

# Learn More About PRMS



Professional Risk Management Services® specializes in medical professional liability insurance for psychiatrists and behavioral healthcare group practices. As a national company, we develop, deliver and implement customized programs and services, including unparalleled risk management, proven defense strategies and specialized policies.

Enclosed, you will find the below resources. Contact us at (800) 245-3333 or visit [www.PRMS.com](http://www.PRMS.com) to learn more!

- Three Things to Know About Professional Liability Insurance
- Six Things You Can Do Now to Help Avoid Being Sued Successfully Later
- Refer a Colleague Program
- Features and Benefits
- Fact vs. Fiction
- Switch to PRMS: It's Easier Than Ever
- PRMS Blog: Q&A with PRMS Insurance Services Team

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# THREE THINGS TO KNOW ABOUT: PROFESSIONAL LIABILITY INSURANCE

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1. One of the many important decisions you will make in starting your psychiatry practice will involve the purchase of medical professional liability (medical malpractice) insurance. Even if you are joining an already established practice and liability insurance will be provided for you, it is important that you understand a bit about the types and scope of coverage so that you can better assess the value of the benefit being offered.
2. There are two main types of policies available: **occurrence** and **claims-made**. When offered by the same insurance company, these two types of policies will be virtually identical in terms of what is covered. The difference between the two, is how – or more accurately, when - coverage is triggered. With an **occurrence policy**, coverage is given for an incident giving rise to a claim or lawsuit that occurs while the policy is in place, regardless of when it is reported to the insurance company. By contrast, a **claims-made policy** affords coverage to those claims reported while the policy is in effect.
3. Aside and apart from reviewing policy language, it's a good idea to know something about the company itself starting first with financial viability. Take a look at AM Best and other ratings to ensure that the company is stable. You might also want to review your state's insurance department website to see whether any complaints have been made against the company.

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# 6 THINGS YOU CAN DO NOW TO HELP AVOID BEING SUED SUCCESSFULLY LATER

Psychiatrists frequently wonder about what risk management steps they can take right now to effectively reduce their risk of professional liability. Here are six practices that any psychiatrist can use now to reduce their professional liability risk.

## 1 PRACTICE GOOD MEDICINE

- **Be careful.** Claims against psychiatrists frequently include vague allegations of “improper treatment” and “misdiagnosis.” Many times these allegations are groundless, but sometimes the poor outcomes are a result of unfortunate lapses in basic, good medical practice that easily could have been avoided.
- **Stay focused on patients’ clinical needs.** Treating psychiatrists are minimally obligated to obtain an adequate medical and psychiatric history, conduct an appropriate examination, and follow-up with a patient at reasonable intervals to assure that treatment is progressing as desired. Any obligation not met will increase the psychiatrist’s professional liability risk.
- **Communicate with patients’ other clinicians.** For the care given by an individual clinician to be as effective as possible, the patient’s overall care must be coordinated. Psychiatrists should obtain patients’ authorization to communicate with other clinicians, especially in split-treatment situations, so that information can be exchanged freely. Similarly, psychiatrists should attempt to obtain patients’ prior treatment records. Past records can give the psychiatrist a more comprehensive and nuanced context in which to understand the patient. Additionally, the psychiatrist may benefit from the experiences of previous clinicians.
- **Monitor medications.** Medication levels and appropriate physiologic functions should be

monitored regularly; patient compliance with monitoring should be tracked.

- **Know and follow policies and procedures.** Psychiatrists working at facilities or in large practices should know and follow all relevant policies and procedures. The standard of care is largely established by the opinion of other psychiatrists, and since policies and procedures often are the result of a consensus of practitioners, the policies and procedures may be a close approximation to the standard of care.
- **Stay current with the field.** It is imperative that psychiatrists maintain competency with regard to the medications and other forms of psychiatric treatment they are providing. Psychiatrists should not hesitate to consult with or refer to colleagues when appropriate.
- **Do not prescribe for nonpatients.** Psychiatrists should not prescribe medication or treatment outside of a formal psychiatrist-patient relationship. This admonition includes prescribing over the Internet when there is no pre-existing psychiatrist-patient relationship, prescribing for individuals never seen by the psychiatrist, prescribing controlled substances for oneself, and covering for friends or family for anything more than an emergency situation. Prescribing medication or treatment creates a physician-patient relationship along with all the attendant obligations.

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## 2 DOCUMENT

The written treatment record stands as a testament of the treatment provided and the decision making behind it. The record comprises a significant and substantial part of the defense against any claim of malpractice against the psychiatrist. Highly defensible cases where the psychiatrist delivered seemingly flawless treatment have been lost or settled because of poor documentation by the psychiatrist.

- **Document the informed consent process.** All major aspects of patient care (e.g., suicide assessments, session times, authorizations, prescriptions, lab reports, the termination process, and follow-up on missed appointments) should be documented in the treatment record. Documenting the decision-making processes underlying treatment decisions is key to building a supportive record (i.e., what actions were taken and why, as well as what actions were rejected and why).
- **Never alter a treatment record.** The strength of the treatment record as evidence in a malpractice case is based on the idea that a contemporaneous record of actions and observations can reasonably be relied upon to be true and unbiased. Altering the record can result in an otherwise defensible case being rendered totally indefensible.
- **Be familiar with statutory and/or regulatory requirements.** Some state legislatures and/or licensing boards require certain minimum information to be made part of the treatment record.

## 3 SAFEGUARD PATIENT CONFIDENTIALITY

One of the duties a psychiatrist owes to patients is to maintain confidentiality with respect to information revealed in treatment. Where an exception to confidentiality exists, those exceptions tend to be narrowly tailored to allow the psychiatrist to reveal the least amount of information required to satisfy a legal or ethical requirement. For example, the duty to warn potential victims is frequently limited to disclosing the name of the potential perpetrator and the nature of the potential violence.

- **Maintain physical security of information.** Paper records should be secured physically. Electronic files, whether located in personal computers, laptops, or PDAs, should be secured both physically and electronically against theft or unauthorized access.
- **Do not automatically release information pursuant to a subpoena.** In most jurisdictions, a subpoena alone usually is not sufficient to release psychiatric information. Risk management advice is to contact the patient upon receipt of a subpoena and confirm whether the information is to be released. Even if information will not be released, the subpoena must be responded to.
- **The obligation to preserve patient confidentiality survives the death of the patient.** Upon the death of a patient, the psychiatrist certainly may make himself available to the patient's family. However, proper authorization by the appointed representative of the patient's estate or, in some instances, a court order is almost certainly required to release detailed information or a copy of the record.

## 4 TERMINATE TREATMENT WITH PATIENTS APPROPRIATELY

A psychiatrist owes certain legal and ethical duties to patients. In order to know to whom those duties are owed, it must be absolutely clear to the psychiatrist and to all relevant parties exactly who is and who is not a patient. Clarity in this area will reduce the risk of allegations of abandonment and malpractice.

- **Follow up with "no-show" patients.** The most frequently encountered area of uncertainty is the "no-show" patient. The psychiatrist should follow-up on missed appointments to ascertain the patient's intention with regard to continuing treatment. In some instances, a follow-up letter might be sent. This advice applies to initial appointments, as well, particularly if the new patient seemed to have an urgent reason for making the appointment. It may seem onerous or even counter-intuitive to take such steps in light of the patient's no-show, but if an allegation of abandonment or malpractice were to be made, the psychiatrist likely will be on solid ground having documented the steps taken to ascertain the patient's intent (i.e., having attempted to meet the patient's clinical needs).

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- **It is risky to terminate treatment with a patient who is in crisis.** It can be extremely risky to terminate treatment with an outpatient who is in crisis. Ideally, the psychiatrist should continue treating until the crisis is resolved. If the patient's condition requires hospitalization, the psychiatrist may terminate safely while the patient is hospitalized; the psychiatrist should inform the patient and the in-patient treatment providers that he is no longer the patient's psychiatrist and will not be available upon discharge. A brief, formal follow-up letter is a good idea.
- **Do not assume you have been "fired."** When a patient "fires" her psychiatrist, the psychiatrist should assess whether the patient is in crisis. If she is not, a formal termination letter should be sent to the patient confirming that the psychiatrist-patient relationship has been terminated and the psychiatrist is no longer available to the patient. If she is in crisis, the psychiatrist may need to remain involved until further action has been taken to assess and resolve the situation.

## 5 MAINTAIN CLEAR BOUNDARIES

Boundary violations are stereotypically thought to refer only to sexual activity with a current or former patient. In fact, boundary violations occur in varied and subtle forms. Furthermore, not all boundary violations are created equal; some violations are more serious and potentially damaging than others.

- **Do not undertake any course of action that would tend to exploit or hinder the psychiatrist-patient relationship.** This means that, for example, the psychiatrist must not enter into a non-treatment business relationship with a patient, must not enter into an employment relationship with the patient, must not loan to or borrow money from a patient, and must not develop a social relationship with the patient outside of treatment. Exceptions may apply in rare circumstances.
- **Do not barter services for treatment.** If the patient is unable to meet the financial obligations of treatment, the psychiatrist must either structure a workable payment schedule or refer the patient to other resources.
- **Be mindful of the potential for boundary issues to arise in any setting.** Not all boundary violations appear obvious from the outset. Indeed, many

situations begin quite innocuously. Psychiatrists should remain mindful that boundary violations have the potential to appear in any setting.

## 6 BE NICE

An amazing number of lawsuits arise simply because a patient becomes angry with her psychiatrist. Basic politeness and a good "bedside manner" on the part of the psychiatrist can go a long way towards reducing potential liability risk.

- **Engage in communication and informed consent.** A significant part of being nice includes communicating relevant information promptly and effectively to the patient and seeking the patient's informed consent to treatment. Psychiatrist should remember that informed consent is a process. As a patient's situation or treatment alternatives change, the patient should be consulted and her consent renewed. The informed consent process also helps prevent unrealistic patient expectations, a major source of liability risk.
- **Be honest.** The act of formally apologizing when a potential error comes to light is currently a highly controversial issue, not just in psychiatry but in medicine in general. Expressing heart-felt empathy about a particular outcome may reduce risk for the psychiatrist by strengthening the psychiatrist-patient relationship. However, it is not clear whether the additional acts of accepting blame or admitting error further these goals.
- **Practice a good "bedside manner."** Even during a turbulent period, such as terminating with an especially difficult patient, the psychiatrist should try to project a bedside manner that makes clear that the patient's care comes first.

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refer a colleague

# FOR EVERY REFERRAL, **WE DONATE TO MENTAL HEALTH**

Refer a psychiatrist or behavioral healthcare group practice to PRMS and we will make a **\$50** donation to the mental health organization of your choice, including your state psychiatric association!

## **TO PARTICIPATE, ASK YOUR COLLEAGUES TO FOLLOW THESE STEPS:**

1. Visit [Prms.com/Request](https://Prms.com/Request)
2. Complete the online information request form
3. Under "How did you learn about us?" select "Colleague/Word of Mouth"
4. Your colleague can then enter your name in the "Colleague Referral Name" or "Other" field
5. PRMS will contact you regarding your desired organization

*Your colleague does not have to purchase a policy in order to receive a donation!*

**HELP US TO ADVANCE ISSUES AND AWARENESS IN THE FIELD OF  
PSYCHIATRY! START EARNING DONATIONS TODAY!**



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# FEATURES AND BENEFITS



PRMS understands the unique practice issues psychiatrists face. Every aspect of our comprehensive medical professional liability insurance program reflects our dedication to protecting your practice, supporting your needs and defending your professional reputation.

## ✓ FINANCIAL STRENGTH OF INSURER

<b>Insurance carrier</b>	Fair American Insurance and Reinsurance Company (FAIRCO), New York, NY
<b>AM Best rating</b>	A+ (Superior)
<b>Standard and Poor's rating</b>	A+

## ✓ PRODUCT DETAILS AND INCLUDED COVERAGES

**Policy types:** Occurrence, claims-made

**Professional liability:** Broad definition of Psychiatric Services (includes publications, telecasting activities, peer review, teaching activities, clinical trials, etc.)

**General business liability:** An additional separate limit is included

- Premises liability
- Personal and advertising injury

**Breach of privacy/confidentiality:** Up to policy limit; additional \$25,000 limit for first-party crisis expenses is provided

**Administrative defense:** \$50,000 defense costs for disciplinary or similar proceeding commenced by a government/quasi-government, professional society, hospital or healthcare organization

**Telepsychiatry**

**Forensic services**

**Sexual misconduct:** \$25,000 sub-limit

**Loss of earnings for assisting defense:** \$1,000 per day, no aggregate

**Legal bond costs**

**Non-party testimony or document**

**Production expense**

**Personal injury/advertising injury**

**Defense expenses in addition to limit**

- Legal bond costs
- Vicarious liability

**Insured consent to settle with no arbitration clause**

**Locum Tenens**

**Temporary suspension of coverage**

**Premium waived for tail coverage in case of death or permanent disability**

**Premium waived for tail coverage in case of retirement if age 55 or more** (after five continuous years of claims-made coverage)

**Premium waived for tail coverage based on other reasons** (after 10 continuous years of claims-made coverage)

**Insurer has duty to defend**

## ✓ PROGRAM SERVICES

- Risk management services**
- Our Risk Management Consultation Service (RMCS) helpline has advised psychiatrists on over 70,000 risk management issues since the inception of the RMCS in 1997
  - We are Accredited with Commendation by the ACCME
  - We offer complimentary in-person and online CME education developed and presented by PRMS
  - As the leading resource in psychiatric-specific risk management education, PRMS regularly publishes articles in industry journals

**Client services** Easy access to your account advisor and client services to handle your policy needs such as:

- Practice hours and address changes to your policy
- Requests for proof of coverage
- Add/delete employees

**Claims services** PRMS has managed over 22,000 psychiatric medical malpractice claims, more than any other company in the United States

**CONTACT US**

[TheProgram@prms.com](mailto:TheProgram@prms.com)

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**(800) 245-3333**

# YOUR SPECIALIZED PRACTICE IS SAFE WITH US

## WE PROTECT YOU

PRMS understands that each psychiatric specialty possesses its own unique set of challenges, which is why we have tailored our policy to meet your needs.

With rates designed to reflect your risks and expert risk management materials on topics relevant to your specialty, you can rest assured that your policy covers you for the type of psychiatry you practice.

Specialty-specific protection is just one component of our comprehensive professional liability insurance program.

When selecting a partner to protect you and your practice, consider the program that puts psychiatrists first. **Contact us today.**



**MICHELLE ROBINSON, RPLU**

SENIOR ACCOUNT ADVISOR

**PRMS, 13 YEARS**



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# FACT vs. FICTION

Written by Professional Risk Management Services (PRMS)

**MAY 2021: You can terminate care with a patient without abandoning the patient.**

**What do you think - fact or fiction? Fact!**

We often face reluctance from psychiatrists when we discuss terminating with a patient who has been non-adherent to the treatment plan. Typically this reluctance, which can be significant, stems from a belief that terminating treatment with a patient means the psychiatrist is abandoning the patient, and that their care (though substandard because of the patient's non-adherence) is better than no care. Even during the pandemic, with a greater shortage of psychiatrists available for new patients, substandard care is in fact negligent care. By following the proper termination process, which includes providing notice to the patient (which varies by state, but typically is 30 days), providing referral resources, and confirming the termination in a letter, they can put an end to the negligent treatment and avoid an allegation of abandonment. For more information on this topic, you can view our article [here](#).

**JUNE 2021: When parents continue to pay for services once a patient turns 18, they continue to have access to patient information the same as when the patient was a minor.**

**What do you think - fact or fiction? Fiction!**

Once a patient turns 18, parents no longer automatically have the right to access the patient's record. Once a patient turns 18:

- To release information to parents, even if they are continuing to pay for your services, you need the patient to authorize such release.
- If parents had access to the patient's records on your patient portal, be sure to discontinue that access.
- Remember to get informed consent from the now adult patient for all medications, even those the patient is currently taking.

**JULY 2021: A psychiatrist's former patient has posted a scathing online review of the psychiatrist, his practice, and his treatment. The patient didn't include a name, but he is positive he knows the author of the post. The psychiatrist feels he must respond to the post given the ridiculous lies, but knows he is limited in exactly what he can say due to confidentiality. However, since the patient shared in the post that she was in treatment with him and the fact of treatment is no longer confidential, the psychiatrist believes he can address the patient's false statements by posting his response.**

**What do you think - fact or fiction? Fiction!**

Even though a patient tells the world of your treatment, you cannot acknowledge that the reviewer was treated by you. For more information, click here to access "[10 Things to Know about Online Reviews.](#)"

**View more Fact vs. Fiction challenges at [PRMS.com/Facts](https://prms.com/facts).**



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## TRY OUR EXPEDITED ONLINE APPLICATION

**Switching your psychiatric malpractice insurance coverage is easier than ever!**

- Our new online application is condensed and easy-to-use, streamlining the process for you.
- You do not need to purchase tail coverage to switch!
- Our enhanced policy offers some of the best coverages available at no additional charge – a separate limit of \$150,000 for administrative defense coverage, and many others.
- Coverage is automatically included for telepsychiatry and forensic services.
- Access to hundreds of risk management resources, including free in-person and online CME courses and our RMCS helpline.



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## Q&A with PRMS Insurance Services Team

An insurance policy with PRMS provides our clients with peace of mind. PRMS' Insurance Services team shares a few of the most common questions they receive from clients – and just what's so great about a PRMS insurance policy.

### What has been the most common question received by Insurance Services in light of the current pandemic?

Over the last few years and, especially now during COVID-19, we are consistently asked if our policy covers telepsychiatry. The answer is, "yes!" – in accordance with the terms and conditions of our policy. If you are currently a client with PRMS, and are thinking about practicing telepsychiatry contact [clientservices@prms.com](mailto:clientservices@prms.com) to update your records with us.

But, we're more than our coverage and, now more than ever, we're providing our services as support during the pandemic. Our Risk Management department has monitored licensure changes and updates for all 50 states and the District of Columbia, updated resources regularly, provided answers to [frequently asked questions](#), and shared all the above via updated alerts on the topic weekly – not only with PRMS clients, but also the greater psychiatric community. **Insurance is more than coverage when you need us; it's also day to day practice protection.**

- Victoria Watkins, RPLU, Assistant Director of Underwriting

### What should a psychiatrist look for in a medical professional liability policy?

There are several features we at PRMS believe make a strong and more appealing option. First, being a psychiatric-specific program is important – which means an unparalleled level of expertise from underwriters, risk managers, and the claims team. Second, insuring telepsychiatry – which has been paramount this year facing the pandemic. Third, the additional perks, such as our license

defense coverage up to \$150,000 at no additional cost. Fourth, strength in carrier – our carrier, Fair American Insurance and Reinsurance Company, is highly rated by AM Best and Standard & Poor's, and is financially strong. You want to make sure that your insurance company not only can defend you, but pay claims years later, if necessary.

Beyond the actual coverage needs, it's also important that your policy provides you with support not only during a malpractice suit, but also with other services like responding to subpoenas or potential claims. All of this, as well as risk management guidance, helps mitigate your risk.

- Rich Stagnato, RPLU, Account Manager

### I'm a forensic psychiatrist – do I need insurance?

Yes. Simply providing opinions to courts, for example, is low risk but that does not mean there is no risk.

A few years ago, we had a forensic psychiatrist come to us with thoughts of cancelling their policy. Our client luckily made the decision not to cancel the policy and the following day, after having doubt, the doctor received a subpoena to appear in court.

- Chris Torre, Senior Account Advisor

### Occurrence policy and claims made policy – what do they mean, and why is it important to me?

Generally, a claims-made policy protects you when you are named in a practice-related legal proceeding (e.g. lawsuit) if both the legal proceeding is "made" against you and the psychiatric service was provided during the policy

period. The limits of liability in effect at the time the legal proceeding is filed will apply. Should you cancel your policy, generally with this type of coverage, you should consider additional coverage to extend the reporting period – commonly called tail coverage. Premium for tail coverage may be waived in cases such as retirement, longevity with the program, death, or permanent disability. However, when switching from another company's claims made policy to PRMS, you may not need to buy its tail coverage. [Click here](#) to see how and when tail coverage may not be necessary with PRMS.

An occurrence policy protects you in a practice-related legal proceeding as long as the policy was active at the time the treatment or incident occurred, regardless of when the legal proceeding is filed. The limits of liability in effect at the time of the "occurrence" will apply. Should you cancel your policy, you do not need to buy tail coverage with the occurrence policy.

PRMS offers both types of policies and can recommend the best option for your practice. Most other insurance companies only offer claims-made policies, but you may be able to switch your retroactive date to PRMS without buying the other company's tail coverage.

- Michelle Robinson, RPLU, Senior Account Advisor

## **Do I need insurance if I'm a resident and considering moonlighting?**

One of the great things about a PRMS policy is that we're here throughout the various stages of a psychiatrist's career. For a resident or fellow, we can cover moonlighting activities outside the training program when the employer does not provide coverage – and, in many states, we offer up to 80% in discounts for moonlighting. And, because we offer policies in all 50 states and the District of Columbia, there's no need to switch carriers throughout a doctor's career after residency if you move or see patients in multiple states. If you're considering starting a private practice or changing insurance at any point during your career, we can advise you on the appropriate policy and time frame for applying for a policy with PRMS.

Our risk management team also provides extensive resources to help you throughout your career from

starting a private practice to closing your practice upon retirement – we have you covered!

- Renee Lewis, Insurance Services Administrator

## **I have two other psychiatrists in my private practice, but we're all covered by different insurers. Is there a convenient way to insure them?**

We make it easy. PRMS offers group policies! In addition to psychiatrists, behavioral healthcare providers such as nurse practitioners, psychologists, social workers, therapists, and others can be covered as a group under one medical professional liability insurance policy. The benefits of an individual policy are available to the practice and providers insured with it.

- Remy Palmer, RPLU, ARM, Senior Account Manager

## **What makes PRMS a strong partner?**

Simply put, PRMS 'gets' psychiatrists. For nearly 35 years, the behavioral health care community has always been the foundation of our company, and we continue to carry out our mission of service to our doctors and the causes they care about by supporting a number of charitable mental health organizations. Plus, we are proud to partner with more than 40 psychiatric organizations – state, regional, and national psychiatric associations – and support many other organizations and foundations across the country.

PRMS has also managed more than 29,000 psychiatric claims, lawsuits and events since 1986 – more than any other company in the country. We take pride in our hands-on, personalized service to give our clients peace of mind – providing expertise, guidance, and support to psychiatrists during difficult and stressful times.

- Megan Jones, MBA, ARM, Assistant Director of Insurance Services

## **I'm already insured with PRMS. But I know colleagues that want to learn more. How can I get them in touch?**

[Refer](#) them to PRMS! To further our efforts of supporting our clients and the behavioral healthcare community at large, PRMS will make a

donation to a mental health organization of the referrer's choice for each referral received, regardless of whether a policy is purchased. It's our way of thanking our loyal clients and supporting the mental health causes important to them.

- Megan Jones, MBA, ARM, Assistant Director of Insurance Services

## What can I expect when I apply for PRMS insurance?

We work with you every step of the way to ensure your transition to PRMS is fast and efficient. You can request a quote [online](#) or by emailing [ClientServices@prms.com](mailto:ClientServices@prms.com). We will find out more information about your practice and policy needs so that we can provide you with a customized quote.

Based on your practice location, you may be eligible to use our online [Self-Guided Application](#) (SGA). Our secure online application will guide you step-by-step through the application process, provide you with helpful hints, allow you to upload any pertinent documentation, and permit you to sign up online to ensure an efficient process. After your application has been reviewed and approved, you will be sent an invoice to activate your coverage. We have several payment options including online payment via check or credit card. We also have financing available and will be happy to discuss your options.

Once you have paid for your policy, you will have online access to our client-specific MyProgram portal and all of the risk management resources, CMEs, policy documents, and more information, right at your fingertips!

- Rich Stagnato, RPLU, Account Manager

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