Thinking About Going Into Private Practice?

In today’s healthcare environment there are numerous practice settings for psychiatrists to choose from. Although not an exhaustive list, this document highlights some of the issues requiring consideration before seeing your first private practice patient. Psychiatrists should consult with an attorney for guidance when joining an existing practice or establishing a new one.

**What type of practice setting will you be working in?**

There are a variety of practice setting possibilities, each with their own unique considerations.

Some examples practice settings include:

- Solo practice
- Group practice with other psychiatrists
- Collaborative care practice
- Physician Hospital Organization (PHO)
- Integrated Delivery System (IDS)

If you are forming your own practice, either solo or a partnership arrangement, or joining and existing practice, it is critical to have a local attorney assist you in this process, as well as review any contract language. Keep in mind that psychiatrists hired as “independent contractors,” may generally have less “bargaining power” when negotiating contract terms, but also may also have less overall liability exposure.

**Establishing Your Own Practice**

If you decide to set up your own practice, you should consider the following:

- Determining whether the practice will be a legal entity such as a PC, LLC, DBA, etc.
- Obtaining suitable office space/equipment
- Hiring employees
- Entering into coverage arrangements for off hours and vacations
- Establishing adequate/effective office policies and procedures
- Ensuring compliance with billing requirements
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- Entering into HIPAA compliant Business Associate Agreements with vendors handling patient information, i.e. billing company, EMR vendor, electronic storage vendors
- Developing a HIPAA compliant Notice of Privacy Practices for posting and distribution
- Ensuring you have patient intake forms that are compliant with state guidelines. A local attorney can assist with providing forms that you could use in your office practice. In addition, for members, the APA has an online reference guide, “Practice Management: the Basics,” designed as a practical handbook for psychiatrists beginning a practice (http://psychiatry.org/psychiatrists/practice/practice-management/starting-a-practice/online-practice-handbook)
- Obtaining sufficient professional liability and general liability coverage

Office Policies and Procedures
It is important in any practice setting that there are policies and procedures pertaining to the following (among others):

- Protecting patient confidentiality under HIPAA and state confidentiality laws
- Practice administrative procedures and expectations
- Standardized tracking/documenting of incoming/outgoing telephone calls/messages
- Email communication with patients (if applicable), including: security, encryption, response time, emergencies
- Patient care documentation including: missed appointments, non-compliance and obtaining informed consent
- Accepting and terminating patients
- Billing documentation
- Medical records including: maintenance, retention timeframes, storage and responding to requests for release
- Ordering, reviewing and reporting lab values
- Staff social media use
- Employment policies
- Supervising staff and other licensed healthcare providers
- Procedures for when you are away from your practice or unavailable

Supervising Others
When supervising staff and other licensed healthcare providers, it is important to remember that you may be held “vicariously liable” for the acts of practice employees. Thus, it is important to be aware of and adhere to federal/state employment laws as well as scope of practice/supervision requirements pertaining to other licensed health care providers such as nurse practitioners and physician assistants.
Contract Language

When joining an existing practice either as a partner/shareholder or independent contractor, the practice’s existing policies and procedures should be reviewed to determine if they contain the elements above. It is also crucial to carefully review the contract language, preferably with an attorney who is knowledgeable in this area. Some issues to consider when drafting/reviewing your contract with a future employer include:

- Working hour expectations
- Compensation structure, including potential equity ownership
- Non-compete clauses
- Off hours emergency coverage obligations, if any
- Will you have supervision responsibilities for clinical/non-clinical staff?
- Are you permitted to "moonlight" or have additional outside employment?
- How much notice to terminate the employment agreement is required of either side?
- Are you permitted to earn fees/honoraria?
- Is professional liability insurance provided? If so, what are limits? If not, what limits are required?

Regardless of the practice setting you choose, advanced planning, an understanding of relevant considerations, and professional assistance from an attorney and an accountant can help minimize your liability exposure.

For other risk management topics, American Psychiatric Association members can access courses at: http://www.psychiatry.org/psychiatrists/practice/risk-management