



## 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, I cannot promise you that *everything* you tell me will *never* be revealed to anyone else, because there are situations in which the law requires me to tell others as well as some other limitations on our confidentiality. We need to discuss all of these so that there are no misunderstandings and no incorrect assumptions and we are as clear as we can be about the limits of confidentiality. Because you can't unsay what you have already said, you must know about these rules at the beginning so that you don't tell me something you wish you had not told me. These are important issues, so please read these pages carefully, so we can then discuss 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 a 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 perhaps seek your hospitalization.

Similarly, if you threaten or act in a way that 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.** In an **emergency**, where your life or health is in immediate danger, I may release, to another professional, information that would protect your life, without your permission, if I am unable to get it. If I do release any information without your authorization, I will discuss this with you as soon as possible.

**c.** If I believe or have a reasonable suspicion that a **child** is being **abused** (by your neglect, assault, battery or sexual molestation), I must file a report with the

appropriate state agency. That agency will investigate the situation to find out all the facts.

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

**e.** If any of these situations might be an issue for you, please let us discuss the legal aspects in detail and let us discuss 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. Where your emotional, mental or psychological condition is important information for a courts decision.
2. During a **malpractice** case or a disciplinary board hearing against a therapist.
3. In a **civil commitment hearing** where you might be admitted to a psychiatric hospital.
4. When you are seeing me for **court-ordered 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 be aware of:

1. I may sometimes **consult** (talk) about your treatment with another professional therapist. I will not reveal your full identity, 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 therapist may answer phone calls to my office, and I must give him or her some information about my clients, like you.
2. I am required to keep a **record** of our work together, documenting dates of service and, in some cases, progress. You are entitled to review, with me, these records unless I believe some of what I have written would seriously upset you. Then, I will not allow you to read this information, but I will fully explain my reasons to you. I may also keep separate psychotherapy notes that are for my personal use and may not be accessed without special authorization.
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. Usually I give you my bill and any other forms they want and ask you to send these on to the insurance company. That way, you can see what they will know about our therapy. It is against the law for insurers to release any information about our office visits to anyone else 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 insurers office or in any office where you work. 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 employers Employee Assistance Program, I may have to give them some more 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 your name, address, the dates we met for professional services, and the amount due to me.
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 well-informed decisions about therapy. I may also have to tell them some information that 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 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 that might exist.
  - a. If you or your spouse has a **custody** agreement, or court custody hearing, I will need to know about it.
  - b. My requirement is that you must agree that if counseling does not resolve the marital difficulties and you seek a **divorce**, you will not request my testimony for either side. However, the court may order me to testify.
  - c. We must also specify which members of the family must sign to release the common record that I create in the therapy or therapies.
9. If you are in **group therapy** the other members are not therapists, and they do not have the same ethical and legal rules. In general, you cannot be sure that they will keep confidential what you say in the group.
10. Any information that 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 an **Authorization to Release Information form**. I have a copy that you can see so you will know what is involved.

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 rarely come up 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.