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CONFIDENTIALITY IN PSYCHOTHERAPY

What a client tells a therapist has always been treated as private. Our society recognizes that this confidentiality is the foundation of the trust we must have for therapy to work. However, the situation is not so simple that I can promise you that everything you tell me will never be revealed to anyone else. It is more complicated because there are some times when the law requires me to tell others and there are some other limitations on our confidentiality. Because you can't unsay what you have told, you must know about these rules at the beginning so that you don't tell me something you wish you had kept secret. These are important issues, so please read these pages carefully. We can then discuss at our next meeting any questions or concerns you might have.

As you know, what you tell me, since I am a professional therapist, is almost always confidential. That is, my professional ethics prevent me from telling anyone else what you told me (unless you give me permission, in writing, to tell them). Furthermore, it is also privileged; that is, the law prevents me from telling anyone else. These rules are the ways our society recognizes and supports the privacy of what we talk about. However, there are a few rare exceptions to our confidentiality that I will now describe.

A. There are some legal and ethical rules I must obey which say that I must not keep some information confidential.

1. There are laws written to protect persons from harm when, in a therapist's professional judgment, there is danger to those persons from a client.

a. If I come to believe that you are threatening serious harm to another person, I am required to try to protect the other person or persons. In that case, I may have to tell the intended victim, and the police, or seek your hospitalization. Similarly, if you threaten or act in a way which is very likely to harm yourself, I may have to seek hospitalization for you, or to call your family members or others who can help protect you. If such a situation does come up, I will fully discuss the situation with you before I do anything, unless there is a very good reason not to.

b. If I believe or suspect that a child, an elderly person, or a disabled person is being abused (by your neglect, assault, battery, or sexual molestation) I must file a report with the appropriate state agency. I do not have any authority to further investigate the situation to find

out the facts (the agency will investigate).

c. In these situations, I would only reveal the least amount of information necessary to protect the other person and not tell everything you have told me.

d. If either of these situations might be an issue for you, please let us discuss the legal aspects in detail and do this before you tell me any information on these topics.

B. In general, if you get involved in court proceedings you can prevent me from testifying about what you have told me. This is called privilege and it is always your choice to invoke it or to waive it (allowing me to testify). However, there are some situations where the judge may require me to testify because the judge believes the court needs my information to make a good decision.

1. In child custody or adoption proceedings where your fitness as a parent is in question.

2. Where your emotional, mental, or psychological condition is an important consideration.

3. During a malpractice or disciplinary hearing against a therapist.

4. In a civil commitment where someone is being placed in a psychiatric hospital.

5. When you are seeing me for court-ordered psychological evaluations or treatment. In this case we need to discuss confidentiality fully because you don't have to tell me what you don't want the court to know.

C. There are a few other points about your confidentiality you must know about:

1. I may sometimes consult (talk) about your treatment with other professionals, usually therapists. I do not reveal your name, and the other professional is also legally bound to maintain the confidentiality of your information. Similarly, when I am out of town or unavailable, another professional will answer phone calls to my office and I sometimes need to give him or her some information about my clients; I will only give the minimum information necessary.

2. I am required to keep treatment records, like the notes I take when we meet. You are entitled to review, with me, these records. If I believe some of what I have written would seriously upset you, I can leave it out but I will fully explain my reasons to you.

3. If you use your health insurance to pay a part of my fees, I have to give the insurance company some information about our therapy. They usually want only your diagnosis, my fee, and when we met, and sometimes a treatment plan or summary of treatment. It is usually against the law for insurers to release any data about our office visits without your written permission (given only by signing a Release Form). While I believe the insurance company will act ethically and legally, I cannot control who sees this information at the insurer's office. You cannot be required to release more information just to get coverage or reimbursement.

4. If you have been referred (sent) to me by your employer or your employer's Employee Assistance Program, I may have to give them some information. If this is your situation, let us fully discuss my agreement with your employer before we talk further.

5. If your account with me is overdue (unpaid) and we have not arranged a payment plan, I can use legal means to get paid. The only information I will give to the court, a collection agency, or a lawyer would be the basic information that is needed to complete the collection of fees--in other words, I will not reveal confidential material which has been discussed in sessions.

6. Children in treatment who are under the age of about 12 have little legal right to keep what they tell me from their parents if the parents ask me. Between 12 and 18, however, as the person becomes more able to understand and choose, he or she assumes legal rights. If this is your case, please understand that while most of the specific things you tell me will be treated as confidential because that would assist with your treatment, your parents or guardian do have the right to general information on some important life issues and on how our therapy is progressing so they can make informed decisions. I may also have to tell them some information which concerns other family members if you tell it to me.

7. If you choose to tell me something your spouse does not know I cannot ethically agree to keep it from him or her if it would harm him or her not to know. I will work with you to decide on the best long term way to handle situations like this.

8. In cases where I treat several members of a family (parents and children or other relatives), the confidentiality situation can become very complicated because I would have a mixture of responsibilities to different family members. At the start we must clarify the purpose of our treatment and my role in regard to your family or families. Only with this clarity can we figure out any limitations on confidentiality which might exist.

a. If you or your spouse has a custody agreement, I will need to know about it.

b. My rule is that you must agree that if counseling does not resolve marital difficulties, or if you are seeing me for another issue, and you seek a divorce, you will not request my testimony for either side although the court may order me to testify. If I am working with your child(ren) in therapy, and you seek a divorce during the treatment, you must agree not to request my testimony for either side, although again, the court may order me to testify.

c. We must also specify which members of the family must sign to release the common record I create in the therapy or therapies.

9. If you are in group therapy, the other members are not therapists, and do not have the same ethical and legal rules. In general, you cannot ensure that they will keep confidential what you say in the group.

10. Any information which you share outside of therapy, voluntarily and publicly, will not be considered protected or confidential by a court.

11. I will not record our therapy sessions on audiotape or videotape without your written permission.

12. If you want me to send information about our therapy to someone else, you must sign a Release. I have a copy which you can see so you will know what is involved.

13. In an emergency, where your life or health is in immediate danger, I may release, to another professional, information which would protect your life, without your permission if I cannot get it. If I do so, I will discuss this with you as soon as possible afterwards.

As you can see, the laws and rules on confidentiality are complicated. However, you should now have enough information to enter treatment well informed. Also, while complications not dealt with here do not come up frequently in my practice, please bear in mind that I am not able to give you legal advice. If you have special or unusual concerns and so need more specific advice, I strongly suggest that you talk to an attorney to protect your interests legally.