

# LEGAL INFORMATION & CONSULTATION

Available to APA Members



## PLAN FEATURES:

Fact sheets on common issues of concern to psychiatrists will be sent by e-mail upon request to APA Plan members who choose Option 3. Topics include:

- Updated HIPAA/HITECH Compliance Tips and Resources
- Checklist for Starting and Maintaining a Private Practice
- Closing a Private Practice
- Record Retention
- Considerations for Reporting Abuse
- Sharing Office Space
- Contracts 101
- Treating Workers as Employees vs. Independent Contractors
- Subpoenas: Steps to Take
- Social Media “Do’s” and “Don’ts”

## OVERVIEW

As one of your member benefits, APA has entered into an agreement with Anne Marie “Nancy” Wheeler, J.D. to offer confidential triage consultation to APA members at a preferred rate. Ms. Wheeler will also provide names of local counsel when your issue requires representation or an opinion based on your state’s law. Ms. Wheeler has been the lead attorney for the Plan for over 30 years. Receive the information you need from an attorney quickly and conveniently via telephone. Non-confidential and non-urgent matters may also be addressed via e-mail. (This plan is not available to members residing or practicing in North Carolina.)

## SAMPLE QUESTIONS

- Do the HIPAA/HITECH regulations require me to report breaches to patients and the federal government?
- What issues should I consider before closing my private practice?
- Must I turn over records in response to a subpoena?
- Does the ADA really require me to provide an interpreter for hearing impaired patients?
- A patient has threatened to kill his boss; what are my obligations?
- How can I contract privately with Medicare patients?

## RETAINER AGREEMENT

The American Psychiatric Association Legal Information and Consultation Plan (Plan) is available exclusively to psychiatrists who are APA members. Anne Marie “Nancy” Wheeler, J.D. (Counsel), licensed to practice in the District of Columbia & Maryland, will provide the described benefits and services to those members who enroll and agree to the prescribed Plan fees. The fee for 2017 depends on the chosen Plan option:

**Option 1**—provides a quarterly electronic newsletter (no consultation) for an annual fee of \$165. This quarterly e-newsletter will cover legal issues related to the practice of psychiatry and will include a Frequently Asked Questions (FAQs) section.

**Option 2**—provides the quarterly e-newsletter and up to one hour of consultation and/or research for an annual fee of \$450.

**Option 3**—provides the quarterly e-newsletter, up to 10 fact sheets on common legal and risk management issues (sent via email upon request), and up to two hours of consultation and/or research for an annual fee of \$525.

The member understands that provision of the quarterly newsletters, fact sheets as applicable, and availability of counsel as specified on next page (Options 2 and 3), constitute adequate consideration for the fee paid. The fee will be placed in an escrow account for Plan services and will be refunded on a pro-rated basis if Counsel is unable to provide services due to a conflict of interest, disability, or death, or upon written request of the member. Fees placed in escrow may be withdrawn by Counsel as they are earned, on a monthly or quarterly basis, or at the end of the calendar year.

A member benefit of:



**Members who Choose Plan Options 2 or 3** understand and agree that the Plan is not an emergency service and that calls placed to the Plan between the hours of 10:00 a.m. to 4:00 p.m. eastern time, Monday through Thursday, excluding holidays, will typically be answered the same day. However, members understand and agree that return calls may be made within 3 business days. Under Plan Options 2 or 3, counsel will provide telephone consultations regarding legal matters relating directly to the enrolled member's practice of psychiatry. Counsel will triage all calls and, upon request, provide names and phone numbers of local counsel when the issue requires an opinion based on state law or where actual legal representation is required. Any arrangement with, or payment to, local counsel is outside the scope of this Plan. If the enrollee so requests, consultations will be provided to his/her personal attorney.

If Ms. Wheeler is absent for more than three business days, coverage will be provided by the Washington, D.C. law firm of Crowell & Moring LLP or other experienced legal counsel. For the initial fee, the scope of the Plan's service is limited to legal consultation, triage, and related activities described above. Through this Plan, Counsel will not provide legal representation to Plan enrollees before any agency, court or legislature, nor will Counsel represent Plan enrollees in any negotiation, arbitration or other dispute process. However, independent of this agreement for services, Counsel may provide representation when ethically and legally appropriate, under a mutually acceptable separate retainer agreement. This arrangement would be subject to a 10% discount of Counsel's normal hourly rate of \$395 for 2017.

**Under Plan Option 3**, in lieu of up to two hours of consultation, Counsel will provide review of a third party payer or employment contract upon request. Contracts will be reviewed within two weeks of receipt. An evaluation of the financial aspects of the contract (e.g., whether capitation will produce a profit) will not be undertaken. This review is not intended as representation and Counsel will not undertake the negotiation of any contracts on behalf of the enrollee under this Plan. Furthermore, contract review will be subject to the two-hour limitation for the annual fee of \$525. Member agrees that this Plan is not intended to take the place of local counsel. The Plan does not cover matters of potential dispute between a Plan enrollee and APA or an agent of APA, an APA District Branch, the APA-endorsed professional liability insurance program or its agent, or any other Plan enrollee, any matters related to retirement plans, or any matters involving other clients of Counsel.

By agreeing to the terms of the retainer agreement, the Plan enrollee waives any conflict of interest or objections the enrollee may have in any work that Counsel may do for APA or any of the above-named entities, and will not assert any conflict of interest as grounds for disqualifying Counsel from representing APA or any of the above-named entities. Furthermore, if Counsel's representation of another client prevents it from providing consultation or contract review to any Plan enrollee, Counsel reserves the right to refund the plan enrollee's fee on a pro-rated basis.

*Disclaimer: APA is not responsible for the services provided by Counsel and will not be a party to any dispute between Counsel and a member enrolled in this Plan.*

**ENROLL EARLY! MEMBERS WHO ENROLL BY JANUARY 1, 2017 MAY DEDUCT \$25 FROM THEIR FEE.**

- Please complete the application below and print, sign and mail it with your check to the address below.
- Please make checks payable to: Anne M. Wheeler, J.D.

## 2017 APA LEGAL INFORMATION AND CONSULTATION PLAN FORM

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State/Zip Code: \_\_\_\_\_

Office Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

E-mail (required, please print legibly):\* \_\_\_\_\_

**Signature (required):** \_\_\_\_\_

Date: \_\_\_\_\_

\*Quarterly legal newsletters will be sent via e-mail to all members who provide a **legible** e-mail address.

### PLAN OPTIONS (CHECK ONE):

- \$165**—Quarterly e-newsletter only (no consultation)
- \$450**—Quarterly e-newsletter, plus up to one hour of consultation, triage, and research
- \$525—Best value.** Quarterly e-newsletter, plus up to two hours of consultation, triage, and research or one contract review, and access to fact sheets (up to 10) sent upon request via e-mail.

### MAIL COMPLETED APPLICATION AND CHECK TO:

**Anne M. Wheeler, J.D.**

APA Legal Information & Consultation Plan

P.O. Box 10117

Silver Spring, MD 20914

Phone: (301) 384-6775

E-mail: nancy@amwheeler.com

*Do not send any Protected Health Information to Plan by mail, telephone, e-mail, or other means.*