Are You and Your Assets Protected?

Psychologists new to the profession often have a long professional priority list — obtaining licensure, starting and growing a practice, getting involved in the psychology community and paying down loans — before even considering the priorities of their non-professional lives. While focusing on building businesses, relationships and finances, early career psychologists need to consider how to secure and protect their assets.

In this article, Jana N. Martin, PhD, Chief Executive Officer (CEO) of the American Psychological Association Insurance Trust (The Trust), shares advice for newly minted psychologists. Before assuming her role as CEO, Dr. Martin managed a private practice in Long Beach, California for more than 20 years and served as a Trustee for The Trust.

We know some obvious ways psychologists seek protection for their businesses – professional liability insurance, for example – but is that all they need?

Certainly not! Professional liability is an obvious need for those who provide psychological services. But often psychologists don’t thoroughly evaluate their other risk exposures, or they think they cannot afford coverage. I understand that when money is limited, buying insurance to cover an event that has yet to happen isn’t very appealing. Another way of looking at it, however, is for psychologists to consider what they will be able to afford without coverage when something does happen — for example, they become seriously ill and can no longer support themselves, their dependents or their practice. It’s wise to look at all forms of business and personal finance protection and weigh the potential risks against the costs, particularly as families grow and assets expand.

Disability and term life insurance are good forms of financial protection at any age, but they can be essential for a practitioner with a lifetime of self-employment ahead or a family who depends on the psychologist. Business office coverage and office overhead coverage also work well to protect practice assets that auto and homeowner’s policies don’t cover. It’s important for early career psychologists to focus on building a successful practice, but it’s also important to focus on building a secure personal financial future.

If professional liability coverage for lawsuits is a given, are there other less obvious liability risks?

Yes. While lawsuits will continue to be a risk, we have seen a steady increase in licensing board complaints against psychologists as well as government investigations of alleged Medicare or Medicaid fraud. Health providers face risks associated with failure to comply with the Health Insurance Portability and Accountability Act (HIPAA) and/or meet Medicare and Medicaid requirements. Some government agencies have been particularly assertive lately with investigations of health care professionals, including psychologists, especially as more patients become eligible for Medicare and Medicaid.

The Trust advises psychologists to make sure they have sufficient protection. Most professional liability policies include basic protection for licensing board investigations, usually $5,000, but defense costs can often go much higher. Psychologists may want to spend slightly more to substantially upgrade coverage. I can give The Trust policy as an example: An additional $35 per year can increase the licensing board defense coverage limit to $25,000 and $45 can increase it to $50,000. The $35 or $45 upgrade also automatically increases coverage limits for Medicare, Medicaid and HIPAA investigations to $7,500 or $10,000, depending on which upgrade is chosen. Generally, we think the additional coverage is prudent.

You mention insurance and risk management. What is the difference?

Insurance is an important part of a sound financial security plan. It helps protect you against catastrophic financial losses resulting from lawsuits and other legal judgments, accidents and property damage. A risk management strategy helps you avoid catastrophes or at least mitigate the ones you cannot avoid. You may have heard these bits of advice: practice within your scope of training and competence; know and articulate your boundaries, particularly when a patient asks you to practice outside your area(s) of expertise; seek consultation when in doubt about practice or patient issues;
keep good records and back them up; and make sure you have adequate insurance coverage limits. There is an abundance of guidance available regarding the risks associated with practice — boundary issues, forensic and custody evaluations, and patient confidentiality, to name just a few. Sources of information include APA’s Ethical Principles and The Trust’s 800 Advocate Consultation Service. Psychologists spend so much time and energy preparing to provide good clinical care. Protecting themselves and their practice is equally important.

Do you see major emerging areas of concern for psychologists?

Any emerging opportunity will have corresponding risks. Good examples include rapidly developing electronic technologies and social media. We anticipate a revolution in the way psychologists provide psychological services, but we also see the emergence of all sorts of legal, ethical, privacy, confidentiality and security issues. Can we provide Internet-based therapy? To what extent can we use electronic communications? How can we back up and secure our records? Should we store them in “the cloud?” (For additional information about cloud computing, see the article at Practice Central, the APA Practice Organization website, found at apapracticecentral.org/update/2011/10-14/cloud-computing.aspx.) How much personal information should we reveal on a Facebook page? What should we say if a client tries to “friend” us? I know that many psychologists are asking these questions.

How can psychologists steer clear of trouble while using digital media?

While there is no clear direction from the courts and regulatory bodies, there is a growing body of guidance available from the practice and science communities. APA, The Trust and the Association of State and Provincial Psychology Boards have a joint task force developing guidelines on the use of technology in psychological services delivery. State psychological associations are disseminating information that may pertain more specifically to state and local laws. Some practitioners have developed and posted policies online related to electronic communications and social media. An example of a social media policy is provided for informational purposes on The Trust website at apait.org. Further, the Trust has workshops touring the US that focus on providing psychological services in the digital age. We are fortunate to have consultants working for our Advocate service who stand at the forefront of research and publishing in this area.

Are there risks other than professional liability that are typically off the radar?

Yes. Everyone who owns an automobile, a home or a boat and has experienced damage knows the value of having adequate insurance coverage. Less known is that standard liability limits in these policies may not adequately cover the larger legal judgments that can drain current assets and future earnings. Many insurers offer “umbrella” policies, which provide liability coverage above and beyond the standard limits on the primary policies. For example, if you carry an auto insurance policy with a $300,000 liability limit and a homeowner’s policy also with a $300,000 limit, purchasing a million-dollar umbrella brings both limits to $1,300,000. The cost will vary by risk, but coverage can be comparatively inexpensive because it usually kicks in after primary coverage has been exhausted. An umbrella may also cover events that occur outside the home or automobile, as well as some claims that are excluded from primary policies.

You mention dependents. What’s the best way to protect them?

Everyone immediately thinks of life insurance, and that’s an important part of seeing to it that dependents are taken care of in the event of death. But fewer of us understand the risk of becoming permanently disabled and no longer being able to earn a sufficient living. A disabling injury or illness occurs once every second in the United States, and such injuries or illnesses occur in every age group. A significant percentage of mortgage defaults are due to disability. Disability insurance, or what The Trust calls Income Protection, is designed to keep some money coming in until you can resolve the disability issue and get back to work. You have a number of options regarding amount and duration of benefits, and it’s important to confirm that the policy purchased has a “your own occupation” definition of disability. This is critical because you don’t want to be forced to take any job if you become disabled just because you can do it. You want to be covered if you can’t perform the material and substantial duties of your chosen occupation. Inflation is also a concern and it’s advisable to choose an option to increase the benefit amount over time to compensate for loss of purchasing power.

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as when there is an identifiable victim and an imminent threat of serious injury. If you are concerned for your own safety, you should also evaluate the potential for your client to be violent toward others, which could trigger a duty to protect. It is important to know the law in your state regarding duty to protect and to be prepared to take appropriate action. Even if your state does not have a statute specifically addressing this topic, case law (prior court decisions) may have set a precedent for a duty to be imposed. For additional information on this topic, please see “A Matter of Law: Psychologists’ Duty to Protect,” available on Practice Central at www.apapracticecentral.org/business/legal/index.aspx.

In balancing confidentiality with actions needed to protect safety, the psychologist should consider what information needs to be released in order to accomplish the desired goals. The psychologist also needs to consider to whom the information should be released. For example, if a client leaves a threatening voicemail on your answering service and you believe that client may harm you, you could alert the police to the threat without providing details about the client’s treatment. Similar considerations will apply if a psychologist is being threatened or harassed by a former client, as confidentiality protections continue to apply after treatment has been discontinued.

In situations where you release confidential information for safety purposes, or have considered doing so but determined it was unnecessary, it is important to document your actions and rationale in your client records. By maintaining a thorough record, you can provide evidence that your decisions were based on reasonable professional judgment if questions arise at a later time.

You should feel safe interacting with your clients. If you are working in an institution, make sure you know the relevant resources, policies and procedures. If you are in independent practice, make sure you take adequate precautions. If you have concerns about a potentially dangerous client, take prompt action to address the situation. Confidentiality and clinical issues are very important, but your personal safety comes first.

Many mental health professionals do not receive extensive training in managing behavioral emergencies. To be better prepared for the future, further reading (see sidebar) or continuing education courses on evaluation and management of threatening or potentially violent patients may be helpful. Note: Legal issues are complex and highly fact specific and require legal expertise that cannot be provided by any single article. In addition, laws change over time and vary by jurisdiction. The information in this article does not constitute legal advice and should not be used as a substitute for obtaining personal legal advice and consultation prior to making decisions regarding individual circumstances.

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Why should people be thinking so much about the risks they face?

Practitioners need simply to prepare and not to worry. Professionally, psychologists are quite skilled at understanding the need to recognize and be prepared for risks. The goal is to explore options and take the appropriate steps not only to achieve some peace of mind, but also to have the confidence that if something does go awry, a plan is in place and an unprotected catastrophe can be avoided.

Is there anything else early career psychologists should know?

Yes. While we haven’t been able to give much detail here, I would recommend doing sufficient research before purchasing insurance or other financial services. I would not recommend purchasing insurance based on its price because the cheapest policy is not always the best. Consider the whole package and what you actually get for your hard-earned money. Know what coverage is included and what is not. Make sure you work with an experienced and licensed insurance agent. Also know that The Trust is a good source for insurance, financial security and risk management information.

Note: Insurance needs vary according to individual circumstances. The information in this article is for informational purposes only and does not constitute financial or legal advice. Talk to your attorney, financial advisor and/or insurance agent to ensure that you are adequately protected.

For more information about APA Insurance Trust products, visit apait.org or call 1-800-477-1200.