



Using ACA's ethics and risk management services

Question: A colleague told me that the American Counseling Association offers advice to members on ethical dilemmas. How does this work? What if I have a legal issue? I'm confused about when to contact my professional liability insurance company and when to contact ACA. Can you clarify the resources available to me as an ACA member?

Answer: Let's attempt to clarify the options and resources available to you. First, ACA's Ethics Department provides ethics consultations by seasoned counselors at no charge to members. Call 800.347.6647 ext. 314 or email ethics@counseling.org if you have an ethical or professional issue you'd like to discuss. For example, if you're trying to decide whether accepting a gift from a client might pose a boundary problem, the ACA ethics staff can assist you in making a decision.

Second, the ACA ethics staff has the discretion to refer members to the ACA-sponsored Risk Management Helpline for telephone consultation. For instance, if you're interested in finding out whether sample HIPAA (Health Insurance Portability and Accountability Act) business associate contract provisions exist or how the HIPAA/HITECH (Health Information Technology for Economic and Clinical Mental Health Act) breach notification provisions work, the risk management staff can speak with you and direct you

to online or other resources of which you may be unaware.

It is important to note that neither the ethics service nor the risk management service is an “emergency” service. Although inquiries are handled as quickly as possible, please allow up to one week for a response. Also note that the ethics and risk management services cannot provide consultation to an ACA member who is in a dispute or potential dispute with another ACA member.

Additionally, ethics and risk management consultations are *not* designed to take the place of your own local attorney. State statutes, regulations and case law vary widely among the jurisdictions. Your own attorney is authorized to provide opinions on your state laws.

For example, if you wish to find out whether your state child abuse law has been interpreted to include mandatory reporting of past abuse in which the victim is now an adult, you may need to consult a local health care attorney. If you are being threatened with a lawsuit from a prior employer and want advice on whether the restrictive covenant in your contract is enforceable, you may need to obtain advice from a local employment attorney. If a school or agency employs you and a legal issue arises, you may want to ask your supervisor whether legal counsel is available to you. If not, or if you are in private practice, you should have a local attorney you can call on

when you need specific legal advice.

Don't wait until you have an emergency situation to find a local attorney. Having *existing* relationships with qualified professionals (e.g., an attorney, an accountant, a computer specialist) will help greatly in the event that you run into a serious, urgent problem.

How do you find a local attorney?

The ACA-sponsored Risk Management Helpline may be able to assist you in finding names of legal counsel. Also, you might want to consider speaking with trusted colleagues who are mental health professionals because they may have past experience with local attorneys. Furthermore, online resources and directories such as martindale.com and findlaw.com can be useful in locating attorneys by geographic location and type of law practice (e.g., health care, medical malpractice defense). Sometimes it helps to use these websites to cross-reference referrals and suggestions from colleagues.

When should you call your professional liability insurance company?

If you have been served with a summons and complaint, notice of intent to sue, licensure board complaint, subpoena or other legal document, you should immediately call your professional liability insurance company to see if it will assign a local attorney to you. Additionally, if you are on notice of an incident that is likely to lead to a lawsuit or complaint, you should call your insurance company. Keep your insurance