Two of my best friends are also speech-language pathologists with their own private practices. Our practices are based in three different states and have very different business models. For the past 10 years, we’ve talked almost every day and attended workshops and conferences together, piling up memories, continuing education units, and stories to tell and retell.

One such story always begins with someone saying, “Remember when we were in D.C., you know, that conference where Shelley cried?”

That conference was the 2011 ASHA Health Care and Business Institute. We exited the last class of the conference, “Contracts for Employees and Independent Contractors,” taught by attorney Kelly C. Hoelzer. He explained the differences between an independent contractor (IC) and an employee, emphasizing the importance of ensuring that the people who work for us are classified and paid correctly—or else Uncle Sam will come for us!

At least that’s what I heard, because at the time I had one SLP working for me as an independent contractor, and I’m pretty sure that I was doing about 90 percent of the things he said not to do with independent contractors.

After that session, my two friends eventually realized I hadn’t walked out. They found me sitting in a chair outside the room with my head in my hands, crying!

That class marked the beginning of my quest to learn everything I could about IC rules.

Private practice owners who hire other clinicians need to know the distinction.

BY SHELLEY CHESNEY

Independent Contractors or Employees?

Private practice owners who hire other clinicians need to know the distinction.

BY SHELLEY CHESNEY
I evolved as a therapist after taking this workshop.

— It Takes Two to Talk workshop participant

Discover what truly effective parent-implemented intervention looks like at the It Takes Two to Talk® workshop.

Attended by nearly 25,000 SLPs around the world, It Takes Two to Talk helps you maximize the language outcomes of the children on your caseload by making early intervention a natural, on-going process.

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Space is limited! Register for an upcoming workshop today.

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Minneapolis*, MN   April 15-17, 2019
Nashville, TN   May 2-4, 2019
Baltimore, MD   May 15-17, 2019
Houston, TX   May 17-19, 2019

* indicates nearest major city

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To classify staffers as independent contractors, you must adhere to federal guidelines. There can be steep penalties for the employer if an employee is found to be incorrectly classified. So it’s important that private practice owners understand the differences between the two categories.

Classifications

The Internal Revenue Service uses three categories to determine the classification of a worker (bit.ly/ic-employ).

• Behavioral control. Does the company control or have the right to control what the worker does and how the worker does his or her job?

• Financial control. Are the business aspects of the worker’s job controlled by the payer—such as how the worker is paid, whether expenses are reimbursed, and whether the employer provides tools or supplies to perform the service?

• Relationship. Are there written contracts or employee benefits? Is there an expectation that the relationship will continue indefinitely or for a specific period or project?

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Let’s look at a comparison of these two classifications:

<table>
<thead>
<tr>
<th>EMPLOYEE</th>
<th>INDEPENDENT CONTRACTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Usually works for one employer.</td>
<td>Usually works for more than one employer.</td>
</tr>
<tr>
<td>Works hours set by employer.</td>
<td>Sets own hours.</td>
</tr>
<tr>
<td>Eligible to receive employment benefits.</td>
<td>Receives no employment benefits.</td>
</tr>
<tr>
<td>Works under the control and direction of the employer.</td>
<td>Works relatively independently.</td>
</tr>
<tr>
<td>Has employer-provided materials and supplies with which to provide the service.</td>
<td>Furnishes own materials and supplies to provide the service.</td>
</tr>
<tr>
<td>Tends not to incur costs associated with the job.</td>
<td>Incurs costs associated with performing the job.</td>
</tr>
<tr>
<td>Can receive continuing education from employer.</td>
<td>Must provide own continuing education.</td>
</tr>
<tr>
<td>Completes an employee application and I-9, and receives an employee handbook.</td>
<td>Completes a W-9 (does not complete an employee application or I-9, doesn’t receive an employee handbook).</td>
</tr>
<tr>
<td>Often has a company-supplied business card.</td>
<td>Has own business cards with unique business name.</td>
</tr>
<tr>
<td>Can be required to attend staff meetings.</td>
<td>Can be invited to—but not required to attend—staff meetings.</td>
</tr>
</tbody>
</table>

Online resources from the Internal Revenue Service (bit.ly/ic-or-comp, bit.ly/und-comp-ic) and the Social Security Administration (bit.ly/ ss-employee) can help you determine if your workers should be classified as independent contractors or employees.

But here’s a good rule of thumb: An independent contractor says, “I can perform a job or service for you, and I can provide everything I need to perform that job or service.” This is what puts the “independence” in independent contractor.

**Making the switch**

So, what if you find yourself in the position I was in nine years ago—suddenly realizing that your ICs are actually employees? First, don’t panic. The process to correct it isn’t complicated, but it takes some time and planning. Before announcing that you will convert everyone from IC to employee status, there are a few ducks you need to line up (bit.ly/talk-to-ics). Here are seven things to do ahead of time to lay the groundwork for a smooth transition.

**Know your why.** This will be the first question staff ask you. Be prepared with clear, concise reasons regarding your decision, even if it means transparent admission that you learned you were doing it wrong and you need to make things right.

**Determine your new pay rate.** Now that you are responsible for paying benefits and a portion of employees’ taxes, you may need to reduce their rate of pay to cover the additional 20–30 percent it will cost to employ them. Work with your accountant to determine a rate that does not change your payroll too drastically.

**Draw up an employee contract.** Have your employment contract approved by your attorney and ready for signatures.

**Create an employee handbook.** Spell out your company’s attorney-approved employment policies.


**Set up your payroll system.** Work with your accountant for advice on the best way to set up your payroll system so that you can withhold a portion of each employee’s income and deposit it with the IRS.

**Set up individual meetings with each clinician.** This will give you a private place to discuss sensitive money issues and provide the clinician with a safe place to ask sensitive questions.

**Advantages**

Don’t let the prospect of bringing clinicians on as employees scare you—the results can be advantageous. You can develop a connected, cohesive team with collective goals; attract employees who share your energy and core values; provide supervision and continuing education training that grow your people and your company; offer incentives and rewards for outstanding accomplishments; and standardize your company’s procedures and processes (vacation time, session notes, work hours).

If you’re still not sure, talk with other private practice owners about their business models and what works for them. Then make your own informed decision about what’s best for you and your company.

*SHELLEY CHESNEY, MS, CCC-SLP, founder and owner of Chesney Center Therapies in Baton Rouge, Louisiana, has been in private practice since 2007. shelley.chesney@chesneycentertherapies.com