



Determining proper insurance coverage

Question: I’m about to take the plunge and open up my own private counseling practice.

I’m also considering the possibility of hiring other counselors. I know I need professional liability insurance. How can I figure out what type of professional liability insurance I need, and should I consider any other forms of insurance?

Answer: There’s an old joke in the insurance industry that goes something like this: Needing insurance is like needing a parachute. If it isn’t there the first time, chances are you won’t be needing it again!

In all seriousness, proper insurance coverage is crucial to protecting your assets in the event of a client complaint, a slip and fall in your office or any other unanticipated event that could pose risk to you.

First, consider your needs for professional liability (malpractice) insurance to cover client complaints. Because you are going into your own practice, you should consider insurance limits that are typical among mental health therapists. Currently, most counselors and other mental health professionals opt for limits of \$1 million per occurrence and \$3 million aggregate (the latter would cover the counselor if there was more than one claim in a year). Some managed care organizations require such limits for their participating providers. If you have substantial assets, you might opt for higher limits, such as \$2 million per occurrence and \$4 million aggregate. You should also choose a policy that provides coverage for legal fees in the event that a licensure board complaint is brought against you.

In this ever-changing world of technology and privacy breaches, you may also wish to consider cyberliability or coverage for HIPAA (Health Insurance Portability and Accountability Act) privacy breaches. Check with your

professional liability insurance carrier to see what might be covered, or consider separate insurance coverage, which will likely become more prevalent in the marketplace.

If you decide to hire other therapists, make sure that each employee also has coverage. Speak with your insurance carrier (or prospective carrier) to ensure that you are covered if you are found “vicariously liable” for the therapists you employ or supervise. Furthermore, if you operate as an entity (for example, as a professional corporation or limited liability company), make sure that the entity is properly insured. Even if you just share office space with other therapists, it is important to make sure that everyone provides annual proof of adequate insurance coverage, such as copies of the declarations page of each policy.

Additionally, you may wish to ask whether any discounts apply to you. For example, Healthcare Providers Service Organization (HPSO) offers a discount to American Counseling Association members. Information is available at hpso.com/profession/counselor.jsp. If you choose a policy that is written on a “claims-made” rather than an “occurrence” basis, you may need to purchase extended reporting period or “tail” coverage.

Make sure you have property insurance to cover damage and loss from fire, flood and other events that could occur on your property. This should cover your fixtures, computers and so on. If you rent space, make certain that you have general liability or other coverage for personal injury such as “slip and fall” liability. Likewise, be sure that your landlord maintains insurance for the common areas of the building.

If you serve as an officer or director of a corporation or nonprofit entity other than your own practice, you may also need directors’ and officers’ (“D&O”) insurance. Additionally, don’t forget your obligation to obtain workers’

compensation insurance if you hire employees. As a self-employed person, you will also need to consider health insurance and group life insurance. In addition, don’t overlook the importance of disability insurance because it is much more likely that you will become disabled than die during the course of your practice years. For more information, see privatepracticepreparedness.com. Also see the discussion of various insurance issues in the seventh edition of *The Counselor and the Law: A Guide to Legal and Ethical Practice*, a book published by ACA that I co-authored with Burt Bertram (see counseling.org/publications/bookstore).



The question addressed in this column was developed from a de-identified composite of calls made to the Risk Management Helpline sponsored by ACA. This information is presented for educational purposes only. For specific legal advice, please consult your own local attorney. To access additional risk management Q&As, go to counseling.org/ethics and scroll to the bottom of the page for the ACA members-only link to the Risk Management section of the website. ♦

Anne Marie “Nancy” Wheeler, an attorney licensed in Maryland and Washington, D.C., is the risk management consultant for the ACA Ethics Department.

Letters to the editor:
ct@counseling.org