

NEGOTIATING AN EMPLOYMENT CONTRACT

After you've gone through all the steps of job search and have made a decision about where you want to work and who you want to work with, you'll need to negotiate a contract for your employment. Even though we recommend that you have a lawyer with a background in healthcare law review any contract before you sign it, it's best if you can do your own negotiating. If your lawyer takes too active a role in your contract negotiations, this can sometimes undermine the trust you want to build with your future employers and/or colleagues.

CONTRACT NEGOTIATIONS

The amount of room for negotiation will vary from employer to employer. Generally speaking, the larger the organization, the more structured the compensation package and the less flexible they are in their negotiations. The same is usually true for nonprofit or publicly funded organizations. Decide what you are willing to accept and what you are willing to live without and do not share this information with anyone. Be prepared to turn down offers that don't meet your needs (having more than one offer helps). However, if you find a situation you feel you'd really like to work in, you should be willing to give a little. Perhaps you're not being offered one thing you thought you really needed, but you're being offered something else you hadn't even taken into consideration. You will be better prepared to evaluate an offer if you've done your homework. Information you've gathered on current trends (including average earnings), the local economy, and the cost of living will make this process much easier. Remember, no one expects you to accept a contract exactly as it's written. There's always room for some negotiation.

BEFORE SIGNING A CONTRACT

The following issues should be dealt with in any contract you sign:

- **Compensation** - Don't be surprised if the first-year compensation you're offered is lower than the median you learned in your research. If the practice has some kind of bonus policy, it's probably calculated on a productivity basis. If the job does have a productivity-based bonus package your contract should have provisions allowing you access to the information that's used to make the bonus calculations.

- **Noncompete Clauses** - It is very likely that your contract will contain one of these clauses. You'll want to examine how long it lasts and how wide the area is that it refers to. A noncompete clause that lasts for a year and extends between five and ten miles should be considered reasonable. However, the concept of what's reasonable depends on many factors. If you are being recruited into an area that currently has no psychiatrists, it may be reasonable for your employer to want you to stay out of their market area if you leave their employ--even if that area extends for fifty miles. This part of your contract may take a lot of negotiating.

- **Termination Provisions** - You'll want to pay careful attention to how and when the employment relationship can be terminated. These provisions can include just about anything. Clearly, if you lose your medical license you can expect your contract to be terminated, but a contract might also state that it can be terminated if you fail to obtain board certification or are denied staff privileges at a particular hospital. If the contract states that you can be terminated "for cause," try to get the employer to specify the events that would constitute "cause." You don't want to sign a contract that allows for termination without cause unless you have the right to terminate without cause as well. Each party should be required to give at least ninety days notice if such a clause is included in the contract.

- **Equity Ownership** - If there's any possibility of a practice buy-in, or equity ownership, this should be addressed in the contract in some way. You should be given an idea of when you might be eligible for consideration to become an owner (the average is usually three years) and some idea as to the amount of the buy-in price and how it is to be paid. You can't expect much of a commitment in this area, since the practice barely knows you at this point and it's unclear how things will work out. The best you can hope for is to have some parameters set down on how long it will take and how much it will cost.
- **Other Provisions** - The employer typically pays for your malpractice insurance. However this works, it should be specified in your contract. The contract should also define the fringe benefits you're entitled to. If it's not included, you might want to negotiate an allowance for continuing medical education (CME) and some time off to accomplish it. You should also try to get any issues like how often you are expected to be "on call" defined in the contract.

HAVE A LAWYER REVIEW THE CONTRACT

A contract is a legal document. As stated in the first paragraph, we recommend that you have a lawyer with experience in healthcare issues review any contract and explain to you exactly what each paragraph means before you sign it. There may be some issues lurking in the text that you are not aware of, and that could cause you trouble down the line.

The APA Legal Consultation Plan provides contract reviews for a reasonable fee: call (202) 682-6000 for more information. Or contact your APA District Branch or the local branch of the AMA or American Bar Association (ABA) for referrals in your area.