Hold harmful

Missing from Dr. Bruce Sutor's excellent article about negotiating the managed care maze ("Avoiding managed care's pitfalls and pratfalls," Current Psychiatry, March 2007, p. 19-24) is a detailed discussion of "hold harmless" clauses that are often inserted into contracts that physicians must sign. These clauses aim to protect the managed care company from legal liability in certain situations. This manipulative and dishonest displacement of responsibility for service denial onto the practitioner's shoulders is a major factor in clinician dissatisfaction.

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Dr. Sutor responds

There are 2 common forms of "hold harmless" agreements in managed care contracts. The first typically states that if the managed care company become insolvent or otherwise unable to pay claims, the provider will not bill the patient for the unpaid fees. Beyond negotiating this clause out of the contract—an unlikely event—the best way for practitioners to minimize potential losses is to submit claims in a timely fashion.

The second type states that providers will hold the managed care company harmless if a patient sues a provider. If the patient also sues the managed care company, the provider could be liable for expenses incurred by the managed care company, regardless of the suit's outcome. Practitioners can protect themselves by confirming that their malpractice insurance covers such expenses. Many contract attorneys and managed care consultants strongly recommend against signing contracts containing this type of clause.

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