

Model State Psychological Association Antitrust Policy

Note: This document was designed primarily for state and local psychological associations but responds to questions that members commonly ask about what they and their associations can do and discuss in light of antitrust concerns.

by Legal & Regulatory Affairs Staff

It shall be the policy of the [State] Psychological Association (the Association) to be in strict compliance with all federal and state antitrust laws. Therefore, the Association enacts the following policy:

- I. **Application.** These policies and procedures apply to all membership, board, committee and other meetings of the Association, all meetings attended by representatives of the Association, and to all communications by Association, its staff, board and committees (whether by phone, e-mail, regular mail, website postings, messages on the Association's listservs, or other means).
- II. **Fee Discussions.**
 - A. Discussion of actual or proposed **fees set by psychologists** is prohibited. In addition, there should be no discussion of specific economic factors that might influence fee levels such as:
 - a. specific costs of operations, supplies, labor or services;
 - b. specific discount terms; and
 - c. levels of profit margins or mark ups.

It is appropriate, however, to discuss methods of operation and similar matters that may assist psychologists in practicing more efficiently and effectively.

- B. Factual statements regarding reimbursement **rates** for psychological services **that have been set or proposed by health insurers and other third party payors** is permitted only if:
 - a. The actual or proposed rate is applicable to all psychologists in a certain market area (e.g., the rate is not individually negotiated).
 - b. The rate has been generally announced by the payor.
 - c. The mention of rates is not accompanied by any commentary that might suggest that other psychologists should not accept the rate or should not participate with the payor (e.g., claiming that the rate is "unacceptable," will cause psychologists to leave the panel, etc.)

- III. **Competition.** It is a violation of Antitrust laws to agree not to compete, therefore, discussions of agreement on fees to charge or division of territories or

customers or limitations on the nature of business carried on or services provided are not permitted.

- IV. **Boycotts.** Boycotts in any form are unlawful. Discussion relating to boycotts is prohibited, including discussions about blacklisting or discouraging other psychologists from participating with a particular company.
- V. **Response to Inappropriate Discussions.** It is the Association's policy that if representatives of the Association participate in any meetings, conference calls or similar discussions, where discussion can border on an area of antitrust sensitivity, the Association's representative shall request that the discussion be stopped and ask that the request be made a part of any minutes of the meeting, call or discussion. If others continue such discussion, the Association's representative should excuse himself/herself from the meeting or call and request any minutes show that he/she left the meeting or call at that point and why. Any such instances should be reported immediately to the President and staff of the Association.
- VI. **Dissemination of Policy.** It is the Association's policy that a copy of this Antitrust Policy be given annually to each officer, director, committee member, official representative of member companies and Association employees and that the same be read or understood at all meetings of the membership of the Association.