

Professional Therapy Never Includes Sex



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State of California

Department of Consumer Affairs



Dear Reader:

As a reader of “Professional Therapy Never Includes Sex,” you may be a California consumer concerned about the conduct of your therapist. You may be a licensed therapist, or training to become a therapist. In any case, it’s good to know more about the high standards of professional conduct expected – and required — in the therapy relationship.

Consumers are looking for professionals they can trust. Therapists value the trust of their patients. When this mutual trust is violated by sexual exploitation, everyone loses. The patient loses an opportunity for improved health and becomes a victim. The therapist stops being a healer and becomes a victimizer. And the profession itself loses when the good reputation of the many is diminished by the illegal conduct of a few.

The California Department of Consumer Affairs is dedicated to working with its professional licensing board partners to protect and educate consumers. If you are a victim of sexual abuse by a therapist, it’s important for you to report your experience to the board that licenses your therapist.

This booklet offers guidance and resources for consumers. For more consumer guidelines and information, you may contact the appropriate licensing board or professional association, or contact the Department of Consumer Affairs at 1-800-952-5210 or www.dca.ca.gov.

California Department of Consumer Affairs





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Introduction

Professional psychotherapy never includes sex. It also never includes verbal sexual advances or any other kind of sexual contact or behavior. Sexual contact of any kind between a therapist and a patient is unethical and illegal in the state of California. Additionally, with regard to former patients, sexual contact within two years after termination of therapy is also illegal and unethical.

Sexual contact between a therapist and a patient can also be harmful to the patient. Harm may arise from the therapist's exploitation of the patient to fulfill his or her own needs or desires, and from the therapist's loss of the objectivity necessary for effective therapy. All therapists are trained and educated to know that this kind of behavior is inappropriate and can result in the revocation of their professional license.

Therapists are trusted and respected, and it is common for patients to admire and feel attracted to them. However, a therapist who accepts or encourages these normal feelings in a sexual way — or tells a patient that sexual involvement is part of therapy — is using the trusting therapy relationship to take advantage of the patient. And once sexual involvement begins, therapy for the patient ends. The original issues that brought the patient to therapy are postponed, neglected, and sometimes lost.

Many people who endure this kind of abusive behavior from therapists suffer harmful, long-lasting emotional and psychological effects. Family life and friendships are often disrupted, or sometimes ruined.

California's lawmakers, licensing boards, professional associations and ethical therapists want such inappropriate sexual behavior stopped. This booklet was developed to help patients who have been sexually exploited by their therapists.

It outlines their rights and options for reporting what happened. It also defines therapist sexual exploitation, gives warning signs of unprofessional behavior, presents a "Patient Bill of Rights," and answers some frequently asked questions.

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Definition of Terms

Throughout this booklet, the terms “therapist,” “therapy” and “patient” will be used. “Therapist” refers to anyone who is licensed to practice psychotherapy, or is training to become licensed, and includes:

- Psychiatrists (physicians practicing psychotherapy)
- Psychologists
- Registered psychologists
- Psychological interns
- Psychological assistants
- Licensed clinical social workers
- Registered associate clinical social workers
- Licensed marriage and family therapists
- Marriage and family therapist registered interns and trainees
- Licensed professional clinical counselors
- Professional clinical counselor interns

The terms “therapy,” “therapist” and “patient” in this booklet also refer to educational psychology, educational psychologists and their clients. Though educational psychologists do not practice psychotherapy, these licensed professionals work with clients, performing educational evaluations, diagnosis and test interpretation.

“Therapy” includes any type of mental health counseling from any of the licensed or registered, therapists listed above. “Patient” refers to anyone receiving therapy or counseling.



According to California laws:

- Any act of sexual contact, sexual abuse, sexual exploitation, sexual misconduct or sexual relations by a therapist with a patient is unprofessional, illegal, as well as unethical as set forth in Business and Professions Code sections 726, 729, 2960(o), 4982(k), 4992.3(l), 4989.54(n), and 4999.90(k).
- “Sexual contact” means the touching of an intimate part of another person, including sexual intercourse.
- “Touching” means physical contact with another person either through the person’s clothes or directly with the person’s skin.
- “Intimate part” means the sexual organ, anus, groin or buttocks of any person and the breast of a female.

Sexual exploitation can include sexual intercourse, sodomy, oral copulation, or any other sexual contact between a therapist and a patient or a former patient under certain circumstances. Sexual misconduct includes a much broader range of activity, which may include fondling, kissing, spanking, nudity, verbal suggestions, innuendoes or advances. This kind of sexual behavior by a therapist with a patient is unethical, unprofessional and illegal.

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Warning Signs

In most sexual abuse or exploitation cases, other inappropriate behavior comes first. While it may be subtle or confusing, it usually feels uncomfortable to the patient. Some clues or warning signs are:

- Telling sexual jokes or stories.
- “Making eyes at” or giving seductive looks to the patient.
- Discussing the therapist’s sex life or relationships excessively.
- Sitting too close, initiating hugging, holding the patient or lying next to the patient.

Another warning sign is “special” treatment by a therapist, such as:

- Inviting a patient to lunch, dinner or other social activities.
- Dating.
- Changing any of the office’s business practices (for example, scheduling late appointments so no one is around, having sessions away from the office, etc.).
- Confiding in a patient (for example, about the therapist’s love life, work problems, etc.).
- Telling a patient that he or she is special, or that the therapist loves him or her.
- Relying on a patient for personal and emotional support.
- Giving or receiving significant gifts.

Signs of inappropriate behavior and misuse of power include:

- Hiring a patient to do work for the therapist, or bartering goods or services to pay for therapy.
- Suggesting or supporting the patient’s isolation from social support systems, increasing dependency on the therapist.
- Providing or using alcohol (or drugs) during sessions.
- Any violation of the patient’s rights as a consumer (see “Patient Bill of Rights,” page 24).

Therapy is meant to be a guided learning experience, during which therapists help patients to find their own answers and feel better about themselves and their lives. A patient should never feel intimidated or threatened by a therapist's behavior.

If you are experiencing any of these warning signs, trust your own feelings. Check on the therapist's behavior with a different therapist, or with any of the agencies in "Where To Start" (see page 10). Depending on what you find out, you may want to find another therapist.

What If It's Me?

If you have been sexually abused or exploited by your therapist, you may be feeling confused. You may feel:

- Guilty and responsible — even though it's the **therapist's** responsibility to keep sexual behavior out of therapy.
- Mixed feelings about the therapist — protectiveness, anger, love, betrayal.
- Isolated and empty.
- Distrustful of others or your own feelings.
- Fearful that no one will believe you or understand what happened, or that someone will find out.
- Confused about dependency, control and power.

You may even have nightmares, obsessive thoughts, depression, or suicidal or homicidal thoughts. You may feel overwhelmed as you try to decide what to do or whom to tell.

It's essential that you face what happened. This may be painful, but it is the first major step in healing and recovering from the experience. You may have positive and negative feelings at the same time, such as starting to feel personal control, being afraid of what may happen in the future, remembering the experience, and feeling relieved that the sexual relationship is over.

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The second step in the healing process is to decide what YOU want to do next. Try to be open-minded about your options.

Remember: **It doesn't matter** if you, the patient, started or wanted the sexual involvement with the therapist. Therapists are responsible for keeping sexual intimacy out of the therapy relationship and are trained to know how to handle a patient's sexual attractions and desires.

Where To Start

You may need to (1) talk to someone who will understand what you're going through, (2) get information on whether the therapist's behavior was illegal and/or unethical, and (3) find out what you can do about it. Three places to get help are:

- **Licensing Boards** — In the Department of Consumer Affairs, three different boards license therapists. They can give general information on appropriate behavior for therapists and your rights for reporting what happened, as well as how to file a complaint (see page 13 for licensing board contact information).
- **Sexual Assault/Crisis Centers** — These centers have staff trained in all types of sexual abuse and exploitation. They can provide general information on appropriate behavior for therapists, crisis services, your rights for reporting what happened, and names of therapists and support groups that may be helpful. Centers are located throughout California. Look in your telephone book under “sexual assault center” or “crisis intervention service.”
- **Professional Associations** — Each licensed therapy profession has at least one professional association. Associations can provide general information on appropriate behavior for therapists, your rights for reporting what happened, and how to file a complaint. They can provide names of therapists who may be helpful (see pages 16-17 for association contact information).

What You Can Do

You can deal with your situation in several different ways. Take time to explore all of your rights and options. It may help to decide what your goals are:

- **Reporting the Therapist** — Perhaps you want to prevent the therapist from hurting other patients. You may want to make it known that sexual exploitation is always wrong. If this is your decision, you have several reporting options (see page 12).

It is important to note that reporting misconduct is time-sensitive. What can be done in response to the report of misconduct usually depends on who the misconduct is reported to and the length of time between the misconduct and when the report was filed.

Such a time limit is called a “statute of limitations.” As you consider your options, be aware of these time limits.

- **Your Recovery** — You may also want to explore and process what happened between you and the therapist. If you decide to do this, you can look into therapy or support groups (see pages 20–21).
- **Moving On** — You may wish simply to move on past this experience as quickly as possible and get on with your life. Remember — you have the right to decide what is best for you.

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Your Reporting Options

If you decide to report a therapist's behavior that you believe is unethical and illegal, there are four different ways to do so. All of these reporting options are affected by time limits, so you should consider reporting misconduct at the earliest appropriate opportunity. You may choose one or more of the options listed below. These options and their time limits are discussed in more detail on the following pages:



Administrative Action — File a complaint with the therapist's licensing board. (See "More About Administrative Action," page 13.)



Professional Association Action — File a complaint with the ethics committee of the therapist's professional association. (See "More About Professional Association Action," page 15.)



Civil Action — File a civil lawsuit. (See "More About Civil Action," page 18.)



Criminal Action — File a complaint with local law enforcement. (See "More About Criminal Action," page 19.)

More About Administrative Action

Three California boards license and regulate therapists:

Board of Behavioral Sciences

1625 N. Market Blvd., Suite S-200

Sacramento, CA 95834

(916) 574-7830

www.bbs.ca.gov

This board licenses and regulates educational psychologists; licensed clinical social workers; registered associate clinical social workers; licensed marriage and family therapists; registered marriage and family therapist interns; licensed professional clinical counselors; and registered professional clinical counselor interns.

Board of Psychology

1625 N. Market Blvd., Suite N-215

Sacramento, CA 95815

(916) 574-7720

www.psychology.ca.gov

This board licenses and regulates psychologists, psychological assistants and registered psychologists.

Medical Board of California

2005 Evergreen Street, Suite 1200

Sacramento, CA 95815

(916) 263-2389

www.mbc.ca.gov

This board licenses and regulates physicians, including psychiatrists.

The purpose of these licensing boards is to protect the health, safety and welfare of consumers. Licensing boards have the power to discipline therapists by using the administrative law process.

Depending on the violation, the board may revoke or suspend a

license, and/or place a license on probation with

terms and conditions the licensed professional must follow. When a license is revoked, the therapist

cannot legally practice.

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In many cases, the California Business and Professions Code requires revocation of a therapist's license or registration whenever sexual misconduct is admitted or proven.

It is best to report any case of therapist-patient sexual exploitation as soon as possible, since delays may restrict the disciplinary options available to the board. Time limits require a licensing board to initiate disciplinary action by filing an "accusation" against a licensed professional accused of sexual misconduct:

- within three years from the date the board discovered the alleged sexual misconduct, or
- within 10 years from the date the alleged sexual misconduct occurred.

That means an accusation of sexual misconduct against a therapist can't be filed more than 10 years after the alleged incident. For complaints involving allegations other than sexual misconduct, the licensing board must file an accusation within seven years from the date of the alleged offense.

How the Complaint Process Works

The licensing boards can give you information about the complaint filing process and discuss your situation with you. To file a complaint, you can request a complaint form, write a letter, or start the complaint process online with the appropriate licensing board. With your complaint, be sure to include your name, address, and telephone number; the therapist's name, address, and telephone number; a description of your complaint; copies of any available documentation (for example, letters, bill receipts, canceled checks, or pictures); and names, addresses and telephone numbers of any witnesses.

Each complaint is evaluated and investigated, and you and the therapist will be notified if the board has sufficient evidence to initiate disciplinary action. You and the therapist will be interviewed separately.

Most cases are settled by a *stipulated agreement* — the therapist typically admits to the violation(s) and accepts the disciplinary action, no hearing is held, and the patient does not have to testify. In the event that your case is not settled by a stipulated agreement, a hearing will be held by an administrative law judge, and you will be required to testify. When the judge makes a decision about the case, the board

will then decide whether to accept this decision or to issue its own decision.

It is board policy to use only initials, rather than full names, to identify patients in public disciplinary documents. However, hearings are open to the public, and there is a possibility that confidentiality may be jeopardized during the investigation process or at the hearing itself. If you are concerned about this, discuss it with the licensing board investigator.

The disciplinary process may take about two years from the time a complaint is received to the time a final decision is made. Sometimes the process takes longer. Keep in mind that you cannot receive monetary compensation from the therapist by using this option, but you may affect the therapist's ability to practice and thereby protect other patients from similar misconduct.

More About Professional Association Action

Many therapists join professional associations — organizations that provide education and guidance to members of a profession. Each association has ethics guidelines, and all such guidelines state that sexual involvement with patients is unacceptable and unethical.

If your therapist is a member of a professional association, you may file a formal complaint with the association. After investigating the complaint, the association may recommend disciplinary actions that may include removal of the therapist from its membership. Removing a therapist from the association will let other members know about the person's unethical behavior, **but it will not keep the therapist from practicing**. Only a licensing board or court action can do that. In addition, the action will not result in monetary recovery for you (only a civil action can do that), and will not result in criminal action against the therapist.

Each association has different ways of filing complaints. Call or write the appropriate association for this information. To find out which association, if any, the therapist belongs to, call the therapist's office and request this information; have a friend call the office or therapist for you; or check with the different associations.

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Professional Associations

Most professional association ethics committees will typically review only those complaints that include allegations made within one year of the date of the alleged misconduct.

Contact the appropriate association for specifics on reporting professional misconduct, or to get more general information.

Psychiatrist, Physician

American Psychiatric Association
1000 Wilson Blvd. Suite 1825
Arlington, VA 22209
(888) 357-7924
www.psych.org

California Medical Association
1201 J Street, Suite 200
Sacramento, CA 95814
(916) 444-5532
www.cmanet.org

California Psychiatric Association
1029 K Street, Suite 28
Sacramento, CA 95814
(916) 442-5196
www.calpsych.org

Licensed Psychologist

American Psychological Association
750 First Street, NE
Washington, DC 20002
(800) 374-2721
www.apa.org

California Psychological Association
1231 I Street, Suite 204
Sacramento, CA 95814
(916) 286-7979
www.cpapsych.org

Licensed Clinical Social Worker

National Association of Social Workers, California Chapter
1016 23rd Street
Sacramento CA 95816
(916) 442-4565
www.naswdc.org

National Association of Social Workers
750 First Street, NE, Suite 700
Washington, DC 20002
(202) 408-8600
www.naswdc.org

California Society for Clinical Social Work
6060 Sunrise Vista Drive, Suite 1300
Citrus Heights, CA 95610
(916) 560-9238
www.clinicalsocialworksociety.org

Professional Associations



Licensed Educational Psychologist

California Association
of Licensed Educational
Psychologists
P.O. Box 387
Aptos, CA 95001
www.calep.com

California Association of
School Psychologists
1020 12th Street, Suite 200
Sacramento, CA 95814
(916) 444-1595
www.casponline.org

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Licensed Marriage and Family Therapist

American Association for
Marriage and Family Therapy
112 South Alfred Street
Alexandria, VA 22314-3061
(703) 838-9808
www.aamft.org

American Association for
Marriage and Family Therapy,
California Division
Post Office Box 6907
Santa Barbara, CA 93160
(800) 662-2638
(805) 681-1413
www.aamftca.org

California Association
of Marriage and Family
Therapists
7901 Raytheon Road
San Diego, CA 92111
(858) 292-2638
www.camft.org

Licensed Professional Clinical Counselors

California Association for
Licensed Professional Clinical
Counselors
P.O. Box 280640
Northridge, CA 91328
<http://calpcc.org/>

More About Civil Action

Suing the Therapist or Their Employer

Generally, civil lawsuits are filed to seek money for damages or injuries to a patient. For a sexual misconduct case, a patient may want to sue the therapist for injuries suffered and for the cost of future therapy sessions.

Under California law, you may file a lawsuit against the therapist or the therapist's employer if you believe the employer knew or should have known about the therapist's behavior. If the employer is a local or state public mental health agency for which the therapist works, you must first file a complaint with the agency within six months of the sexual misconduct. Consult with an attorney for specific advice.

If you think you want to file a lawsuit, it is important to consult an attorney as soon as possible, since there are different time limits for filing civil lawsuits. Most civil lawsuits must be filed within one year after the sexual misconduct occurred.

Media Attention

Once a lawsuit is filed, there is the possibility of media coverage, especially if the patient or therapist is well-known. While many cases are settled out of court, some do go to trial, and it can take years before your case is tried.

Patients Don't Always Win

You should be aware that some cases end up being decided in favor of the therapist, rather than the patient.

Finding an Attorney

Take time to choose an attorney to represent you. You may need to interview several. Here are some points to consider:

- Get a list of attorneys from your County Bar Association's referral service. You can also check with your local legal aid society for legal assistance.

- Contact a lawyer referral service certified by the State Bar of California. To find a certified lawyer referral service, look in the telephone book yellow pages at the beginning of the “Attorneys” listings, or visit the State Bar Web site at www.calbar.ca.gov.
- Check with the State Bar of California (www.calbar.ca.gov) to make sure the attorney has a clear license.
- While some attorneys are willing to wait to be paid based on the outcome of the suit (contingency basis), some will not.
- Be sure that the attorney has civil litigation experience in the area of medical and/or psychological malpractice.
- Make sure that you feel comfortable with your attorney and can trust and confide in him or her.

More About Criminal Action

Sexual exploitation of patients by therapists is wrong. The law makes it a crime for a therapist to have sexual contact with a patient. For a first offense with only one victim, an offender would probably be charged with a misdemeanor. For this charge, the penalty may be a sentence of up to one year in county jail, or up to \$1,000 in fines, or both. Second and following offenses, or offenses with more than one victim, may be misdemeanors or felonies. The penalty in such felony cases can be up to three years in prison, or up to \$10,000 in fines, or both.

This law applies to two situations:

- The therapist has sexual contact with a patient during therapy, or
- The therapist ends therapy primarily to start having sexual contact with the patient (unless the therapist has referred the patient to an independent and objective therapist who has been recommended by a third-party therapist).

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To file a criminal complaint against a therapist:

- Contact your local law enforcement agency. Many agencies in larger cities have sexual assault units that handle these complaints.
- Contact your local victim/witness assistance program for help through the legal process. Look in your local telephone book under “District Attorney” or call 1-800-VICTIMS (842-8467).

Once a complaint is filed, it will be investigated by the law enforcement agency, which will give the results of the investigation to the district attorney’s office. The district attorney’s office will decide whether there is enough evidence to file criminal charges.

Time limits, or statutes of limitations, affect this reporting option. If you are considering this option, contact your local law enforcement agency. The agency’s authority to take action may expire as soon as one year from the date the alleged misconduct occurred.

Where to Get Help

Many patients who have been sexually exploited by therapists find it difficult to see another therapist for help and support. However, for most people, the issues that brought them to therapy were never worked on or resolved, and the sexual exploitation created even more issues to handle. If this is your situation, therapy may be an important tool in your healing process.

Before selecting a therapist, interview several until you find one you are comfortable with. Use the “Patient Bill of Rights” as a guide (see page 24). If you are unsure after one session, either consider a different therapist or set up a follow-up session to clarify your concerns. Do not feel pressured to stay with one therapist.

Finding a Therapist

Some ways of finding a therapist are:

- Asking someone you know who has been in therapy, who feels good about the experience and who has changed in ways you consider positive.
- Calling your local sexual assault center or crisis intervention service (in the telephone book yellow pages). These centers can refer you to therapists experienced in dealing with those who have suffered sexual exploitation or abuse.
- Calling professional associations (see pages 16-17) and asking for referrals to therapists who specialize in helping those who have been sexually abused or exploited by therapists.

After getting several names, call the appropriate licensing board (see page 13) or visit their Web site for on-line license verification and disciplinary actions. You can also call the professional association (see pages 16-17) and ask if the therapists are licensed and if any disciplinary actions have been filed against them. Check with your county Superior Court to see if there is a record of any malpractice lawsuits filed against the therapists.

Self-Help Support Groups

There is an informal network of self-help support groups throughout California. While there might not be a group in your area specifically focused on sexual exploitation by therapists, there may be groups dealing with more general kinds of sexual abuse. To find out if there are any groups in your area, call your local sexual assault center or crisis intervention service (listed in the telephone book yellow pages).

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Frequently Asked Questions

> Is it normal to feel attracted to my therapist?

Yes. It is normal to feel attracted to someone who is attentive, kind and caring. This is a common reaction toward someone who is helping you. However, all therapists are trained to be aware of this and to maintain a therapy relationship that is beneficial to the patient.

> What if I was the one who brought up having sex?

That doesn't matter. The therapist is the one who is responsible for keeping sexual intimacy out of therapy.

> Does this happen a lot?

A national study revealed that probably fewer than 10 percent of all therapists have had sexual contact with their patients and that 80 percent of the sexually exploiting therapists have exploited more than one patient. If a therapist is sexually exploiting a patient, they have probably done so before and are likely to do so again. In recent years, aggressive prosecution of offending therapists—and passage of laws that facilitate the enforcement work of licensing boards—have helped to significantly reduce the number of such cases reported to the licensing boards.

Why do some therapists sexually exploit their patients?

> There are probably as many excuses as there are therapists who engage in such unprofessional conduct. But no excuse is acceptable for a therapist to abuse the therapeutic relationship and the trust of a patient for the therapist's own sexual gain. All therapists should know that this conduct is unethical and illegal.



➤ Why do I feel scared or confused about reporting my therapist?

Feelings of confusion, protectiveness, shame or guilt are common. In most cases, the therapist is an important person in the patient's life. Get as much information as possible about your options. Keep in mind that you are in control and can choose what to do.

➤ What if the therapist retaliates against me, harasses me or files a lawsuit against me for reporting him or her?

Retaliation against a patient or harassment of a patient is illegal. Contact your local district attorney. If the therapist files a lawsuit against you, you will be required to defend yourself in the lawsuit. However, the law does provide immunity from monetary liability for reporting misconduct to a licensing board.

➤ How can I prevent this from happening again?

1. Acknowledge your right to be free from sexual exploitation.
2. When choosing a therapist, check with the licensing board (see page 13) to see if the therapist is licensed and if the license is under suspension or probation. Check on any complaints filed with a professional association. Review county Superior Court records to see if any malpractice lawsuit judgments are on file against the therapist.
3. Question any action that may seem sexual.
4. Remember that while feelings of attraction are natural, therapy is supposed to be a means to explore and resolve feelings, without having to act them out.
5. Feel free to end a relationship that no longer seems safe.

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Can I file an anonymous complaint with a licensing board?

Anonymous complaints are accepted, but they are almost impossible to investigate without the cooperation of the accuser.

Patient Bill of Rights

Patients have the right to:

- Request and receive information about the therapist's professional capabilities, including licensure, education, training, experience, professional association membership, specialization and limitations.
- Have written information about fees, payment methods, insurance reimbursement, number of sessions, substitutions (in cases of vacation and emergencies), and cancellation policies before beginning therapy.
- Receive respectful treatment that will be helpful to you.
- A safe environment, free from sexual, physical and emotional abuse.
- Ask questions about your therapy.
- Refuse to answer any question or disclose any information you choose not to reveal.
- Request and receive information from the therapist about your progress.
- Know the limits of confidentiality and the circumstances in which a therapist is legally required to disclose information to others.
- Know if there are supervisors, consultants, students, or others with whom your therapist will discuss your case.
- Refuse a particular type of treatment, or end treatment without obligation or harassment.
- Refuse electronic recording (but you may request it if you wish).
- Request and (in most cases) receive a summary of your file, including the diagnosis, your progress, and the type of treatment.
- Report unethical and illegal behavior by a therapist (see "Your Reporting Options," page 12).
- Receive a second opinion at any time about your therapy or therapist's methods.
- Have a copy of your file transferred to any therapist or agency you choose.

