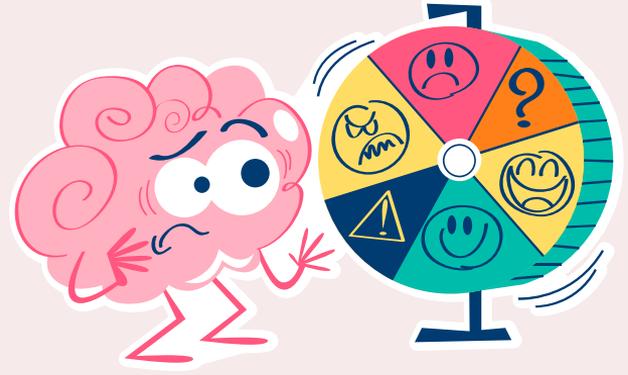


All information regarding a doctor–patient relationship should be held confidential, except when otherwise exempted by statute, such as:

1. When sharing relevant information with other **staff members** who are also treating the patient.
  2. If **subpoenaed physician** must supply all requested information.
  3. If **child abuse** is suspected obligated to report to the proper authorities.
  4. If a patient is **suicidal** physician may need to admit the patient, with or without the patient's consent, and share information with the hospital staff.
  5. If a patient **threatens direct harm** to another person physician may have a duty to warn the intended victim
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# Decision making

Process by which patients knowingly and voluntarily agree to a treatment or procedure.

In order to make informed decisions, patients must know the purpose of the treatment, alternative treatments, and the potential risks and benefits of undergoing and of refusing the treatment.

The patient should have the opportunity to ask questions.

Elements of informed consent (4 Rs):

- Reason for treatment
- Risks and benefits
- Reasonable alternatives
- Refused treatment consequences

• **Situations that do not require informed consent:**

1. Lifesaving medical emergency.
2. Prevention of suicidal or homicidal behavior.
3. Un-emancipated minors (typically require informed consent from the parent or legal guardian).



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# Emancipated minors



Considered competent to give consent for all medical care without parental input or consent. Minors are considered emancipated if they are:

- Self supporting.
  - In the military.
  - Married.
  - Have children or pregnant.
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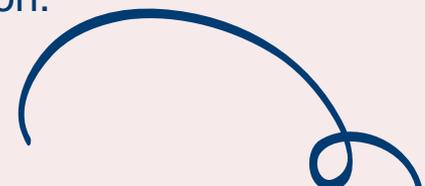
## Decisional capacity

A patient's ability to make informed treatment decisions. Decisional capacity is task specific and can fluctuate over time.

Capacity is a clinical term and may be assessed by physicians.

Competence is a legal term and can be decided only by a judge.

Criteria for determining capacity may be more stringent if the consequences of a patient's decision are very serious. In order for a patient to have decisional capacity, he or she must be able to:

- 1-Understand the relevant information regarding treatment (purpose, risks, benefits).
  - 2-Appreciate the appropriate weight and impact of the decision.
  - 3-Logically manipulate the information to make decision.
  - 4-Communicate a choice or preference.
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## Guardians and conservators



They're appointed by a judge to make decisions for in-competent patients.

- o Make decisions by **“substituted judgment”**, This means making decisions based on **what the patient would most likely have wanted, were the patient competent.**

### **“Declaration for mental health treatment”**

**Patients can often express their wishes for treatment in advance or losing competence or capacity using a mental health advance directive form called**





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# Admission to psychiatric hospitals



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# Voluntary admissions



Patient requests or agrees to be admitted to the psychiatric ward. The patient is first examined by a staff psychiatrist, who determines if he or she should be hospitalized.

Voluntary patients may not have the right to be discharged immediately upon request.





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# Involuntary admissions

## (Civil commitment)

Patient must be found to be imminently at risk of harm to one's • self or others or unable to provide for his/her basic needs .

Involuntary patients have legal rights to a trial to challenge their hospitalization.

Involuntary patients don't automatically lose the right to refuse treatment ,including the involuntary admission of non emergent medications.





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# Disability



**Mental impairment:** Any mental or psychological disorder.

**Mental disability:** Alteration of an individual's capacity to meet personal, social, or occupational demands due to a mental impairment.

To assess whether an impairment is also a disability, consider four categories:

- Activities of daily living.
  - Social functioning.
  - Concentration, persistence, and pace.
  - Deterioration or decompensation in work settings.
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- **Competence is a legal term for the capacity to understand, rationally manipulate, and apply information to make a reasoned decision on a specific issue.**
- Someone cannot be tried if they are not mentally competent to stand trial.
- If a defendant has significant mental health problems or behaves irrationally in court, his competency to stand trial should be considered.
- Competence to stand trial may change over time .





o **To stand trial, a defendant must:**

Understand the charges against him or her.

Be familiar with the courtroom personnel and procedure.

Have the ability to work with an attorney and participate trial.

Understand possible consequences

o **Not Guilty by Reason of Insanity (NGRI):**

- Conviction of a crime requires both an “evil deed” (actus reus) and “evil intent” (mens rea).
  - If someone is declared legally insane, they are not criminally responsible for their act.
  - NGRI is used in less than 1% of criminal cases.
  - It is successful in 26% of cases that continue to use it throughout the trial.
  - Those found NGRI often spend the same amount of time (or more) as involuntary psychiatric patients than they would have spent in prison if they were found guilty
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## Risk Assessment:

o Mental disorders are neither necessary nor sufficient causes of violence. The major risk factors of violence are a history of violence, being young, male, and of lower socioeconomic status.

o Substance use is a major determinant of violence, whether it occurs in the context of a mental illness or not.

## o Predicting dangerousness:

- Short-term easier than long-term.

- High false positives because of low base rates (most people are not violent).



**Feigning or exaggerating symptoms for “secondary gain” include:**

- 1- Financial gain (injury law suit).
- 2- Avoiding school, work, or other responsibilities.
- 3- Obtaining medications of abuse (opioids, benzodiazepines).
- 4- Avoiding legal consequences.

**Signs for detecting malingreing:**

- 1- Atypical presentation.
- 2- “Textbook” description of the illness.
- 3- History of working in the medical field.
- 4- Symptoms that are present only when the patient knows he/she is being observed.
- 5- History of substance abuse of antisocial personality disorder.
- 6- Reluctant to engage in invasive/in-depth testing or treatment.

### **Child and family law:**

Evaluations for which a child forensic psychiatrist may be needed include:

- Child custody.
- Termination of parental rights.
- Child abuse or neglect.

### **Correctional Psychiatry:**

- With the closing of state psychiatric hospitals (i.e., deinstitutionalization), many persons with mental illness have moved to correctional institutions.

- Psychiatrists who practice in jails and prisons must balance treating the inmates as their patients and maintaining safety in the institution

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