



Palmetto Mental Health  
Counseling

## 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 times when the law requires me to tell others, and there are some other limitations on our confidentiality.

What you tell me, since I am a Licensed Professional Counselor, is almost always confidential. Licensed Professional Counselors in this state are afforded privileged communications with specific exceptions, which are also outlined in the professional ethics for my profession. I have listed below a few rare exceptions to our confidentiality:

ONE: 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. Such instances would include:

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(s). In that case I would have to tell the intended victim (if identifiable), and the police, or perhaps seek your hospitalization.

b. If you threaten or act in a way, which is very likely to harm yourself in a serious way, 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.

c. In addition, my personal philosophy is such that I believe that an HIV+ person who, knowing their HIV status, chooses to engage in sexual contact (whether engaging in 'protected' or 'non-protected' sex) without first divulging their HIV status falls under this paragraph as being considered to threaten the life and well-being of another person. It is also a felony in South Carolina. In such a case, I would assist you in contacting the Health Dept. to implement the Partner Notification process (which does not result in your identity being divulged to the party at risk).

d. 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.

e. 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 investigate further into the situation to find out all the facts (The agency would investigate).

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

TWO: In general, if you get involved in court proceedings, your records should be considered confidential; however, there are some situations where the judge may require me to testify because

(s)he believes the court needs my information to make a good decision. If a court Order were issued, I would be required to give up this information. This might include:

- a. In child custody or adoption proceedings where your fitness as a parent is questioned or in doubt, and/or in cases where a Guardian ad Litem (GAL) has been assigned. NOTE: A GAL has a court order to access records.
- b. Where your emotional, mental or psychological condition is important information needed for a court's decision.
- c. During a malpractice case or a disciplinary board hearing against a therapist.
- d. In a civil commitment hearing where you might be admitted to a psychiatric hospital.
- e. If you use your mental condition as a defense in court.
- f. When you are seeing me for court-ordered evaluations or treatment. In this case we would need to discuss confidentiality fully because you don't have to tell me what you don't want the court to know.

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

a. I sometimes consult with other professionals/therapists about therapy cases. In such cases I do not reveal a client's name, and the other professional is also legally bound to maintain the confidentiality of such information.

b. I am required to keep treatment records called medical records, which include progress notes. You are entitled to review, with me, these records (see exceptions noted by HIPAA regulations).

c. 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. Insurance companies are now guided by HIPAA regulations and should only receive a Designated Record Set (DRS) which includes your name, social security number, dates of first/last sessions and number of sessions, billing code, test results (if any), a symptoms and functionality checklist, and your provisional diagnosis (along with my fees/billing). 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 insurer's office or in any office where you work. You cannot be required to release more information just to get coverage or reimbursement.

d. If you have been referred (sent) to me by your employer or your employer's Employee Assistance Program, they may require some additional information beyond the DRS information described above. If this is your situation, let us fully discuss this before we talk further.

e. 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 would 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.

f. If you are participating in couples therapy with me and you choose to tell me something your spouse does not know, I cannot ethically agree to keep it from him or her, especially 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. If you are working on your relationship, it would not be acceptable for me to know information each of you does not know, and it would be difficult for each of you to trust me if you wonder if I am harboring a secret.

g. 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. It is generally recommended to have different therapists so as to avoid this confusion.

h. If you or your spouse has a custody agreement, or court custody hearing, it would be advisable for you to let me know about it.

i. My rule 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. After all, the intent of couples work is to allow full disclosure between the parties to work on the relationship and not to seek or use information gleaned from the therapy process against them.

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

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

FOUR: You have also received a HIPAA Notice of Privacy Practices either in written or electronic form. By signing this document, you acknowledge agreement with the terms of this document.

FIVE: It may become useful during the course of treatment to communicate by email, text message (e.g. "SMS") or other electronic methods of communication. Be informed that these methods, in their typical form, are not confidential means of communication. If you use these methods to communicate with me, there is a reasonable chance that a third party may be able to intercept and eavesdrop on those messages. The kinds of parties that may intercept these messages include, but are not limited to:

- People in your home or other environments that can access your phone, computer, or other devices that you use to read and write messages
- Your employer, if you use your work email to communicate with me
- Third parties on the Internet such as server administrators and others who monitor Internet traffic.

If there are people in your life that you don't want accessing these communications, please talk with me about ways to keep these kinds of communications safe and confidential. Otherwise, by signing this document, you agree that you are knowledgeable of these limitations and agree to the risks of using this type of communication.

SIX: If you want me send information about our therapy to someone else, you must sign a Release of Records form. I have such forms, which you can review should you so desire.

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 need more specific advice, I strongly suggest that you talk to an attorney to protect your interests legally.