

August 31, 2018

The Honorable Edmund G. Brown, Jr.
Governor
State Capitol, First Floor
Sacramento, CA 95814

RE: AB 2968 (Levine) – Psychotherapist-client relationship: victims of sexual behavior and sexual contact: informational brochure – SUPPORT

Dear Governor Brown:

The Board of Psychology (Board) is pleased to **SUPPORT** AB 2968 (Levine). This bill would update and modernize statutory provisions relating to the Department of Consumer Affairs (DCA) informational brochure for victims of psychotherapist-patient sexual impropriety titled “Professional Therapy Never Includes Sex” by removing obsolete language, including other recognized forms of sexual exploitation, behavior facilitated by modern modes of communication, and more clearly articulating to consumers the most effective course of action when reporting these types of allegations. This bill would also add a new threshold for when a psychotherapist is legally required to provide the brochure to a client.

Business and Professions Code sections 337 and 728 requires the Department of Consumer Affairs (DCA) to prepare and disseminate the Professional Therapy Never Includes Sex brochure for victims of psychotherapist-patient sexual impropriety. These provisions also require psychotherapists to provide this informational brochure to clients if they become aware that the client alleges having had sexual intercourse or sexual contact with a previous psychotherapist. However, current law defines sexual contact narrowly as “sexual intercourse or the touching of an intimate part of a patient for the purpose of sexual arousal, gratification, or abuse”. Additionally, current law defines an intimate part as “the sexual organ, anus, groin, or buttocks of any person, and the breast of a female”. This results in these code sections narrowly defining when a patient is required to be provided the informational brochure by a therapist, and narrowly defines the inappropriate behavior included in the brochure.

These narrow definitions overlook currently-recognized forms of sexual exploitation and ignore behavior facilitated by modern modes of communication and sexually exploitative grooming behaviors that do not reach the level of sexual contact as currently defined in the Business and Professions Code. Examples of sexually exploitative behaviors that the Board has seen in disciplinary cases that do not reach the level of sexual contact include kissing a client, touching or exposing oneself inappropriately, sending flirtatious, sexually suggestive or sexually explicit texts, messages or emails to a client, sending clients photos that include nudity, genitals, or sexually suggestive poses, and buying romantic gifts for a patient.

Acceptance or encouragement of sexual contact or behaviors in the psychotherapist-patient relationship by the licensed professional is one of the most egregious ethical violations by a psychotherapist, as it violates the duty of care inherent in a therapeutic relationship, abuses the trust of the patient, and can create harmful, long-lasting emotional and psychological effects.

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The updating of the Professional Therapy Never Includes Sex brochure and the threshold for when psychotherapists are required to provide it to a client are intended to help consumers who have been victims of sexual contact or behaviors and to better educate the public about behaviors that are unethical and not a part of appropriate therapeutic interventions.

The provisions in AB 2968 are the product of a collaborative effort by the Board of Psychology, Board of Behavioral Sciences, Medical Board of California, and Osteopathic Medical Board of California to update and modernize the current brochure and its related statutory provisions. Making the revisions proposed by AB 2968 to the brochure would not create any new costs for DCA for the revising and republishing of the brochure, as these costs would have been incurred and paid by the boards through pro-rata and printing fees regardless of this bill due to other non-statutory changes being made to the brochure by the four boards.

For these reasons, the Board asks for you sign of AB 2968. If you have any questions, please contact the Board's Executive Officer Antonette Sorrick at (916) 574-7113 or antonette.sorrick@dca.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SC Phillips', written over a light blue horizontal line.

STEPHEN C. PHILLIPS, JD, PsyD
President, Board of Psychology

Cc: Assembly Member Jones-Sawyer
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor