

MEMORANDUM

DATE	October 17, 2018
TO	Psychology Board Members
FROM	 Antonette Sorrick Executive Officer
SUBJECT	“Therapy Never Includes Sexual Behavior” Brochure – Update – Agenda Item 18(i)

Background:

In 2011, the Department of Consumer Affairs made some minor edits to the publication “Professional Therapy Never Includes Sex.” With the proliferation of technology and social media, staff recommends the brochure be reviewed for necessary updates. The Outreach and Education Committee recommended staff proceed with working with the Medical Board of California (MBC) and the Board of Behavioral Sciences (BBS) to update the title and content of this brochure. The project was separated into five phases:

- 1) Staff at all three boards will review the content and include suggested amendments - completed
- 2) Licensees (experts) from all three boards will review the suggested amendments and make final edits to the publication – completed
- 3) Medical Board, Osteopathic Medical Board, Board of Behavioral Sciences Board all to share draft brochure with their respective boards and provide feedback to Department of Consumer Affairs’ (DCA) Publication Unit
- 4) Publication Unit to send draft back to all four boards
- 5) Boards provide final feedback to DCA

At the February 2018 Board Meeting, the Board provided edits to the draft document. After, staff forwarded the updated draft to Osteopathic Medical Board. No additional edits were made. On April 26, Dr. Casuga notified staff that an edit was missing from the draft brochure.

The draft brochure is currently with DCA where they await a change to the B&P Code Sections 337 & 728 to move forward with publication. AB 2698 (Levine) was introduced on February 16, 2018 which will address both code sections. Governor Brown signed AB 2698. Once the Board approves the language, it will go to the following boards:

- 1) BBS –November 28-30, 2018

- 2) Osteopathic Medical Board – January 17, 2019
- 3) Medical Board of California – January 31- Feb 1, 2019

Action Requested:

Review draft brochure with highlighted sections for consideration.

- 1• CONSUMERS
- 2• MEDIA
- 3• PUBLICATIONS
- 4• ONLINE SERVICES

5 Professional Therapy Never Includes Sexual Behavior

6 Printer Friendly Version

7 **State of California**
8 **Department of Consumer Affairs**

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10 California's lawmakers, licensing boards, and ethical therapists want the public to know that
11 professional therapy never includes sexual contact between a therapist and a client. It also never
12 includes inappropriate sexual suggestions, or any other kind of sexual behavior between a therapist
13 and a client. Sexual contact of any kind between a therapist and a client is unethical and illegal in the
14 state of California. Additionally, with regard to former clients, sexual contact within two years after
15 termination of therapy is also illegal and unethical. It is always the responsibility of the therapist to
16 ensure that sexual contact with a client, whether consensual or not, does not occur.

17 Dear Reader:

18 As a reader of "Professional Therapy Never Includes Sexual Contact," you may be a California
19 consumer concerned about the conduct of your therapist. You may be a licensed therapist, or training
20 to become a therapist. In any case, it's good to know more about the high standards of professional
21 conduct expected—and required—in the therapy relationship.

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

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

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

33 California Department of Consumer Affairs

34 Publishing Information

35 The 2011 edition of "Professional Therapy Never Includes Sexual Contact" is published by the
36 California Department of Consumer Affairs. This publication is a joint project of the California Board of
37 Psychology, the California Board of Behavioral Sciences and the Department of Consumer Affairs'
38 Office of Publications, Design & Editing.

39 This booklet is available in the "Publications" section of the Department of Consumer Affairs' Web
40 sitewebsite at www.dca.ca.gov.

41 Single copies of the publication are available at no charge from the boards listed above and from
42 Publications Office, California Department of Consumer Affairs, P.O. Box 989004, West Sacramento,
43 CA 95798-0004.

44 This booklet may be copied, if (1) the meaning of copied text is not changed or misrepresented, (2)
45 credit is given to the California Department of Consumer Affairs, and (3) all copies are distributed free
46 of charge.

47 Acknowledgments

48 The Department of Consumer Affairs, the Board of Psychology and the Board of Behavioral Sciences
49 wish to thank former Senator Diane Watson, whose Senate Task Force on Psychotherapist and
50 Patient Sexual Relations prompted the development of "Professional Therapy Never Includes Sex" in
51 1990.

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53 California law requires that the Department of Consumer Affairs provide an informational brochure for
54 victims of psychotherapist-patient sexual contact and their advocates.

55 California's lawmakers, licensing boards, professional associations and ethical therapists want such
56 inappropriate sexual behavior stopped. This booklet was developed to help patients who have been
57 sexually exploited by their therapist. It outlines their rights and options for reporting what happened. It
58 also defines therapist sexual exploitation, gives warning signs of unprofessional behavior, presents a
59 "Patient Bill of Rights," and answers some frequently asked questions.

60

- 61 • Introduction
- 62 • Definition of Terms
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- 78 • Patient Bill of Rights

79

80 INTRODUCTION

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

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

90 Therapists are trusted and respected, and it is common for patients to admire and feel attracted to
91 them. ~~by their clients, and it is not uncommon for clients to admire and feel attracted to them.~~ However,
92 a therapist who accepts or encourages the expression of these feelings through sexual behavior with
93 the therapist client these normal feelings in a sexual way - or tells a patient/client that sexual
94 involvement is part of therapy - ~~is illegal, unethical, and it violates the therapeutic relationship, and~~
95 ~~engages in conduct that may be illegal and unethical.~~ using the trusting therapeutic relationship to take
96 advantage of the patient. Once sexual involvement begins, therapy for the patient ends. The original
97 issues that brought the patient to therapy are postponed, neglected, and sometimes lost. This kind of
98 abusive behavior can cause harmful, long-lasting, emotional and psychological effects to the client.

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

102 California's lawmakers, licensing boards, professional associations and ethical therapists want such
103 inappropriate sexual behavior stopped. This booklet was developed to help patients who have been
104 sexually exploited by their therapists. It outlines their rights and options for reporting what happened. It
105 also defines therapist sexual exploitation, gives warning signs of unprofessional behavior, presents a
106 "Patient Bill of Rights," and answers some frequently asked questions.

107

108 DEFINITION OF TERMS

109 Throughout this booklet, the terms "therapist," "therapy" and "patient/client" will be used. "Therapist"
110 refers to anyone who is licensed to practice psychotherapy, or is training to become licensed, and
111 includes:

- 112 • Psychiatrists (physicians practicing psychotherapy) Physicians and Surgeons (Ppsychiatrists)
- 113 • Psychologists
- 114 • Registered pPsychologists
- 115 • Psychological interns
- 116 • Psychological assistants
- 117 • Licensed eClinical social workers
- 118 • Registered associate eClinical social workers
- 119 • Licensed marriage and family therapists
- 120 • Registered Associate Marriage Marriage and Family therapists, registered interns and
121 trainees
- 122 • Licensed professional eClinical ecounselors
- 123 • Registered Associate Pprofessional eClinical ecounselors Interns
- 124 • Licensed Educational Psychologists
- 125 • Registered Research Psychoanalysts

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

130 "Therapy" includes any type of mental health counseling from any of the licensed or registered
131 professionals, therapists listed above. "Client" "Patient" refers to anyone receiving therapy, or
132 counseling, or other services.

133 According to California laws:

134 Any act of sexual contact, sexual abuse, sexual exploitation, sexual misconduct or sexual relations by
135 a therapist with a patient client is unprofessional, illegal, as well as unethical, as set forth in Business
136 and Professions Code sections 726, 729, 2960(o), 4982(k), 4992.3(l), 4989.54(n), and 4999.90(k).

137 "Sexual contact" means the touching of an intimate part of another person, including sexual
138 intercourse.

139 "Sexual behavior" means inappropriate contact or communication of a sexual nature. This definition
140 does not include the provision of appropriate therapeutic interventions relating to sexual issues.

141 "Touching" means physical contact with another person either through the person's clothes or directly
142 with the person's skin.

143 "Intimate part" means the sexual organ, anus, groin or buttocks of any person, and the breast of a
144 female.

145 "License" includes certificate, registration or other means to engage in a business or profession
146 regulated by Chapter 1, General Provisions, section 475 of the Business and Professions Code.

147 ~~"Sexual behavior" means inappropriate contact or communication of a sexual nature.~~

Commented [KK1]: Already listed above this is duplicative.

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

153 **CLIENT RIGHTS**

154 You, as a Client, have the right to:

- 155 • Request and receive information about the therapist's professional capabilities, including
156 licensure, education, training, experience, professional association membership,
157 specialization and limitations.
- 158 • Be treated with dignity and respect.
- 159 • A safe environment, free from sexual, physical, and emotional abuse.
- 160 • Ask questions about your therapy or other services from your provider.
- 161 • Decline to answer any question or disclose any information you choose not to reveal.
- 162 • Request and receive information from the therapist about your progress toward your treatment
163 goals.
- 164 • Know the limits of confidentiality and the circumstances in which a therapist is legally required
165 to disclose information to others.

- 166 • Know if there are supervisors, consultants, students, or others with whom your therapist will discuss your case.
- 167
- 168 • Decline a particular type of treatment, or end treatment without obligation or harassment.
- 169 • Refuse electronic recording.
- 170 • Request and (in most cases) receive a summary of your file, including the diagnosis, your progress, and the type of treatment.
- 171
- 172 • Report unethical and illegal behavior by a therapist (see "What You Can Do").
- 173 • Receive a second opinion at any time about your therapy or your therapist's methods.
- 174 • Receive a copy of your file or have a copy of your file transferred to any therapist or agency you choose.
- 175

176 WARNING SIGNS

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

- 180 • Telling sexual jokes or stories.
- 181 • ~~"Making eyes at" or giving seductive looks to the patient.~~
- 182 • ~~Discussing the therapist's sex life or relationships excessively.~~
- 183 • Sending obscene images or messages to the client
- 184 • ~~Sitting too close, initiating hugging, holding the patient or lying next to the patient.~~ Unwanted
 185 physical contact.
- 186 • Excessive out-of-session communication (e.g., text, phone, email, social media, etc.) not
 187 related to therapy

188 Another warning sign is "special" treatment by a therapist, such as:

- 189 • Inviting a patient/client to lunch, dinner, or other social and professional activities.
- 190 • Dating.
- 191 • Changing any of the office's business practices (for example e.g., scheduling late
 192 appointments whense no one is around, having sessions away from the office, etc.).
- 193 • Confiding in a patient/client (e.g., about the therapist's love life, work problems, loneliness,
 194 marital problems, etc.).
- 195 • Telling a patient/client that he or she is special, or that the therapist loves him or her.
- 196 • Relying on a patient/client for personal and emotional support.
- 197 • Giving or receiving significant gifts.

198 Signs of inappropriate behavior and misuse of power include:

- 199 • Hiring a patient/client to do work for the therapist, or bartering goods or services to pay for
 200 therapy.
- 201 • Suggesting or supporting the patient's/client's isolation from social support systems, increasing
 202 dependency on the therapist.
- 203 • Providing or using alcohol (or drugs) during sessions.
- 204 • ~~Any violation of the patient's rights as a consumer (see "Patient Bill of Rights," page 24).~~

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

208 If you are experiencing any of these warning signs, you have the right to file a complaint with the
 209 appropriate licensing board and consult with another therapist, trust your own feelings. Check on
 210 discuss the therapist's behavior with a different therapist, or with any of the agencies in "Where To

Commented [BC2]: Per Dr. Casuga - The language here about bartering seems stronger than in the APA Ethical Guideline 6.05:

6.05 Barter With Clients/Patients
 Barter is the acceptance of goods, services, or other nonmonetary remuneration from clients/patients in return for psychological services. Psychologists may barter only if (1) it is not clinically contraindicated, and (2) the resulting arrangement is not exploitative. (See also Standards 3.05, Multiple Relationships, and 6.04, Fees and Financial Arrangements.)

211 Start" (see page 10). Depending on what you find out, you may want to find another therapist and
212 report the inappropriate behavior to the proper licensing board.

213 **WHAT IF IT'S ME? COMMON REACTIONS TO SEXUAL MISCONDUCT BY A** 214 **THERAPIST**

215 If a therapist has engaged in any sexual behavior or contact with you, you may experience some or all
216 of the following feelings or reactions:

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

- 219 • Intimidation or threatened
- 220 • Guilty and responsible responsibility - even though it is the therapist's responsibility to keep
221 sexual behavior out of therapy.
- 222 • Mixed feelings about the therapist – e.g., protectiveness, anger, love, betrayal.
- 223 • Isolated/solation and empty/emptiness.
- 224 • Distrustful of others' feelings or intentions, or your own feelings.
- 225 • Fearful that no one will believe you, or understand what happened, or that someone will find
226 out.
- 227 • Confused about dependency, control and power. Feeling victimized or violated
- 228 • Experiencing traumatic symptoms, e.g., anxiety, nightmares, obsessive thoughts, depression,
229 or suicidal or homicidal thoughts

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

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

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

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

241 **WHERE TO START**

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

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

256 therapists, your rights for reporting what happened, and how to file a complaint. They can
257 provide names of therapists who may be helpful (see pages 16-17 for association contact
258 information).

259 WHAT YOU CAN DO

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

262 **Reporting the Therapist** - Perhaps you want to prevent the therapist from hurting other patients. You
263 may want to make it known that sexual exploitation is always wrong. If this is your decision, you have
264 several reporting options (see page 12). What happened to you may be illegal and unethical and you
265 should report it to the appropriate licensing board as soon as possible in order for the board to take
266 appropriate action within the statute of limitations.
267

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

271 Such a time limit is called a "statute of limitations." As you consider your options, be aware of these
272 time limits.
273

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

279 YOUR REPORTING OPTIONS

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

- 285 ● **Administrative Action** - File a complaint with the therapist's licensing board. (See "More
286 About Administrative Action," page 13.)
- 287 ● **Professional Association Action** - File a complaint with the ethics committee of the
288 therapist's professional association. (See "More About Professional Association Action," page
289 15.)
- 290 ● **Civil Action** - File a civil lawsuit. (See "More About Civil Action," page 18.)
- 291 ● **Criminal Action** - File a complaint with local law enforcement. (See "More About Criminal
292 Action," page 19.)

293 More About Administrative Action

294 In California, there are four (4) ~~three (3)~~ boards that license and regulate therapists. Three California
295 boards license and regulate therapists:

296 **Board of Behavioral Sciences**
297 1625 N. Market Blvd., Suite S-200
298 Sacramento, CA 95834
299 (916) 574-7830
300 www.bbs.ca.gov

301 This board licenses and regulates licensed educational psychologists; licensed clinical social workers;
302 registered associate clinical social workers; licensed marriage and family therapists; registered
303 associate marriage and family therapist-interns; licensed professional clinical counselors; and
304 registered professional associate professional clinical counselors interns.

305 **Board of Psychology**
306 2005 Evergreen Street, Suite 1400
307 Sacramento, CA 95815

308 1625 N. Market Blvd., Suite N-215
309 Sacramento, CA 95834
310 (916) 263-2699(916) 574-7720
311 www.psychboard.ca.govwww.psychology.ca.gov

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

314 **Medical Board of California**
315 2005 Evergreen Street, Suite 1200
316 Sacramento, CA 95815
317 (916) 263-2389
318 www.mbc.ca.gov

319 This board licenses and regulates allopathic (MD) physicians and surgeons, including (psychiatrists)
320 and research psychoanalysts.

321 **Osteopathic Medical Board of California**
322 1300 National Drive, Suite 150
323 Sacramento, CA 95834-1991
324 (916) 928-8390
325 www.ombc.ca.gov

326 This board licenses and regulates osteopathic (DO) physicians and surgeons (psychiatrists).

327 The purpose of these licensing boards is to protect the health, safety and welfare of consumers.
328 Licensing boards have the power/authority to discipline therapists by using the administrative law
329 process. Depending on the violation, the board may revoke or suspend a license, and/or place a
330 license on probation with terms and conditions the licensed professional must follow. When a license is
331 revoked, the therapist cannot legally practice.

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

334 It is best to report any case of therapist-patient sexual exploitation as soon as possible, since delays
335 may restrict the disciplinary options available to the board. Time limits require a licensing board to
336 initiate disciplinary action by filing an "accusation" against a licensed professional accused of sexual
337 misconduct:
338 -within three years from the date the board discovered the alleged sexual misconduct, or
339 -within 10 years from the date the alleged sexual misconduct occurred.

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

343 **How to File a the Complaint Process Works**

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

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

353 Most cases are settled by a *stipulated agreement* – the therapist typically admits to the violation(s) and
354 accepts the disciplinary action, no hearing is held, and the patient does not have to testify. In the event
355 that your case is not settled by a stipulated agreement, a hearing will be held by an administrative law
356 judge, and you will be required to testify. When the judge makes a decision about the case, the board
357 will then decide whether to accept this decision or to issue its own decision.

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

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

366 You can submit your complaint online or in writing using the forms on the board's website to start the
367 process. You should provide as much information as possible, but it is especially helpful to provide
368 additional-the following information, if available, such as:

- 369 • Detailed description of the conduct you are reporting.
- 370 • Copies of materials that support your complaint, e.g., e-mails, text messages, correspondence
371 between you and the therapist, photographs or other images you shared with or received from
372 the therapist, etc.

373 The board will require a signed release form, authorizing the board to obtain your records from the
374 therapist. These records are required for official use, including investigation and possible
375 administrative proceedings regarding any violations of the law. Your complaint will be evaluated,
376 investigated, and you will be notified of the outcome.

377 The following are possible outcomes of your complaint:

- 378 • Revocation *or* surrender of the therapist's license: This results in the loss of license and right
379 to practice.
- 380 • Probation: The therapist's license may be placed on probation for a defined period of time,
381 with terms and conditions that must be complied with, in order to continue to practice.
- 382 • Case closed and no action taken against the therapist's license: the board could not
383 substantiate a violation of the laws and regulations.

384 It is board policy to use only initials, rather than full names, to identify clients in public disciplinary
385 documents. However, hearings are open to the public, and you may be asked to testify. All disciplinary
386 actions are public information.

387 In addition to filing a complaint with the appropriate regulatory board, you may also have civil and
388 criminal legal remedies available to you in regard to this incident.

389 **More About Professional Association Action**

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

393 If your therapist is a member of a professional association, you may file a formal complaint with the
394 association. After investigating the complaint, the association may recommend disciplinary actions that
395 may include removal of the therapist from its membership. Removing a therapist from the association
396 will let other members know about the person's unethical behavior, **but it will not keep the therapist**

Commented [BC3]: This language is added to meet the amendments to BPC 337 in AB 2968

397 **from practicing.** Only a licensing board or court action can do that. In addition, the action will not
398 result in monetary recovery for you (only a civil action can do that), and will not result in criminal action
399 against the therapist.

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

404 **Professional Associations**

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

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

409 **Psychiatrist, Physician**

410 American Psychiatric Association
411 1000 Wilson Blvd. Suite 1825
412 Arlington, VA 22209
413 (888) 357-7924
414 www.psychiatry.org

415 California Medical Association
416 1201 J Street, Suite 200
417 Sacramento, CA 95814
418 (916) 444-5532
419 www.cmanet.org

420 California Psychiatric Association
421 1029 K Street, Suite 28
422 Sacramento, CA 95814
423 (916) 442-5196
424 www.calpsych.org

425 **Licensed Psychologist**

426 American Psychological Association
427 750 First Street, NE
428 Washington, DC 20002
429 (800) 374-2721
430 www.apa.org

431 California Psychological Association
432 1231 I Street, Suite 204
433 Sacramento, CA 95814
434 (916) 286-7979
435 www.epapsych.org

436 **Licensed Clinical Social Worker**

437 National Association of Social Workers, California Chapter
438 1016 23rd Street
439 Sacramento CA 95816
440 (916) 442-4565
441 www.naswdc.org

442 National Association of Social Workers
443 750 First Street, NE, Suite 700

444 Washington, DC 20002
445 (202) 408-8600
446 www.naswdc.org

447 California Society for Clinical Social Work
448 6060 Sunrise Vista Drive, Suite 1300
449 Citrus Heights, CA 95610
450 (916) 560-9238
451 clinicalsocialworksociety.org

452 **Licensed Educational Psychologist**

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

457 California Association of School Psychologists
458 1020 12th Street, Suite 200
459 Sacramento, CA 95814
460 (916) 444-1595
461 www.casponline.org

462 **Licensed Marriage and Family Therapist**

463 American Association for Marriage and Family Therapy
464 112 South Alfred Street
465 Alexandria, VA 22314-3061
466 (703) 838-9808
467 www.aamft.org

468 American Association for Marriage and Family Therapy, California Division
469 Post Office Box 6907
470 Santa Barbara, CA 93160
471 (800) 662-2638
472 (805) 681-1413
473 aamftca.org

474 California Association of Marriage and Family Therapists
475 7904 Raytheon Road
476 San Diego, CA 92111
477 (858) 292-2638
478 www.camft.org

479 **Licensed Professional Clinical Counselors**

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

484 **More About Civil Action**

485 **Suing the Therapist or Their Employer**

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

489 Under California law, you may file a lawsuit against the therapist or the therapist's employer if you
490 believe the employer knew or should have known about the therapist's behavior. If the employer is a

491 local or state public mental health agency for which the therapist works, you must first file a complaint
492 with the agency within six months of the sexual misconduct. Consult with an attorney for specific
493 advice.

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

497 **Media Attention**

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

501 **Patients Don't Always Win**

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

504 **Finding an Attorney**

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

- 507 ● Get a list of attorneys from your County Bar Association's referral service. You can also check
508 with your local legal aid society for legal assistance.
- 509 ● Contact a lawyer referral service certified by the State Bar of California. To find a certified
510 lawyer referral service, look in the telephone book yellow pages at the beginning of the
511 "Attorneys" listings, or visit the State Bar Web site at www.calbar.ca.gov.
- 512 ● Check with the State Bar of California (www.calbar.ca.gov) to make sure the attorney has a
513 clear license.
- 514 ● While some attorneys are willing to wait to be paid based on the outcome of the suit
515 (contingency basis), some will not.
- 516 ● Be sure that the attorney has civil litigation experience in the area of medical and/or
517 psychological malpractice.
- 518 ● Make sure that you feel comfortable with your attorney and can trust and confide in him or
519 her.

520 **More About Criminal Action**

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

527 This law applies to two situations:

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

532 To file a criminal complaint against a therapist:

- 533 ● Contact your local law enforcement agency. Many agencies in larger cities have sexual
534 assault units that handle these complaints.

535 • Contact your local victim/witness assistance program for help through the legal process. Look
536 in your local telephone book under "District Attorney" or call 1-800-VICTIMS (842-8467).

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

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

543 WHERE TO GET HELP

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

548 Therapy may be an important tool in your recovery. Before selecting a new therapist, here are a few
549 considerations/suggestions to support that process: interview several until you find one you are
550 comfortable with. Use the "Patient Bill of Rights" as a guide (see page 24). If you are unsure after one
551 session, either consider a different therapist or set up a follow-up session to clarify your concerns. Do
552 not feel pressured to stay with one therapist.

553 Finding a Therapist

554 Some ways of finding a therapist are:

- 555 • Asking someone you know and trust for a referral, who has been in therapy, who feels good
556 about the experience and who has changed in ways you consider positive.
- 557 • Calling your local sexual assault center or crisis intervention service (in the telephone book
558 yellow pages). These centers can refer you to therapists experienced in dealing with those
559 who have suffered sexual exploitation or abuse.
- 560 • Calling professional associations (see pages 16-17) and asking for referrals to therapists who
561 specialize in helping those who have been sexually abused or exploited by therapists.
- 562 • Searching online for a local sexual assault center or crisis intervention service. These centers
563 can refer you to therapists experienced in dealing with those who have suffered sexual
564 misconduct by a therapist.
- 565 • Contacting professional associations and asking for referrals to therapists who specialize in
566 helping those who have suffered sexual misconduct by a therapist.
- 567 • Seeking a referral from your primary care physician or insurance provider.

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

574 Self-Help Support Groups

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

580 **FREQUENTLY ASKED QUESTIONS**

581 • **Is it normal to feel attracted to my therapist?**

582 Yes. It is normal to feel attracted to someone who is attentive, kind, and caring. This is a
583 common reaction toward someone who is helping you. However, all therapists are trained to
584 be aware of this and to maintain a professional therapy relationship that is beneficial to the
585 patient/client.
586

587 • **What if I was the one who brought up having sex the client initiated sexual behavior?**

588 That doesn't matter. The therapist is the one who is responsible for keeping ensuring that
589 sexual intimacy behavior or contact is not part of therapy.
590

591 • **Does this happen a lot?**

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

599 • **Why do some therapists sexually exploit their patients?**

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

604 • **Why do I feel scared or confused about reporting my therapist?**

605 In most cases, the therapist is an important person in the client's life. Therefore, feelings of
606 such as fear, confusion, protectiveness, shame or guilt are common. Get as much information
607 as possible about your options. Keep in mind that you are in control and can choose what to
608 do.
609

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

611
612 Retaliation against a patient or harassment of a patient is illegal. Contact your local district
613 attorney. If the therapist files a lawsuit against you, you will be required to defend yourself in
614 the lawsuit. However, the law does provide immunity from monetary liability for reporting
615 misconduct to a licensing board.

616 • **How can I prevent this from happening again?**

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

- 626 • **Can I file a complaint if there is or has been a civil case between myself and the**
627 **therapist?**
- 628 Yes, you may file a complaint at any time, whether the case is ongoing or concluded. A civil
629 settlement cannot preclude you from filing a complaint against a licensee.
- 630 • **Is there a cost associated with filing a complaint?**
- 631 No, filing a complaint is free and can be filed via telephone, email, mail, or online.
- 632 • **Can I file a complaint if I had a personal relationship with my therapist?**
- 633 Yes.
- 634 • **Can I contact the therapist after I file a complaint?**
- 635 In order to preserve the integrity of the investigation, it is strongly recommended that you do
636 not initiate contact with the therapist once you have filed a complaint.
- 637 • **What if the therapist contacts me after I file a complaint?**
- 638 Once you have filed a complaint, notify the board right away if the therapist contacts you.
- 639 **Can I file an anonymous complaint with a licensing board?**
- 640 Anonymous complaints are accepted, but they are almost impossible to investigate without the
641 cooperation of the accuser.

642

643 **PATIENT BILL OF RIGHTS**

644 **Patients have the right to:**

- 645 • Request and receive information about the therapist's professional capabilities, including
646 licensure, education, training, experience, professional association membership,
647 specialization and limitations.
- 648 • Have written information about fees, payment methods, insurance reimbursement, number of
649 sessions, substitutions (in cases of vacation and emergencies), and cancellation policies
650 before beginning therapy.
- 651 • Receive respectful treatment that will be helpful to you.
- 652 • A safe environment, free from sexual, physical and emotional abuse.
- 653 • Ask questions about your therapy.
- 654 • Refuse to answer any question or disclose any information you choose not to reveal.
- 655 • Request and receive information from the therapist about your progress.
- 656 • Know the limits of confidentiality and the circumstances in which a therapist is legally required
657 to disclose information to others.
- 658 • Know if there are supervisors, consultants, students, or others with whom your therapist will
659 discuss your case.
- 660 • Refuse a particular type of treatment, or end treatment without obligation or harassment.
- 661 • Refuse electronic recording (but you may request it if you wish).
- 662 • Request and (in most cases) receive a summary of your file, including the diagnosis, your
663 progress, and the type of treatment.

- 664 ●—Report unethical and illegal behavior by a therapist (see "Your Reporting Options," page 12).
665 ●—Receive a second opinion at any time about your therapy or therapist's methods.
666 ●—Have a copy of your file transferred to any therapist or agency you choose.

667

668

669 Publishing Information

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