



The Florida Psychological  
Association

**PRACTICE TIPS  
FOR  
EARLY CAREER PSYCHOLOGISTS**

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## **FLORIDA PSYCHOLOGICAL ASSOCIATION**

### **PRACTICE TIPS FOR EARLY CAREER PSYCHOLOGISTS**

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## **SECTION ONE – SETTING UP SHOP**

### **A. BUSINESS STRUCTURE**

Before you put out your shingle and start seeing patients, you will need to create your business. Here are the options for organizing your business. Get the advice of an attorney and/or accountant to determine which structure best fits your needs and ensure that all the necessary paperwork is filed appropriately:

(a) Sole Proprietor

(1) Definition: A business entity owned by one person.

(2) Advantages: The owner pays personal income taxes on the profits made. There is no double taxation, as in a corporation. Accounting is more simple.

(3) Disadvantages: The business has unlimited liability; if the business is sued, the proprietor is personally liable.

(b) Partnership

(1) Definition: A business entity in which owners share with each other the profits or losses of the business.

(2) Advantages: Personal income tax rates are used, and in some cases the partners may have limited liability on the debts.

(3) Disadvantages: The business entity ceases to exist upon the departure of a partner. Some arrangements leave the partners liable for all debts, as in a sole proprietorship.

(c) LLC (Limited Liability Company)

(1) Definition: The entity is a hybrid of both a corporation and a partnership. It provides its owners with limited liability for the actions and debt of the company as in a corporate setting, but it is taxed like a partnership.

(2) Advantages: An LLC can elect to be taxed as a sole proprietor, partnership, S corporation or C corporation, providing much flexibility. The owners, called "members," are protected from some liability for acts and debts of the LLC, but are still responsible for any debts beyond the fiscal capacity of the entity. LLCs require less administrative paperwork and record keeping than a corporation.

(3) Disadvantages: There is more paperwork than is required in a sole proprietorship, such as the need for Articles of Organization and annual reports filed with the state. New LLCs may have more difficulty securing capital.

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### (d) Corporation

(1) Definition: A legal business entity which is given many of the same legal rights as an individual. The actual people involved in the business receive limited liability protection.

(2) Advantages: Protection for the owners from liability and lawsuits.

(3) Disadvantages: Double taxation and complex record keeping.

### (e) Professional Services Corporation / Professional Association (PA)

(1) Definition: A group of one or more licensed professionals incorporated for the purpose of delivering the same service to the public.

(2) Advantages: PAs can fully deduct the cost of insurance premiums, and there is some protection for the owners for any acts of malpractice committed by employees. The tax benefits may be better than a sole proprietorship or partnership.

(2) Disadvantages: You must keep accurate records, including corporate minutes, employment agreements, lease agreements, and annual state reports.

### Resources:

[www.sunbiz.org](http://www.sunbiz.org)

[www.irs.gov](http://www.irs.gov)

[www.leg.state.fl.us](http://www.leg.state.fl.us)

## **B. CREATE A BUSINESS PLAN**

Having a business is one thing; knowing HOW to run it is something else. If you do not have a concrete plan in place, you may as well be in a boat without a rudder - you might find land, but it will take you twice as long to get there and it may not be what you were hoping to find!

Here are some of the key components of a Business Plan:

**Title Page** – Provides names, addresses, and fax/phone numbers of the venture and its owners and management personnel.

**Table of Contents** – Provides page numbers for the key sections of the business plan.

**Executive Summary** – Provides a one to three-page overview of the total business plan. Written after the other sections are completed.

**Vision and Mission Statement** – Concisely describes the intended strategy and business philosophy for making the vision happen.

**Company Overview** – Explains the type of company, provides background information on the company if it already exists, describes the proposed form of the organization – sole proprietorship, partnership, or corporation.

**Services Plan** – Describes the product and/or service and points out any unique features, explains why people will buy the service. Should include: services provided and why services have a competitive advantage.

**Marketing Plan** – Shows who the firm's customers will be and what type of competition it will face; outlines the marketing strategy and specifies the firm's competitive advantage. Should offer an analysis of the target market, methods of identifying and attracting customers, selling approach, types of sales promotions and advertising, etc.

**Management Plan** – Identifies the key players – active investors, management team, and directors – citing the experience and competence they possess. Discusses the management team, plans for recruiting and training employees.

**Financial Plan** – Specifies financial needs and contemplated sources of financing, presents projections of revenues, costs, and profits.

**Appendix of Supporting Documentation** – Provides materials supplementary to the plan.

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Here are some additional tips to get you heading in the right direction.

1. Determine your niche(s) and what areas of practice you prefer. Having a broad specialty is perfectly acceptable, however, you need to be specific in the description so that referrals find you.
2. Research your location to know your competition (a/k/a colleagues). Do your homework and know what services other providers are offering in the community.
3. Consider how to differentiate yourself from other mental health colleagues in private practice: the services you offer, specialties, age, gender of your client/patient population, hours/days you are available (evening and weekend hours are in demand).
4. Consider how to align yourself with other mental health colleagues in private practice. Your services may complement your colleagues', which will lead to referrals for all of you.
5. Forecast your earnings and expenses for the year. Break the revenue into units of service, not just hourly rates. This will help you set fees that will allow you to make your financial goals; it will help you decide which types of services to focus upon; and it will assist you in your decision to accept insurance, Medicare, and/or fee for service patients.
6. Be flexible. If things aren't working the way you thought they would, adjust.

## C. ADVERTISING AND MARKETING

Repeat after me:

**“Self Promotion is GOOD. Self Promotion is GOOD. Self Promotion is GOOD. Self Promotion....”**

You get the picture.

Psychologists are altruistic and helpful. Some psychologists believe this forbids them from being successful and wealthy. Altruism and wealth are NOT mutually exclusive. You help patients in need and you deserve to earn a good income for providing that help! But you can't get them in the door if they don't know where to find you. Below are a few ways by which you can advertise and market your services, but first you need to know the rules:

### **64B19-17.003 Advertising.**

The following rules pertain to the requirement in Section 490.012(2), F.S., that licensees must include the words "licensed psychologist" on all professional advertisements:

(1) A professional advertisement is any medium used to solicit clients, such as a listing in the yellow pages of a telephone book or an announcement of the availability of services in the newspaper or on the radio or television.

(2) Business cards and stationery are not professional advertisements.

(3) A listing in the white pages of a telephone book is not a professional advertisement unless the listing is distinguishable from the listings of non-licensees.

(4) A professional advertisement must include the words "licensed psychologist" regardless of whether the licensee paid for the advertisement or not.

(5) A psychologist must include the words "licensed psychologist" on all advertisements in which the psychologist's name appears, even if the name appears as part of a professional association or any other entity providing psychological services.

(6) The Board recognizes that in some instances, a psychologist may not be aware of the fact that a yellow page listing exists for the psychologist. For that reason, the Board will not prosecute the psychologist unless the listing was paid for by the psychologist or by anyone other than the yellow page company. Upon receipt of information that a yellow page listing exists, however, the psychologist must either prevent a future listing from occurring or pay for the insertion of the words "licensed psychologist" in the listing.

*Specific Authority 490.004(4) FS. Law Implemented 490.009(2)(d), 490.012(2) FS. History—New 1-16-92, Formerly 21U-18.005, Amended 6-14-94, Formerly 61F13-18.005, 59AA-17.003, Amended 9-18-97.*

### **456.072 Grounds for discipline; penalties; enforcement.--**

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(t) Failing to identify through written notice, which may include the wearing of a name tag, or orally to a patient the type of license under which the practitioner is practicing. Any advertisement for health care

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services naming the practitioner must identify the type of license the practitioner holds. This paragraph does not apply to a practitioner while the practitioner is providing services in a facility licensed under chapter 394, chapter 395, chapter 400, or chapter 429. Each board, or the department where there is no board, is authorized by rule to determine how its practitioners may comply with this disclosure requirement.

### **64B19-17.004 Citations.**

In lieu of the disciplinary procedures contained in Section 456.073, F.S., the offenses enumerated in this rule may be disciplined by the issuance of a citation. The citation shall include a requirement that the licensee correct the offense, within thirty (30) days, impose whatever obligations will correct the offense, and impose the prescribed penalty. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included. In addition to the fine indicated, the licensee shall pay the Department's cost of investigation.

(11) Violation of Section 456.072(1)(t), F.S., (for failing to identify type of license): \$100 fine.

Some common marketing options include:

1. Yellow pages
2. White pages
3. Newspaper
4. Radio and Television ads
5. Find a Psychologist on the FPA website
6. Website
7. Billboards

Some creative marketing options:

1. Be the contact person for a local reporter (TV, radio or newspaper).
2. Offer free seminars to the public.
3. Contribute to local newspapers as a columnist.
4. Write letters to the editor.
5. Offer to speak at area Kiwanis Club or Chamber of Commerce meetings.
6. Become involved in your FPA Chapter so that your colleagues know to refer patients to you.
7. Get to know your local medical doctors.
8. Volunteer with community organizations.

## D. TIPS FOR GETTING REFERRALS

Advertising alone will not likely result in a thriving practice. Kevin Costner's philosophy, "If you build it, they will come" may have worked for him, but you will have to rely upon good old networking and community outreach to enhance your practice. Belonging to an organization like the Florida Psychological Association allows you to meet fellow practitioners and gives you exposure to the public through the website. Additional effective referral sources include medical doctors, school counselors, other psychologists, or other professionals that may also work with your target clientele. You should make sure they know what services you offer so that they can refer their patients to you.

Prepare a letter of introduction BRIEFLY introducing yourself (not more than 1 page). This should be a personal letter and not a form letter; although it is possible to produce personalized letters in quantity using various word processing programs. The letter should provide a brief overview of your professional background and training, identify your areas of clinical practice, and specifically state that you're interested in receiving new referrals. It also helps to provide some brief personal information about yourself or your family. In the letter, mention that you hope to have a chance to meet with the person personally, indicating that you might be calling to try to arrange such a meeting. Include several of your business cards and a practice brochure if you have one. You then select several providers each month and call their office to see if you might arrange to take them out to lunch, breakfast, etc. When you call, be brief. Introduce yourself, mention the letter you had sent and invite them to lunch (or whatever) in order to get to know each other better. Whether the person agrees to this or not, the point is that you have made the effort and this will help them to remember you.

This same set of suggestions can be applied to other health care providers such as "physician extenders" (physician assistants and licensed nurse practitioners) or to other potential referral sources such as clergy. If your specialty includes working with children, you can contact the local board(s) of education in order to obtain a listing of all school counselors or psychologists. You can then forward on a letter of introduction to such persons and follow-up with phone calls in order to make personal contact as noted above.

Both in your personal and professional life, seek out opportunities to make contact with people who are potential referral sources. Keep business cards with you wherever you go and think through how you can explain the "essence" of your practice in just a few sentences. Folks you meet will often ask if you have a specialty. Think of a few short phrases to respond to this question so that you can receive referrals. Don't forget to tell potential referral sources that you're accepting new clients.

## **E. Sources of Income**

Managed Care versus Self-Pay clientele

Managed Care:

Potential Pros:

- Referral Source
- Ease of access for potential clients
- Cost Factor for clients

Potential Cons:

- Feelings of loss of control over treatment
- Billing can be a hassle
- Additional paperwork
- Set number of sessions/diagnoses that will be reimbursed
- Delay in reimbursement
- Low reimbursement rates

Potential Other Sources of Income

- Presentations
- Publications
- Government sources
- Contractual services
- Use your creativity!

## F. GETTING ON INSURANCE PANELS

### **Question: What is an insurance panel?**

**Answer:** Each insurance company has a list of providers to whom they will pay claims for any of their insureds. When the company has an approved list of providers, this is called an insurance panel. If the provider is a member of the panel, the insurance company will pay the provider directly if he or she so desires. If the provider is not a member of the panel, the insurance company may send any payment directly to the insured unless the insured instructs the company to send the payment to you.

### **Question: What is the language used by insurance companies about panels?**

**Answer:** Insurance companies speak of panels as being “open” or “closed.” An open panel is one in which the insurance companies are adding new providers to that panel. A closed panel is one in which no new providers are being added.

A phrase that is used is that of a “phantom panel.” A phantom panel exists when an insurance company publishes a list of their providers, some or many of who are not actually on the panel. This can occur because the company does not update its list regularly. It most frequently occurs when the company will publish a list and then have significant withdrawals of providers from the panel. The list shows a great number of providers when, in fact, the number available to insureds is much less than the list would indicate. Such an instance happened in Virginia in 2003 and resulted in a lawsuit against the company for misrepresenting their provider panel.

### **Question: How are panels determined?**

**Answer:** Insurance companies who do not accept any willing provider will have a limited number of providers on their panel. Typically, they attempt to have a certain number of providers in each medical specialty proportionate to the population of a specific geographical area. The insurance company determines whether or not they have enough providers by noting the number of providers in a specific zip code. While one zip code may have a plethora of providers, another twenty miles away may have very few. Insurance companies consider a provider who has an office within a specified number of miles of the insured’s address as being able to provide services to that insured. That mileage number may be twenty, thirty, fifty, or some other number; it is determined by the company. Thus, if your office is in one zip code you may be refused for a panel, whereas, if you are in another zip code farther away, you may be accepted. Some MCO’s say that they have open panels but the panels are, in fact, fairly limited. The panel is “open” only to the degree that they need a specific type of provider. Thus, if you have, for example, a second language, e.g. Spanish, you may have a better chance of being accepted for a panel than if you speak only English.

**Question: How do I apply to join a panel?**

**Answer:** One must complete the provider application process that typically involves documenting your legal authority to practice. Thus, the application will ask for your education and employment history, often requiring copies of your diploma, in addition to requiring copies of your current license. Sometimes the application process seems unduly long and detailed, but the process is a very expensive one for companies because they must go to great lengths to assure that forgeries are not presented to them. Once they accept someone for a panel, they become legally liable for accepting that provider as having the legal authority to practice. There is no guarantee that your application will be accepted.

Some insurers use a third party company to gather and evaluate provider information. Reputable companies do not charge for providers to apply to their panels.

**Question: Should I join a panel?**

**Answer:** This is an individual decision for the provider and several elements should be incorporated in the decision. You will want to do your homework and speak with other providers about their experiences with different companies. Companies often require preauthorization for services and some companies require more paperwork than others. Also, preauthorization is easier to obtain in some companies than others. Promptness of payment is also a factor, as is the ease with which the provider can speak with a “real person” on the phone as opposed to a recording or the company’s voicemail.

Some providers refuse to join panels and only accept “fee for service” clients. Reasons cited for this decision include delay in payment of claims, denial of claims, and reduction in reimbursement rates. Other providers only accept clients who are covered by insurance. Reasons cited for this decision include guaranteed payment, good referrals and steady business.

Ultimately, the decision is with you and you should carefully weigh the pros and cons.

**Question: What are the benefits of joining a panel?**

**Answer:** When a provider belongs to a panel, the provider will see a client at the reimbursement rate determined by the company and agreed to by the provider. This typically allows the insured a lower co-payment than might otherwise be paid and is generally of financial benefit to the insured. In addition, companies may refer to the panel providers directly, giving the insured the provider’s name when the insured calls for preauthorization.

**Question: What are the liabilities of joining a panel?**

**Answer:** When a provider belongs to a panel, the provider agrees to a reimbursement rate set by the company. This rate is typically lower than the rate that the provider might otherwise charge. The provider is bound by this contracted rate and may not charge the difference between what the insurance company allows and the provider's normal rate. If the provider does this, it is called "balance billing." Other liabilities may be noted as the provider reads his contract carefully but reimbursement is the area that receives the most attention.

**Question: How do I withdraw from a panel?**

**Answer:** The process of withdrawing from a panel is typically listed on the company's website. Usually it involves submitting a letter of resignation followed by a lag time after the letter has been received. This lag time may be 30 days or up to 90 days until the provider is officially removed from the panel. Calling and telling them that you wish to be removed from the panel is not sufficient, nor is simply not returning a recredentialing packet. You must notify them in writing.

**Question: How do I know if the insurance company has a panel?**

**Answer:** You must ask the company's provider relations office. A telephone number is usually provided on a client's insurance card and you can reach the company that way, or you may access them through their website. In some cases it is possible to see patients on a case-by-case basis without actually joining a managed care panel, if you are willing to accept the company's managed care rate.

**Question: Where do I find information about applying for a panel?**

**Answer:** Each company has this information on their website. Here are some companies that practice in Florida:

Aetna - [https://www.aetna.com/provider/forms\\_secure/bh\\_form.html](https://www.aetna.com/provider/forms_secure/bh_form.html)

BCBS - <http://www.bcbsfl.com/index.cfm?fuseaction=phyHowToReachUs.ParticFAQs>

Humana - <http://www.humana.com/providers/enroll/>

United Healthcare - [http://www.uhc.com/physicians/join\\_our\\_network.htm](http://www.uhc.com/physicians/join_our_network.htm)

Patients rarely know if their insurance covers them for "outpatient mental health" services. They should be encouraged to contact their insurer and ask before assuming that services will be covered. Some clinicians make these contacts themselves to verify coverage, co-pays and status of any deductible.

## **G. ACCEPTING MEDICARE**

The decision to accept Medicare patients is complicated and you should know the pros and cons. Be aware that Medicare patients include those over age 65 and many of the disabled. As a Federal program, Medicare rules require that you conform to their rules with a Medicare-eligible patient (i.e., anyone over age 65), even if the patient does not want you to bill Medicare and/or the patient wants to self-pay. In addition, even if you choose to not be a Medicare provider, the Federal government limits how much you can collect for services from any Medicare-eligible patient. For more information on this program, visit the FPA web site under "Insurance."

## **H. ACCEPTING MEDICAID**

Medicaid in the state of Florida does not typically pay private practitioners unless it is under the auspices of a managed care plan that is contracted to provide the services to Medicaid patients.

## **SECTION TWO – BUSINESS ASPECTS OF PRACTICE**

### **A. KEEPING THE BOOKS AND PATIENT ACCOUNTS**

**Question:** I am a psychologist, not a businessperson. I earned a PhD, EdD or a PsyD, not an MBA. How much of a businessperson must I be?

**Answer:** You have to accept that there are a small number of unavoidable business aspects of clinical practice that must be followed, not only to provide good clinical care but also to comply with legal and tax requirements.

The provision of mental health and behavioral health services is much more “industrialized” than it was a few years ago. Third-party payers and other stakeholders are in the business of making money. You interact with them and have to deal with the agenda they establish. Even if you chose to have your practice entirely separate from managed care and insurance, you still need to keep up with income and expenses.

You need to know your income and expense situation so you can file taxes accurately and you can make informed decisions concerning your personal financial situation. Business finances are different from personal finances, particularly in the era of managed care when cash flow can be problematic.

**Question:** How do I keep track of my business finances?

**Answer:** There are a variety of ways to approach this. You can consult an accountant, either for ongoing services or to help you set up your books. You can consider one of the “off the shelf” products that are available in the marketplace. You can hire a bookkeeper.

There are several computer-based applications that can be of assistance. **Intuit’s Quicken** is useful for personal finances and has a small business add-on that allows you to keep your personal finances separate from business expenses and income. **Microsoft Money** also has the same capacity. Some more intrepid souls create their own spreadsheets using **Microsoft Excel** or similar programs. If you have employees or want to invoice clients, you might consider **Intuit’s QuickBooks**.

Have a credit card that you dedicate exclusively for business expenses. (Interest on that account can be deductible.)

**Question: How do I keep track of patient accounts?**

**Answer:** Because of managed care, it is not unusual that you collect only co-pay at the time of service and file with the insurance company for the remainder.

It is important to keep up with what clients owe and collect in a timely manner. Sometimes a client does not pay the co-pay for a session and pays the next co-pay. If you do not track the co-pay precisely, it is difficult to know when the client paid and for what session.

Outstanding patient indebtedness has clear clinical implications and ramifications. Not keeping good records increases the likelihood that patients can owe you significant sums of money, which can intrude in the clinical process. Trying to collect past due accounts can increase your exposure to a licensing board complaint or a malpractice suit. (Clients can allege that they did not pay because the service was inadequate.) You do not want to fight one of those battles. Even if you win, it can cost you several thousand dollars and several sleepless nights. The fact that you have done nothing wrong does not lessen the anxiety of having to deal with a licensing board or malpractice action.

Insurance companies make mistakes – often. They might pay for sessions 1, 2, 3 and 5 but neglect to pay for session 4. You have to track what insurance companies pay and for what service. You have to assign receipts to specific dates of service.

Insurance companies often authorize a number of sessions in a certain period. You have to keep up with the number of authorized sessions and the time that the authorization is active. Failure to do so can result in insurance companies refusing to pay. When insurance companies make mistakes, you have to keep after them to resolve the difficulty. If you make a mistake (miscount the number of remaining authorized sessions or period), often there is no recourse. Some insurance companies refuse to authorize retroactively, and you are “out of luck.”

Find a system that you can master and that you feel comfortable with because you will need to use it. There are numerous billing programs available commercially.

## **B. BUSINESS ASPECTS: BILLING**

**Question: What are the main ways of billing patients for services?**

**Answer:** There are multiple ways – here are some examples:

1. Patient pays the full fee, no insurance involved.  
Advantage: maximum confidentiality, minimal paperwork  
Disadvantage: may not be affordable by many patients
2. Patient pays full fee, later files for reimbursement from insurance company, bills insurance (not allowed by many insurance companies).
3. Patient pays co-payment (may range from \$10 to \$50), patient pays at time of session, psychologist bills insurance or HMO, usually must be on provider panel and be in-network, otherwise considered out-of-network.
4. Patient has a deductible to meet for insurance, has to pay full fee (always copy insurance cards and note whether there is a secondary insurance. Call or have clerk call insurance to check on eligibility, deductibles, co-payments, authorization number if preauthorization is required, number of sessions authorized, whether service is covered, address for claims).
5. Patient has Employee Assistance Program, no co-payment involved, psychologist bills HMO for full or negotiated fee, usually brief therapy.

If the claim is denied, the insurance company should be called to obtain further information on why the claim was denied (they may have made an error, or there may have been an error on the claim). You may then need to write a letter of appeal to the company, if you believe the claim was unfairly denied.

**Question: What are the main ways of billing HMO, preferred provider organizations, or insurance companies?**

**Answer:** Here are examples of the main ways to bill:

1. Paper claims (Health Insurance Claim Forms or HCFA-1500 can be purchased at many office stores, such as Office Depot, or through the Government Printing Office in Washington, DC)
2. Electronic billing through computer program
3. Electronic billing through third party or billing or practice Management Company

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4. Billing through Web site (e.g. see Web sites for Cigna Behavioral Health, Magellan, United Behavioral Health, Tricare)

See the American Psychological Association Web site for new medical-behavioral CPT codes, used for behavioral services to patients with physical health diagnoses.

## **C. HOW TO COLLECT UNPAID BILLS**

**Questions: Any advice on what to do about unpaid bills?**

**Answer:** The best way to deal with unpaid bills is to avoid the problem. A good way to generally avoid the problem is to have payment expectations specified in a clear manner in a Psychologist-Patient Services Agreement which the patient is to read and sign before receiving any services. The Psychologist-Patient Services Agreement should also specify the procedures that the psychologist would pursue if payments are not made in a timely manner. These procedures could include late payment fees for each month that the expected payment is not received. If no payments are made for a lengthy time (to be specified such as two months) then the psychologist would have the right to pursue a collection through other specified means (such as collection agencies or small claims court). It is recommended that psychologists be cautious about using collection agencies because the psychologist has no control over statements made to the patients in an effort to obtain payment.

The Psychologist-Patient Services Agreement should also specify any expectations the psychologist has for payment for missed appointments, lengthy phone calls, etc.

If a patient is willing to make payments but is unable to pay the expected amount per session, then a payment schedule could be agreed to with the amounts and times of the payments being specified and signed by each of the parties making the agreement.

You are allowed to use a collection agency if your attempts have failed. FPA currently endorses IC Systems, and you are within your rights to utilize their services.

### **WARNING:**

**Florida law prohibits you from conditioning the release of records upon payment of any unpaid balance. Chapter 456.057(6).**

## SECTION THREE – OTHER CONSIDERATIONS IN PRACTICE

### A. OTHER CONSIDERATIONS: VOICE MAIL

**Question:** What information should I provide on my voice mail message?

**Answer:** The following is an example of a voice mail message:

Hello, you have reached the confidential voice mail of \_\_\_\_\_; if you wish to bypass my (our) message and leave your own message, you may press 1 at any time. Please speak slowly and clearly your name and phone. We will call you back as soon as possible. You may page me in an emergency at \_\_\_\_\_(pager number) at any time, or if the emergency is life threatening, call 911, or go to your local hospital emergency room. If you need directions to my office, you may listen to the following: \_\_\_\_\_  
Thank you, and please leave your message now:

### B. OTHER CONSIDERATIONS: EMERGENCY COVERAGE

**Question:** What issues should be considered regarding emergency coverage?

**Answer:** Independent practice psychologists employ emergency coverage solutions ranging from a simple voice mail message directing clients to the local emergency room to being on continuous pager call as well as having another psychologist take calls during vacation periods. It is recommended that psychologists provide emergency coverage services at a level of accessibility that is suitable to the clinical needs of the clients being treated. It is further recommended that a discussion of emergency coverage be incorporated into the informed consent process. This would include a discussion of the method of reaching the psychologist in an emergency as well as a back-up plan should that method not work.

The APA Ethical Principles of Psychologists and Code of Conduct does not contain a specific standard that addresses emergency coverage. However, ethical standard 3.12 (Interruption of Psychological Services) comes closest to specifically addressing it and needs to be considered. Similarly, 3.04 (Avoiding Harm) and 2.02 (Providing Services in Emergencies) need to be considered. As well, psychologists need to be compliant with standards for emergency services that they have agreed to in managed care contracts as well as in contracts for hospital privileges and other similar arrangements.

## C. OTHER CONSIDERATIONS: NO SHOWS/CANCELLATION POLICY

### **Question: What's the best way to deal with "no-show" appointments?**

**Answer:** It's best to have a clear policy regarding "no-show" appointments that is presented to the client when they first enter your practice. I recommend that you consider having the client sign a document indicating that they have read and understood your office policy regarding this matter (as well as other key office policies). Although there may be differences of opinion on how this issue should be managed, our office has always made it clear that twenty-four hours' notice is required in order to cancel or re-schedule an appointment. The following is an example of such a notification included on a **Client Information Questionnaire** that the client or a parent is asked to complete at the first appointment:

### **24-HOUR CANCELLATION POLICY**

*If you are unable to keep a scheduled appointment, a minimum of twenty-four hours' advance notice is requested. Without such notice, it is not possible for another client to be seen at that time and you will be charged for that appointment. The only exceptions are emergency situations. We appreciate your understanding.*

Despite the above stated policy, in many offices they generally do not charge for the first missed appointment. Instead, a letter is sent to the client reminding them of the 24-hour Cancellation Policy and telling him or her that they will not be charged this time but will be charged in the future if it were to happen again. They then charge their "full-fee" for missed appointments the next time it occurs. A prevalent opinion is that multiple missed appointments or "no-show's" should be addressed as part of the treatment process.

## D. OTHER CONSIDERATIONS: HIPAA

The Health Insurance Portability and Accountability Act became law in 1996. It was designed to protect individuals who were sick from losing their health insurance when changing jobs. Health care providers must adhere to HIPAA, which is broken into three sections: Privacy, Transaction, and Security.

### **Privacy Rule**

This portion of HIPAA requires you to have policies, procedures and business service agreements in place to control the access and use of patient information. The privacy rule is intended to only apply to those psychologists who transmit information by electronic means, but it is recommended that all psychologists be in compliance. This portion of the rule looks to those policies and procedures that outline how you are protecting a patient's confidential information, and it requires the patient's revocable consent for authorized disclosure.

### **Transaction Rule**

This part of HIPAA requires psychologists to use a standardized format when transmitting health information electronically. HIPAA does not require you to use electronic transmission; it requires a standardized approach when doing it. If you utilize a billing service, verify that they are HIPAA compliant.

### **Security Rule**

The security rule requires that you have policies and procedures in place to safeguard patients' confidential information. The intent behind the rule is to make sure you prevent the unauthorized disclosure of patient information. To be in compliance, you must conduct a formal risk assessment of your practice, document your compliance decisions, and then implement safeguards to minimize any risks you have identified.

## **E. OTHER CONSIDERATIONS: SUBPOENAS**

### **Question: What Do I Do If I Receive a Subpoena?**

Both state and federal regulations protect the confidentiality of the psychologist-patient/client relationship, including verbal and written communications, case records as well as documentation of the treatment process and assessment results. Those protections, however, also contain certain limitations, including requirements to initiate the disclosure of information that may have been attained in the course of clinical assessment or treatment services. Child abuse reporting laws and cases involving patients/clients who are a potential danger to self or others are just two examples. While HIPAA has strengthened the protection of confidential information, it is well known that the "privilege" as applied to the "doctor-patient" relationship is far from absolute in both medical as well as behavioral healthcare settings.

Most often subpoenas are initiated by attorneys representing a client or a district attorney assigned to a case, but they may also be initiated by individuals representing themselves in a legal proceeding. The following considerations may be helpful in guiding the psychologist's response to a subpoena for clinical records or his/her presence at trial for testimony:

1. Do not automatically provide any protected health information, written or verbally to the attorney or other party having been granted the subpoena.
2. Contact your patient/client (or his/her parent or legal guardian in the case of minors) to inform him/her of the information or actions requested. During that interchange attempt to clarify the patient's/client's position regarding the disclosure of the information and discuss the pros and cons to your patient's/client's case of any potential testimony you might provide at trial. In this regard, also attempt to clarify more specifically the nature of the pending legal case so that you have a better understanding of the issues

involved and your potential role in these proceedings. In some cases, you may want to contact the patient's attorney.

3. In case of a subpoena to appear at trial for testimony, remember that the forensic guidelines for psychological practice also limit your ability to testify as an expert witness if you have been the treatment provider or have maintained a therapeutic relationship with the party pertaining to whom information or testimony is requested. In court proceedings involving psychological testimony the treating psychologist would typically be limited to being a "fact witness" rather than an "expert witness" due to the inherent conflict of interest between the role of therapist, which also involves a prior or ongoing therapeutic relationships and advocacy on behalf of the patient/client, and the role of an independent expert whose role focuses on attaining objective information to assist the court in formulating a legal case disposition.
4. Contact your own attorney to seek additional legal advice on how to proceed in regard to the subpoena you have received. In this regard make sure you discuss all your concerns openly and in detail. Follow your attorney's advice.
5. You or your attorney may also want to contact the individual who initiated the subpoena in question and discuss the ethical and legal dilemmas you are attempting to reconcile, and if appropriate, the limitations of any potential testimony you will be asked to provide. You may also want to suggest that you are requesting a direct court order signed by a judge. Frequently such discussions may result in your being released from the subpoena.
6. There may also be legal, ethical, personal, or confidentiality reasons which would preclude the psychologist from having a direct contact with the attorney or individual who initiated the subpoena. In such a case or, if other attempts by the psychologist or his/her attorney fail to resolve the concerns raised by the subpoena, then the psychologist must respond to the subpoena. While a subpoena legally requires a response by the psychologist, responding to a subpoena does not necessarily imply simply turning over the health information or clinical records being requested or for that matter showing up in court on the date and time designated and providing requested testimony. In the case of a subpoena for clinical records we would recommend that the psychologist place a copy of the records in a sealed envelope (or if necessary a larger container) -- that the envelope or other container be clearly marked as containing health information the confidentiality of which is protected by both state and federal law. Do not provide any identifying information regarding the patient/client on the envelope or other container. Make sure the envelope or container is well sealed. The psychologist or his/her medical records

custodian should then deliver the records to the court on the date and time specified. When presenting the records to the court the psychologist or his/her representative should also make a verbal statement to the judge that the package delivered to the court contains health information the confidentiality of which is protected by both state and federal law; and pertaining to which there is no consent for release from the person, or legal guardian of the person, to whom they apply. In a custody case where one parent contests the release of the information to the other side, the judge should also be made aware of that circumstance. The judge subsequently will make the decision whether to order the records to be released to the party as requested by subpoena or whether they should remain unavailable. In either case the psychologist or his/her representative, in following the judge's order, are then compliant with the law as well as ethical standards.

In case of a subpoena to appear in court for testimony, we would also recommend that prior to his/her actual testimony the psychologist make a statement to the judge that the health information he/she will be testifying to is protected by both state and federal law and that the person to whom the information pertains has not given consent for its release or disclosure. In contested cases of this kind, the attorney representing the individual in question would also typically attempt to keep such confidential information from being entered into the record, particularly if the psychologist's testimony might potentially be harmful to his/her client.