

# Professional Private Practice Series



## Starting a Private Practice

Presented by Michael Griffin, JD, LCSW,  
CAMFT Staff Attorney

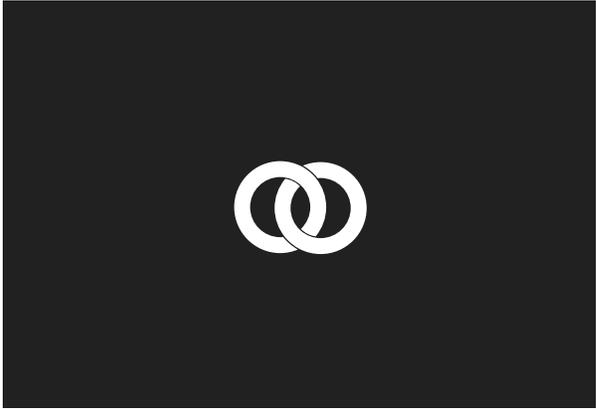


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California Association of Marriage and Family Therapists

August 7, 2017





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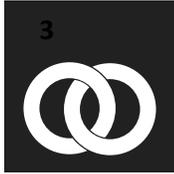
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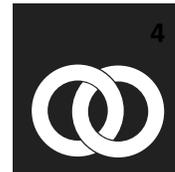
California Association of Marriage and Family Therapists, 2017



### Disclaimer

The information provided in this workshop is for educational purposes only.

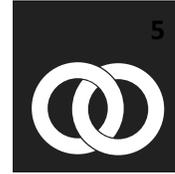
It is not intended to serve as legal advice or to act as a substitute for independent legal advice.



### Workshop Overview

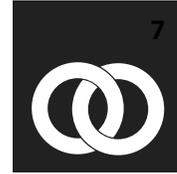
- Considering Private Practice: Basic Pros and Cons
- Anticipating Start-Up Costs and Ongoing Expenses
- Business Formation and Related Issues
- Who Are Your Clients and Where Will They Come From?
- Procedures for Intake and Recordkeeping
- Fee-Related Policies and Procedures
  - Dealing with Insurance and Billing Issues
  - Contracting with Insurance Companies (or not)
  - Providing "Superbills"
  - Accepting Credit and Debit Cards
- Advertising Issues

## Considering Private Practice: Basic Pros and Cons



- Private practice offers the potential to earn a comparatively high income compared to other therapy jobs, particularly for those who are recently licensed. But as a general rule, it takes time to be successful.
- When evaluating income potential, don't forget to give consideration to the value of benefits that may be available from an employer, such as paid vacation, sick time, health insurance, contributions to a retirement plan and the security of a regular paycheck.
- Being in private practice is often associated with having a significant amount of freedom. For individuals who thrive on social/ professional interaction with other professionals, working in a private practice may be a poor fit due to the relative degree of isolation from colleagues.
- Don't overlook the possibility of starting out part-time in private practice. This allows you to "get the feel" of independent practice, time to establish clientele and referral resources, and may lessen the financial pressure of jumping-in full time.





## Anticipating Start-up Costs & Ongoing Expenses

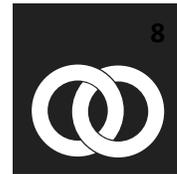
### **Business License**

In most instances, it is necessary for a business entity to obtain a business license, which is usually issued by the municipality that the business is located in. In some instances, such as in unincorporated areas, the county may also require a business license-check with both entities.

### **Office Furnishings**

Standard items include desks, chairs, couches, lamps, plants, tables, waiting room furnishings, etc.

Consider your anticipated clientele (children, families, etc.)



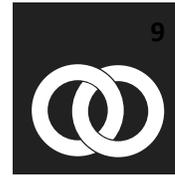
## Anticipating Costs, Cont'd

### **Office Supplies & Equipment**

- Computer/laptop/tablet, phone, voice mail, file folders/labels, business cards, brochures, pens, paper, staples, tape, paper clips, copy paper, note pads, professional letterhead/envelopes, locking file cabinets, magazines, materials for children such as books, games or art supplies, coffee maker/hot water dispenser, and a source of background music.

### **Professional Supplies**

- Client forms, such as: Release of information forms, disclosure forms to provide information about the practice, office policies/procedures, privacy practices (HIPAA-covered entities), financial agreements and consent for treating minors.
- "Super-Bill" forms for patients who intend to seek reimbursement from insurance companies. (See: "Practice Resources" at [www.camft.org](http://www.camft.org)).
- Self-report forms or diagnostic materials, (DMS 5), and educational materials for patients, etc.



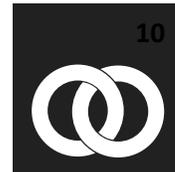
## Anticipating Costs, Cont'd

### **Rent/Lease Costs**

Usually the greatest operating expense. May include expenses for build-out of the space, (unless included in the lease), and a security deposit. There may also be provisions for "CAM charges," where tenant agrees to pay a share of costs related to maintenance of common areas. If possible, seek consultation before signing!

### **Subleasing**

In a sublease, the therapist enters into a contract with existing tenant for a limited use of the office. Agreements should include the amount of rent and when it is due; length of the agreement, provisions for terminating the agreement; access to, or limitations concerning use of the office, and use of supplies.



## Anticipating Costs, Cont'd

### **Home Offices**

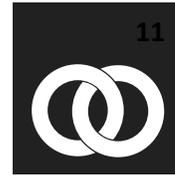
A home office may, or may not be, compatible with one's circumstances. Consider whether sufficient privacy/confidentiality exists. There may be local zoning restrictions which prohibit such use. Check with local jurisdiction and HOA.

### **Professional Services**

Common expenses include accounting or legal services, billing services, marketing assistance, or consultation concerning the use of technology.

### **Insurance**

Professional liability ("malpractice") insurance coverage is strongly recommended. Other possible needs include, workers compensation insurance for those who employ others, premises liability insurance for accidents or damage to the premises, or insurance for business interruption. Be sure to clarify requirements and seek quotes from an insurance broker to obtain a reliable estimate of costs in this area.



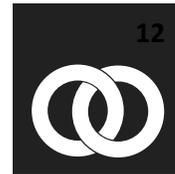
## Business Formation & Related Issues

### **Sole Proprietorship**

When a therapist opens a business by him or herself exclusively, the type of business entity is a sole proprietorship. A sole proprietor has total control of the business, receives all of the profits, and is responsible for the taxes and liabilities of the business.

### **Professional Corporation ("S Corp.")**

Calif. law limits who can be owner, director, officer, or employee of a prof. corp. LMFT is required to own at least 51 % of the outstanding shares of MFT corp. The remaining 49 % may be owned by other licensed health professionals. The name of an MFT corporation must contain one or more of the words: "marriage," "family," or "child" together with one or more of the words: "counseling," "counselor," "therapy," or "therapist." Must disclose to new clients that business is conducted by MFT corp.



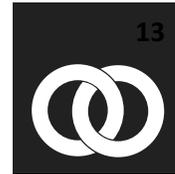
## Business Formation, Cont'd

### **Professional Corporation, Cont'd.**

A corporation shields owners, officers, and prof. employees from personal liability arising from claims not related to the rendering of professional services (such as a contract dispute). The corporation does not offer protection from liability due to professional negligence. Professional liability insurance is the source of protection to a therapist in the event of a malpractice lawsuit.

Some formalities required with corp. and expanded financial recordkeeping. Meetings (with minutes), regarding status of the corp., finances, the election of corporate officers and directors, and major decisions made by the owners.

Corp. may offer favorable tax benefits compared to sole proprietorship, but higher accounting bill, including need to file corporate return in addition to individual return. With new business that is not yet generating significant revenue, corp. could create more expenses than benefits. Consult with a CPA or tax attorney before forming.



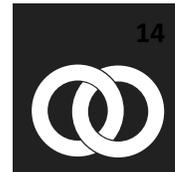
## Business Formation, Cont'd

### **Fictitious Business Names ("DBA")**

A "DBA," or "doing business as," may be obtained by sole practitioner or corp. Must inform clients of the name and license designation of the owner/owners of the business. Contact the county clerk, and/or recorder where the principal place of business is located for info. about filing or registering. Intended business name must not be one that is already registered in the county, and it must be renewed periodically, in accord with local rules.

### **Federal Tax ID Number ("EIN")**

Practitioner must include his/her federal tax ID when submitting claims to insurance (or on a "super-bill" submitted to a client). EIN avoids the use of a social security number as tax ID. Available via the IRS website in 4-5 weeks.



## Business Formation, Cont'd

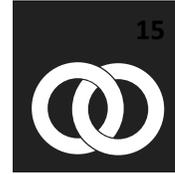
### **National Provider Identifier Number ("NPI")**

10-digit numeric identifier issued by Centers for Medicare and Medicaid Services, National Plan and Provider Enumeration System. Required for "covered entities" and when submitting electronic insurance claims.

### **Establish a Business Banking Account**

It is necessary for private practitioners to open a business banking account that will be used for the sole purpose of recording business income and business-related expenses. Income that is received as payment for services should always be deposited into the business banking account and not directly into a therapist's personal accounts.

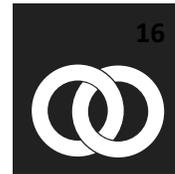
If a client or other third-party issues a check in the name of a DBA, in order to accept the check, the bank must be provided with a copy of the fictitious business name statement that was issued to the therapist by the county clerk.



## Who Are Your clients and Where Will They Come From?

### **Distinguish Your Practice/Develop Areas of Expertise**

- Potential clients need to know you exist. Referral sources need to become aware of, and remember you as a good resource.
- A “generalist” who works with adults on a wide range of common issues is unlikely to be distinguished from other providers.
- Identify, and promote, your areas of expertise. **Having one or more identifiable areas of specialty helps other professionals to remember you as a referral resource.**
- Advertising “specializations” should accurately reflect one’s experience, education, training, and competence.



## Who Are Your Clients.... Cont'd

### **Establish a Marketing Plan**

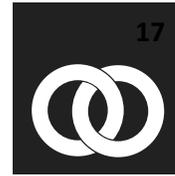
Seek the advice of successful colleagues, or a marketing professional familiar with the needs of therapists. It isn’t necessary to “break the budget” when getting started. Counseling California.com is a consumer-facing searchable directory of California therapists featuring profiles of CAMFT members.

### **Maximize Your Availability**

Stand out from the crowd! One way to build a practice is to provide some services at a time that is not commonly available, e.g., after 7 PM, or on Sat.

### **Evaluate Your Practice Location**

- \* What is the physical appearance of the office location?
- \* Easily accessible?
- \* Consider locations where the competition may be less intense.

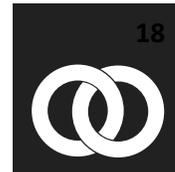


## Procedures For Intake & Recordkeeping

### **Responding to initial requests for service**

Develop a consistent approach.

- Provide necessary/relevant information, including info. regarding fees, available appointment times, office location, directions if needed, and what to expect during the first visit
- Gather limited, relevant information from the prospective client. Therapists usually want to briefly inquire about the reasons for contacting the therapist.
- Generally speaking, the goal is to make a preliminary determination as to the person's needs and the likelihood that you will be able to assist him or her.



## Procedures For Intake & Recordkeeping, Cont'd

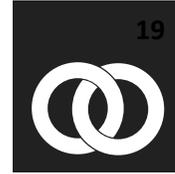
### **Documentation & Recordkeeping**

Therapists must maintain records which reflect that competent treatment is being provided. If someone read your treatment record, how would it reflect what you do? Would it support the need for treatment?

Marriage and family therapists are required to keep records that are consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

No single formula for documentation exists. The style of documentation that is adopted by a therapist will depend on his or her preferences and the nature of his/her practice. Every record should include the therapist's assessment and treatment plan for the patient, and reflect the therapist's observations regarding the perceived benefit of treatment to the patient.

## Procedures For Intake & Recordkeeping, Cont'd



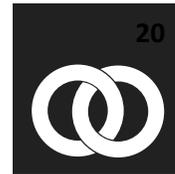
### **Storage and Retention of Records**

Records shall be maintained, in either a written or electronic format, for a minimum of seven years from the date therapy was terminated. If the patient is a minor, the patient's records shall be retained for a minimum of seven years from the date the client or the patient reaches eighteen years of age. Bus. & Prof. Code, Sec. 4980.49 (effective Jan. 1, 2015)

When storing records, it is necessary to secure hardcopies in a locked file cabinet or drawer. If records are maintained in electronic form, access to such records should be password-protected and a backup should be made and stored in a safe and secure manner.

For HIPAA covered entities, any storage of records on-line should be done using a company who offers secure record storage and a "Business Associate Agreement." A "Business Associate" is a person or entity that performs certain functions on behalf of, or offers services to, a HIPAA-covered entity, involving the use or disclosure of individually identifiable health information.

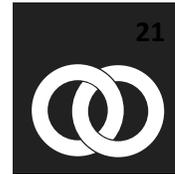
## Procedures For Intake & Recordkeeping, Cont'd (Forms)



### **Intake Procedures and Necessary Forms**

Therapists in private practice should ensure that they have the following forms/documents available for use: (A variety of sample forms are available on the CAMFT website under Practice Resources, at [www.camft.org](http://www.camft.org)).

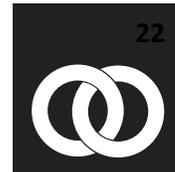
- Intake/informed consent/disclosure forms
- Release of information form
- Consent for treatment of a minor
- Financial agreement forms
- Notice of Privacy Practices form (If HIPAA "covered entity")
- Forms or lined paper, etc. for the purpose of writing progress notes
- Forms or logs for the purpose of noting payments made
- Superbills for patients if the therapist is an out-of-network insurance provider
- Claim forms (CMS-1500) if the therapist is in-network and not billing electronically



## Procedures For Intake & Recordkeeping, Cont'd (Disclosures)

California law requires marriage and family therapists to disclose the following information to their patients:

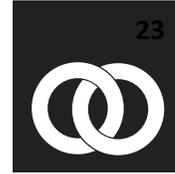
- Prior to the commencement of treatment, information concerning the fee to be charged, or the basis upon which that fee will be computed, must be disclosed to the client or prospective client.
- Pre-licensed therapists must inform each client or patient prior to performing any professional services that they are unlicensed and under the supervision of a licensed mental health professional.
- If the business is conducted under a fictitious business name, it is necessary to inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.
- The therapist must conspicuously display his or her professional license in his or her place of business. (A copy is acceptable).



## Procedures For Intake & Recordkeeping, Cont'd (Disclosures)

The following is a list of topics which therapist's commonly discuss in their informed consent/disclosure paperwork. A therapist may modify the following list as desired:

- Info. regarding the importance of therapist-patient collaboration.
- Policies regarding termination
- Info. concerning the limitations of psychotherapy
- Info. concerning the limits of confidentiality, including, but not limited to: mandated disclosures, danger to self /others, info. concerning the therapist's theoretical orientation, treatment approach & professional background, etc.
- Info. relevant to the treatment of minors such as confidentiality, consent, access to records, or writing reports
- Info. regarding the treatment of couples or families, such as confidentiality, "No Secrets Policies," access to records, or writing reports
- Info. regarding therapist's policy on writing letters or reports in support of litigation
- Emergency Procedures/Info. Re: therapist's availability



## Fee-Related Policies & Procedures (Insurance)

### **Should you accept health insurance as a form of payment?**

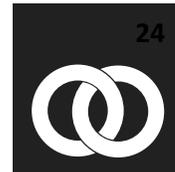
No single determining factor dictates whether a therapist should, or should not bill health insurance. Consider the various pros/cons which are commonly cited by therapists in private practice regarding this topic

#### **Positive aspects of accepting insurance:**

- Provides an additional source of revenue
- Attractive to clients who want to use their insurance
- Steady referrals if contracted provider

#### **Negative aspects of accepting insurance:**

- Reimbursement rates often lower than private pay
- Potential problems with denials
- Possible reviews/audits



## Fee-Related Policies & Procedures, Cont'd (Insurance)

### **Contracting with Insurance Plans**

Therapists who contract with an insurance plan agree to accept a specified rate.

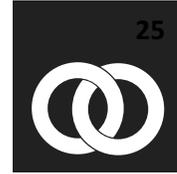
Patients who are covered by an HMO insurance plan are generally limited to contracted providers.

Patients with a "PPO" insurance plan have the option of seeking services from a contracted ("in-network") provider, or, from an out-of-network ("non-contracted") provider, usually at a lower level of benefit.

Rates paid by insurance carriers vary, depending on the policies of the plan, the type of license held by the provider, and the usual & customary fees paid to similar providers in the area.

If a therapist is out of network and the plan is a PPO with an out-of-network benefit, the therapist can utilize a "superbill."

A "superbill" is a type of receipt, with info. that is necessary for the insurance carrier to reimburse the patient, including: ICD-10 diagnosis, CPT procedure codes, dates of service, the amount paid, and the provider's name, address, license type/number and federal tax ID number.



## Fee-Related Policies & Procedures, Cont'd (Insurance)

**Sample Superbill**

Patient Name \_\_\_\_\_ Date of Birth \_\_\_\_\_

Name of Policy Holder \_\_\_\_\_ Date of Birth \_\_\_\_\_

Name of Insurance Plan \_\_\_\_\_ Plan ID# \_\_\_\_\_

**CPT Codes** (commonly utilized examples)

90791 Diagnostic Evaluation

90834 Psychotherapy 45 min.

90837 Psychotherapy 60 min.

90847 Family Therapy w/pt. present

90846 Family Therapy w/o pt. present

90839 Crisis Therapy, 1<sup>st</sup> 60 min.

90840 Crisis Therapy, ea. Additional 30 min.

Date of Service \_\_\_\_\_ CPT Code \_\_\_\_\_ Amt. Paid \_\_\_\_\_

Date of Service \_\_\_\_\_ CPT Code \_\_\_\_\_ Amt. Paid \_\_\_\_\_

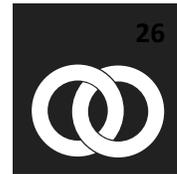
Provider Name \_\_\_\_\_ License Type and # \_\_\_\_\_

Provider Tax ID \_\_\_\_\_

Provider NPI# \_\_\_\_\_

Provider Address \_\_\_\_\_ Suite# \_\_\_\_\_ Phone# \_\_\_\_\_

Provider Signature \_\_\_\_\_ Date \_\_\_\_\_

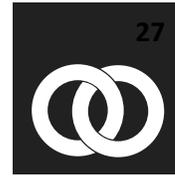


## Fee-Related Policies & Procedures, Cont'd (Insurance)

With PPO plans, a therapist can bill his/her patient's insurance plan as an out-of-network provider.

It is advisable for the therapist to contact the insurance carrier to inquire about the level of benefits applicable to services provided by an out of network therapist. The plan may reimburse a specified amount, or, reimbursement may be based upon a percentage of the "usual and customary" fees, which are charged by like therapists in the geographic area.

You must determine the specific amount of any co-insurance or co-payment that is expected from the patient in this situation.



## Fee-Related Policies & Procedures, Cont'd (Insurance)

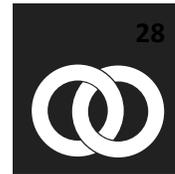
All billing to an insurance company by a health care provider must be done using a CMS-1500 insurance form. This form is the product of the Center for Medicare and Medicaid of the US Dep't. of Health & Human Services. The form, (including instructions) is available from the US Gov't. Printing office. The CMS-1500 is also available for purchase from numerous private vendors on the Internet. Be sure to purchase the version of the form that was revised on 2/12).

See video: "How to bill insurance in an Outpatient Office Setting," by Johnson, Anastasia, JD, and Ziccardi, Karen, LMFT. Available under "Practice Resources" on the CAMFT website at [www.camft.org](http://www.camft.org).

See, "Navigating the Insurance Maze," by Barbara Griswold, LMFT, at: [www.navigatingtheinsurancemaze.com](http://www.navigatingtheinsurancemaze.com)

<https://bookstore.gpo.gov/products/sku/017-060-00663-3?ctid=503>.

CMS-1500 insurance forms are available via Amazon.com at:  
<https://www.amazon.com/NEW-CMS-1500-Claim-Forms/dp/B00HNDPJM0>

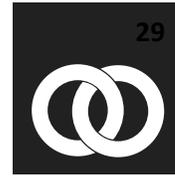


## Fee-Related Policies & Procedures, Cont'd (Insurance)

### **Electronic vs. Paper Billing**

Some insurance plans offer providers the opportunity to submit claims electronically, either through the plans' own encrypted website, or by using the services of a medical claims clearinghouse. Clearinghouses, such as "Office-Ally," or "MD On Line" provide a mechanism for providers to login to their secure website and complete a standard insurance claim form. After ensuring that the claim form is correctly completed by the provider, the clearinghouse forwards the claim electronically to the insurance carrier.

Such companies offer covered entities with the required business associate agreement (BAA). Another company to be aware of is "Simple Practice," at [www.simplepractice.com](http://www.simplepractice.com). They offer practice-management tools, including electronic claim filing, client billing services, secure document storage, and various forms for documentation of treatment.

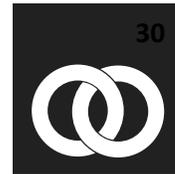


## Fee-Related Policies & Procedures, Cont'd (Credit/Debit Cards)

### **Accepting Credit & Debit Cards**

Therapists can accept credit or debit cards as a form of payment. It is necessary to have some mechanism for processing cards, or a device that works with a mobile phone or tablet to accept cards and/or other forms of payment using "NFC" (near field communication) such as "Apple Pay" or "Samsung Pay," etc.

Square Inc. accepts all major credit cards at a flat rate of 2.75 percent per swipe, or 3.5 percent plus 15 cents per transaction for manually keyed-in cards. After credit or debit payments are made, funds are typically transferred into a merchant's designated bank account within a day or two. "Simple Practice" also offers credit card processing services to therapists who are interested.



## Advertising Issues

### **Key Advertising issues**

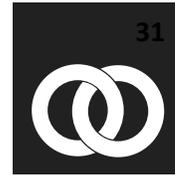
Legally, advertising includes the use of e-mail addresses, letterheads, and websites, as well as communications by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, business cards, and office signs.

### **Required Elements in Advertisements**

Licensees and registrants are required to include their license or registration numbers in advertisements.

Advertisements by an MFT Registered Intern should include the name of his or her employer, and information stating that he or she is supervised by a licensed person. The use of the abbreviation "MFTI" in an advertisement is prohibited unless the title "marriage and family therapist registered intern" is included in the ad.

Effective January 1, 2018, the title of **Marriage and Family Therapist Registered Intern will change to Associate MFT.**



## Advertising Issues, Cont'd

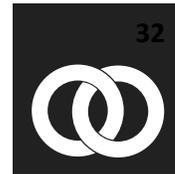
### **Use of Fictitious Business Names**

A licensed marriage and family therapist who conducts a private practice under a fictitious business name ("DBA") may not use a name that is false, misleading, or deceptive, and is required to inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.

### **Advertising Specializations**

When advertising as a "specialist" in a particular issue or type of therapy, it is a representation that the therapist tends to focus on such issues, and/or that the therapists has a degree of training or experience which is likely to be beyond that of a non-specialist practitioner.

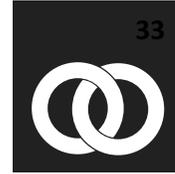
A therapist who advertises a variety of "specializations" must be prepared to offer reasonable support for such representations if challenged by a complaint to a licensing board or an ethics committee



## Advertising Issues, Cont'd

### **Advertising Fees**

Any advertisement for professional services that includes your fees must be exact, without the use of words or phrases such as: "as low as," "and up," or "lowest prices." Advertising regarding the issue of price must not be fraudulent, deceitful, or misleading in any way.



## You Can Do It!

### **Deep Breaths!**

Therapists who are starting a private practice may feel initially as if they are faced with a bewildering array of legal and ethical guidelines. But it is important to keep it all in perspective and remember that it takes time to be successful. Private practice can be an enjoyable and rewarding experience. The procedures for operating a practice should, ideally, reflect the particular interests, personality, and expertise of the therapist, while ensuring that legal and ethical standards are consistently met, from the time of the prospective client's initial phone call to the conclusion of his or her treatment.