

AAPL: Ask the Experts-2018

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Neil S. Kaye, MD, DFAPA and Graham Glancy, MB, ChB, FRC Psych, FRCP (C), will answer questions from members related to practical issues in the real world of Forensic Psychiatry. Please send questions to nskaye@aol.com.

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Q: How should I charge for out of state work and travel time?"

Kaye:

Psychiatrists and forensic psychiatrists have always billed for our time. If I have to testify across the country, it takes me a day to get there, a day to be there, and a day to return. It costs me three full billing days out of my office to appear for the hiring lawyer, and so I charge for three full days. I use a flat day rate but it could just as well be an hourly rate.

In advance of taking a case, I tell the lawyer via my written fee agreement that: "fees for expert testimony and days away from office (traveling on weekdays) are billed for a full calendar day and not for any increments of time thereof. All expenses incurred will be billed after computation, but fees for testimony time will be paid at least 3 days in advance."

Incurred expenses include: coach airfare for me (I know AAPL members who charge the lesser of first-class air travel or car + ground expenses + the time difference,) parking, tolls, car rental if required, hotel, and a reasonable stipend for meals. I make it clear that I'm not expected to fly after hours just to save the lawyer money. I'm too old for red-eye flights and I'm not expected to start a trip after a full workday. Most AAPL members I know consider an hourly billing day to be 8-12 hours long. It is not appropriate to charge for alcohol or entertainment. If I am able to work on another case or income-producing endeavor, I don't charge for those hours.

I do feel I can afford to reduce the charges if I am traveling on a Sunday, testify on Monday, and can get home late Monday night or early Tuesday morning and still see some patients. I know some AAPL members charge for only half a day if

the flight is after 3 PM or they return flight gets home by noon. That decision is made on a case-by-case basis.

I always require payment of any outstanding charges and for the expected travel expenses in advance of departing my house. If I am driving, I bill mileage at the IRS approved rate [2018: .545/mile (<https://www.irs.gov/tax-professionals/standard-mileage-rates>)].

I keep the receipts and send them with a final bill and a thank you note. If I have been overpaid due to an overestimate of expenses, I send a refund promptly and that always build good will.

Glancy:

I agree that it is essential to establish a fee schedule, usually by way of the written fee agreement, prior to taking on a case. You should also be fair when sending an invoice. For example, it is often possible, and even expedient, to travel in the evening for a case the next day. In this case, usually after discussion with the lawyer, I may feel I only have to bill for the actual hours spent traveling. In addition, I can often spend some of my traveling hours reading material for the case. Be careful not to double bill for this time.

When I first started forensic psychiatry, I had no idea that if I took on cases in different places it would commit me to travel and see the sites. I used to try to look at this as an opportunity to see the country. I quickly realized that is not the case. Generally speaking, because of time restraints, I fly in the night before, get up early, spend the next day assessing the client, rush to the airport for an early evening flight, and often get home late at night. Things are even worse when I have to testify. This often involves arriving the evening before feeling tense and worried, perhaps meeting with the lawyer for an hour or more, and then returning to my hotel room to ruminate over what is in store over the next day or two. This might involve the meager luxury of ordering room service eaten while I continue preparation. Far from seeing the city sites, any recreation is confined to a lonely late-night walk around the block to try and clear my mind. Inevitably, the next morning is direct examination and a lonely sandwich for lunch. The afternoon is usually spent being cross-examined by a lawyer who seems to be a disciple of the Marquis de Sade. I keep one eye on the clock, wondering whether I'll make my 6:00 PM flight, in order to get home at a reasonable time.

Suffice it to say, as peripatetic forensic psychiatrists, we earn our money! You should not feel guilty about charging reasonable rates for your valuable time. Often most of us put in time for which we never bill such as brief phone calls with the lawyer or time spent reading around the subject of the case, doing "research" just because we're all so obsessive by nature that we need to make sure we know the latest.

Life would be a lot easier just to go to my office or my home hospital and do a routine day's work. There is no reason why we should not be well compensated for all of our time. The lawyer who retains you for a case outside your geographic locale is picking you because of your special knowledge, experience, and reputation. Be comfortable and professional about your charges and don't devalue yourself!

I do realize that the above description, which is partly in jest, may paint a grim picture of our work. On the other hand, it is what we do, what we live for, and let's face it, we cannot resist doing it.

Take Home Points:

Written fee agreements and advance payment/retainers is the standard for forensic psychiatry. Make sure the lawyer signs the agreement and returns it with a check. Always get paid in advance when doing work for private lawyers. You will never regret standing by your fee schedule; having it available will make it easier for you and for the lawyers with whom you work.

There are some cases (eg.: Federal Public Defender, State Medical Board) where you will not be able to be paid in advance. Further, some of these agencies have predetermined fee schedules and when you agree to work for them you are agreeing to their terms and rates, so make sure you read and understand the fine print. But, as long as you have a signed contract with the public/government entity you will be paid, although this will not necessarily be timely.