

# Partnerships - Be Careful

written by Richard Leslie | May 24, 2016

## **Avoiding Liability Bulletin - December 2005**

One form of doing business is the partnership. Broadly speaking, a partnership can be defined as an association of two or more persons to carry on as co-owners a business for profit. Typically, partners share the profits and losses in whatever proportion has been agreed upon in a written partnership agreement. Generally, each partner will be personally liable for the negligent acts of the other partners. Therapists or counselors who desire to form a partnership must be careful to check the law in their respective states in order to assure that such form of doing business, for the professionals involved, is permissible. If two or more marriage and family therapists want to conduct business as a partnership, this may present no problem. However, what if an MFT and a psychologist want to form a partnership? This can be a problem. Anyone wanting to practice as a partnership, where the prospective partners are of different licensures in the mental health field, should consult with knowledgeable counsel.

To illustrate why partnerships of different licensures may be problematic, consider the case of a physician (whether a psychiatrist or general medical physician) and a counselor or therapist wanting to practice in partnership form. In most states, I suspect, this would not be legally permissible. Generally, only physicians can earn money from the practice of medicine. If a partnership were to exist, however, the counselor or therapist would be earning money (by splitting profits) from medical services rendered. This is typically impermissible and unlawful.

Be very careful if you desire to enter into a partnership with a licensed professional whose license is different than yours. In those states where such a "mixed" partnership is not allowed, perhaps a professional corporation may be the appropriate vehicle. Again, this must be investigated very carefully.