

Counseling or Hypnotherapy Clients

Client and Counselor Responsibilities and Rights

Counselors must provide disclosure information to each client in accordance with chapter 18.19 RCW prior to implementation of a treatment plan. The disclosure information must be specific to the type of counseling service offered; in language that can be easily understood by the client; and contain sufficient detail to enable the client to make an informed decision whether or not to accept treatment from the disclosing counselor.

If you have concerns about being dependent upon your counselor or hypnotherapist, talk to him or her about it. Remember, you are going to that person to seek assistance that helps you learn how to control your own life. You can and should ask questions if you don't fully understand what your counselor or hypnotherapist is doing or plans to do.

Requirement for Registration or Certification

Your counselor or hypnotherapist must be either registered or certified through the Washington State Department of Health unless otherwise exempt. To be registered, a person fills out an application and pays a fee. To become certified, a person fills out an application form and pays a fee, but he or she must also show proof of appropriate education and training. There are some people who do not need to be either registered or certified because they are exempt from the law. You should ask your counselor or hypnotherapist if he or she is registered or certified and discuss his or her qualifications to be your counselor or hypnotherapist.

Definitions

Counseling means using therapeutic techniques to help another person deal with mental, emotional and behavioral problems or to develop human awareness and potential. A registered or certified counselor is a person who gets paid for providing counseling services.

Confidentiality

Your counselor or hypnotherapist cannot disclose any information you've told them during a counseling session except as authorized by RCW 18.19.180:.2

- (1) With the written consent of that person or, in the case of death or disability, the person's personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health, or physical condition;
- (2) That a person registered or certified under this chapter is not required to treat as confidential a communication that reveals the contemplation or commission of a crime or harmful act;
- (3) If the person is a minor, and the information acquired by the person registered or certified under this chapter indicates that the minor was the victim or subject of a crime, the person registered or certified may testify fully upon any examination, trial, or other proceeding in which the commission of the crime is the subject of the inquiry;
- (4) If the person waives the privilege by bringing charges against the person registered or certified under this chapter;
- (5) In response to a subpoena from a court of law or the secretary. The secretary may subpoena only records related to a complaint or report under chapter 18.130 RCW; or
- (6) As required under chapter 26.44 RCW.

Assurance of Professional Conduct

Thousands of people in the counseling or hypnotherapy professions practice their skills with competence and treat their clients in a professional manner. If you and the counselor agree to the course of treatment and the counselor deviates from the agreed treatment, you have the right to question the change and to end the counseling if that seems appropriate to you.

We want you to know that there are acts that would be considered unprofessional conduct. If any of the following situations occur during your course of treatment, you are encouraged to contact the Department of Health at the address or phone number in this publication to find out how to file a complaint against the offending counselor or hypnotherapist. The following situations are not identified to alarm you, but are identified so you can be an informed consumer of counseling or hypnotherapy services.

The conduct, acts or conditions listed below give you a general idea of the kinds of behavior that could be considered a violation of law as defined in RCW 18.130.180.

- (1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;
- (2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

- (3) All advertising which is false, fraudulent, or misleading;
- (4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;
- (5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;
- (6) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;
- (7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;
- (8) Failure to cooperate with the disciplining authority by:
 - (a) Not furnishing any papers or documents;
 - (b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;
 - (c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceedings; or
 - (d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;
- (9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;.4
- (10) Aiding or abetting an unlicensed person to practice when a license is required;
- (11) Violations of rules established by any health agency;
- (12) Practice beyond the scope of practice as defined by law or rule;
- (13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;
- (14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;
- (15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;
- (16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;
- (17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession.

For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended.

Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

- (18) The procuring, or aiding or abetting in procuring, a criminal abortion;
- (19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means or procedure which the licensee refuses to divulge upon demand of the disciplining authority;
- (20) The willful betrayal of a practitioner-patient privilege as recognized by law;
- (21) Violation of chapter 19.68 RCW;
- (22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;
- (23) Current misuse of:
 - (a) Alcohol;
 - (b) Controlled substances; or
 - (c) Legend drugs;.5
- (24) Abuse of a client or patient or sexual contact with a client or patient;
- (25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards.

This publication should not be considered as the final source of information. If you want more information about the law regulating counselors and hypnotherapists or want to file a complaint, please write to:

Department of Health, Health Professions Quality Assurance Division,
PO Box 47869, Olympia, Washington 98504-7869.

If you want to contact someone by phone to discuss the law or talk about a possible complaint, call (360) 236-4902 Monday through Friday, 8:00 a.m. to 5:00 p.m. Additional copies of this publication or a camera-ready copy for your future use may be obtained by writing to the address above or calling (360) 236-4902. DOH PUB 670-001 (r5-5-00)