

## Conflict of Interest Inherent in Contingency Fee Arrangements

### NAN Policy & Planning Committee

Laurence M. Binder

Independent Practice, Beaverton, OR, USA

Ronald M. Ruff

San Francisco Clinical Neurosciences, San Francisco, CA, USA

Grant L. Iverson

Department of Psychiatry, University of British Columbia, Vancouver, BC, Canada

Shane S. Bush

Long Island Neuropsychology, P.C.

William S. MacAllister

New York University Comprehensive Epilepsy Center

Paul M. Richards

Independent Practice, Louisville/Denver, CO.

Michael Stutts

Eastern Virginia Medical School

An agreement to perform forensic work that will be compensated through contingent fees presents the practitioner with a potential conflict of interest that should be avoided. An evaluation completed at the request of an attorney should be conducted impartially and objectively. A contingent fee agreement is defined as an agreement to be paid only if a legal case is settled in favor of the client of the attorney who requested the evaluation. If payment (in whole or in part) will be made to the practitioner only if the plaintiff wins or favorably settles the legal case, the practitioner will have a financial incentive to provide a forensic opinion that will increase the probability that the plaintiff will obtain a sufficiently large financial award to pay all expenses, including fees, for the practitioner's work.

The position of the National Academy of Neuropsychology is consistent with the Specialty Guidelines for Forensic Psychology (2011) which state, "Forensic practitioners seek to avoid undue influence that might result from financial compensation or other gains. Because of the threat to impartiality presented by the acceptance of contingent fees and associated legal prohibitions, forensic practitioners strive to avoid providing professional services on the basis of contingent fees. Letters of protection, financial guarantees, and other security for payment of fees in the future are not considered contingent fees unless payment is dependent on the outcome of the matter" (Section 5.02).

### Reference

Specialty Guidelines for Forensic Psychology, adopted by APA Council of Representatives August 2011

[http://www.ap-ls.org/aboutpsychlaw/SGFP\\_Final\\_Approved\\_2011.pdf](http://www.ap-ls.org/aboutpsychlaw/SGFP_Final_Approved_2011.pdf)