



APA SPONSORED WEBINAR SERIES

Ask the Experts

When an Attorney Calls

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ATTENDANCE

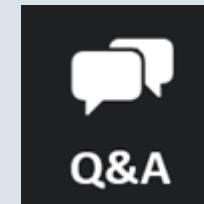
- No CE credit will be offered for this webinar.
- A “Certificate of Attendance” will be emailed to live attendees only.
- You must attend for 45 minutes to receive the certificate.

RECORDING

- A recording of this presentation will be emailed to everyone in 2 weeks' time.
- The recording will include the presentation slides.

HAVE A QUESTION?

- You are on mute. Communicate using the **Q&A box** in the webinar screen. Submit your questions for our speakers using the Q&A box.
- Presentation slides will be posted in the **chat box** of your webinar screen.
- Speakers may not be able to answer all questions.





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When an Attorney Calls

Can you avoid becoming involved when a patient is in the legal system?

Probably not. But you can prepare. Certain issues to keep in mind as we go through the Qs:

1. What is your role?
2. What is your patient's role? Plaintiff, Respondent, Defendant, State's Witness
3. Who does the attorney represent?
4. Do you have the ability to talk to the attorney?
5. What can you say / produce?
6. Compensation issues

Why is an Attorney Calling *ME*?

Patients become involved in many situations that might require you to provide records, testify in depositions or appear in hearings or a trial. This is usually because they put their mental health at issue, or the other side is trying to do so. Common cases include:

**Divorce / Custody
Lawsuits involving the workplace
Accidents
Disability claims**

The analysis for how to respond to attorneys is usually the same no matter the nature of the case, but we'll try to distinguish when this matters as we go through the questions you submitted.

Questions from You

- We're now turning to the questions you submitted when you registered. There were a lot of good ones!

Preparing for the Inevitable - Informed Consent

- What preventative measures do you recommend? Are there informed consent disclosures or charting considerations to consider?
- Should I advise my clients not to have me subpoenaed when they are suing an institution?

First Contact With an Attorney

- What are the steps I should think through when contacted by an attorney before I respond?
- What tricks should we look out for in attorney calls?
- Is there ever a situation in which I would not reach out to the client before returning contact to the attorney?
- Guidance on how to respond when an attorney requests records as it relates to their client's case, but it's not helpful.

Fact Witness v. Expert

- Explain the difference between a fact witness and an expert witness, please.
- How do you untangle the boundaries?

Getting Subpoenaed

- Is it OK to avoid accepting a subpoena?
- Please talk about different subpoenas (e.g, from court clerk, attorney, judge) and the options we have.
- Does a subpoena REQUIRE the psychologist to comply? Under what circumstances can a psychologist quash a subpoena?

What to Disclose

- Often, legal firms want "all" of the information you have and are not specific. How do you determine the info to provide?
- How do we prepare notes when they are subpoenaed?
- When asked for records, is it okay to send a summary or a letter?
- Can informal 'psychotherapy notes', be held separately from clinical notes, in an EMR and be excluded from subpoena?

Testifying

- What should I expect in a deposition? What if I am asked questions I'm not sure I can answer?
- Should we answer questions about the ultimate topic?
- Do I need to hire a lawyer if I'm being deposed?

Getting Paid

- If you require clients to pay for legal services prior to you appearing for a subpoena, what if the client doesn't pay fees?
- What limitations should I be aware of on billing for the time I spend interacting with the legal system? Can you charge for time spent prepping as well as testifying?
- When an attorney sends a check with a subpoena, much less than I charge (or would) can I request a different amount?
- Can you have a separate 'legal proceeding' hourly rate if called as a fact witness for a client?
- If a subpoena is received from the opposing counsel of your client in a custody case, who is expected to pay for your time?
- What does compensation look like for fact and expert witnesses?

Other

- Under what conditions can a psychologist decline to assist a former client who is being sued or who initiates a suit?
- Does an attorney representing the executor (in this case, a surviving spouse) have the right to records of a deceased client?
- What is the most common error psychologists commit when an attorney calls?
- How do I protect myself from liability when speaking with an attorney?
- When should I hire my own attorney?

AUDIENCE Q&A



FINAL THOUGHTS

- A recording will be emailed to you in 2 weeks. It will include the presentation slides.
- Take our survey immediately after the webinar has concluded.

THANK YOU!

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