

# *Sioux Falls Wellness Counseling, Inc.*

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## **Confidentiality in Therapy**

I will treat what you tell me with great care. My professional ethics (that is, my profession's rules about values and moral matters) and the laws of this state prevent me from telling anyone else what you tell me unless you give me written permission. But I cannot promise that everything you tell me will never be revealed to someone else. There are some times when the law requires me to tell things to others. There are also some other limits on our confidentiality. We need to discuss these, because I want you to understand clearly what I can and cannot keep confidential. You need to know about these rules now, so that you don't tell me something as a "secret" that I cannot keep secret. So please read these pages carefully and keep this copy. At our next meeting, we can discuss any questions you might have.

**1. When you or other persons are in physical danger**, the law requires me to tell others about it. Specifically:

- a. If I come to believe that you are threatening serious harm to another person, I am required to try to protect that person. I may have to tell the person and the police, or perhaps try to have you put in a hospital.
- b. If you seriously threaten or act in a way that is very likely to harm yourself, I may have to seek a hospital for you, or to call on 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 strong reason not to.
- c. In an emergency where your life or health is in danger, and I cannot get your consent, I may give another professional some information to protect your life. I will try to get your permission first, and I will discuss this with you as soon as possible afterwards.
- d. If I believe or suspect that you are abusing a child, an elderly person, or a disabled person I must file a report with a state agency (Department of Social Services). To "abuse" means to neglect, hurt, or sexually molest another person. I do not have any legal power to investigate the situation to find out all the facts. The state agency will investigate. If this might be your situation, we should discuss the legal aspects in detail before you tell me anything about these topics. You may also want to talk to your lawyer.

In any of these situations, I would reveal only the information that is needed to protect you or the other person. I would not tell everything you have told me.

**2. In general, if you become involved in a court case or proceeding**, you can prevent me from testifying in court about what you have told me. This is called "privilege," and it is your choice to prevent me from testifying or to allow me to do so. However, there are some situations where a judge or court may require me to testify:

- a. In child custody or adoption proceedings, where your fitness as a parent is questioned or in doubt.
- b. In cases where your emotional or mental condition is important information for a court's decision.
- c. During a malpractice case or an investigation of me or another therapist by a professional group.
- d. In a civil commitment hearing to decide if you will be admitted to or continued in a psychiatric hospital.
- e. When you are seeing me for court-ordered evaluations or treatment. In this case we need to discuss confidentiality fully, because you don't have to tell me what you don't want the court to find out through my report.
- f. If you were sent to me for an evaluation by worker's compensation or Social Security disability, I will be sending my report to a representative of that agency and it can contain anything that you tell me.

**3. There are a few other things you must know about confidentiality and your treatment:**

- a. I may sometimes consult (talk) with another professional about your treatment. This other person is also required by professional ethics to keep your information confidential. Likewise, when I am out of town or unavailable, another therapist will be available to help my clients. I must give him or her some information about my clients, like you.
- b. I am required to keep records of your treatment, such as the notes I take when we meet. You have a right to review these records with me. If something in the record might seriously upset you, I may leave it out, but I will fully explain my reasons to you.

**4. Here is what you need to know about confidentiality in regard to insurance and money matters:**

- a. If you use your health insurance to pay part of my fees, the insurance company, the managed care organization, or perhaps your employer's benefits office will require me to provide information about your functioning in many areas of your life, your social and

*(cont.)*

**HANDOUT 6. Patient handout on the limits of confidentiality (p. 1 of 2).** From *The Paper Office*. Copyright 2008 by Edward L. Zuckerman. Permission to photocopy/modify this form is granted to purchasers of this book for personal use only (see copyright page for details).

## What You Should Know about Confidentiality in Therapy (p. 2 of 2)

psychological history, and your current symptoms. I will also be required to provide a treatment plan for your problems and information on how you are doing in therapy.

- b. I usually give you my bill with any other forms needed, and ask you to send these to your insurance company to file a claim for your benefits. That way, you can see what the company will know about our therapy. It is against the law for insurers to release information about our office visits to anyone without your written permission. Although I believe the insurance company will act morally and legally, I cannot control who sees this information after it leaves my office. You cannot be required to release more information just to get payments.
- c. If you have been sent to me by your employer's employee assistance program, the program's staffers may require some information. Again, I believe that they will act morally and legally, but I cannot control who sees this information at their offices. If this is your situation, let us fully discuss my agreement with your employer or the program before we talk further.
- d. If your account with me is unpaid and we have not arranged a payment plan, I can use legal means to get paid. The only information I will give to the court, a collection agency, or a lawyer will be your name and address, the dates we met for professional services, and the amount due to me.

### **5. Children and families create some special confidentiality questions.**

- a. When I treat children under the age of about 12, I must tell their parents or guardians whatever they ask me. As children grow more able to understand and choose, they assume legal rights. For those between the ages of 12 and 18, most of the details in things they tell me will be treated as confidential. However, parents or guardians do have the right to general information, including how therapy is going. They need to be able to make well-informed decisions about therapy. I may also have to tell parents or guardians some information about other family members that I am told, especially if these others' actions put them or others in any danger.
- b. In cases where I treat several members of a family (parents and children or other relatives), the confidentiality situation can become very complicated. I may have different duties toward different family members. At the start of our treatment, we must all have a clear understanding of our purposes and my role. Then we can be clear about any limits on confidentiality that may exist.
- c. If you tell me something your spouse does not know, and not knowing this could harm him or her, I cannot promise to keep it confidential. I will work with you to decide on the best long-term way to handle situations like this.
- d. If you and your spouse have a custody dispute I will need to know about it. My professional ethics prevent me from doing both therapy and custody evaluations.
- e. If you are seeing me for marriage counseling, you must agree at the start of treatment that if you eventually decide to divorce, you will not request my testimony for either side. The court, however, may order me to testify.
- f. At the start of family treatment, we must also specify which members of the family must sign a release form for the common record I create in the therapy or therapies.

### **6. Finally, here are a few other points:**

- a. I will not record our therapy sessions on audiotape or videotape without your written permission.
- b. If you want me to send information about our therapy to someone else, you must sign a "release-of-records" form. I have copies you can see, so you will know what is involved.
- c. Any information that you tell me and also share outside of therapy, willingly and publicly, will not be considered protected or confidential by a court.

The laws and rules on confidentiality are complicated. Please bear in mind that I am not able to give you legal advice. If you have special or unusual concerns, and so need special advice, I strongly suggest that you talk to a lawyer to protect your interests legally and to act in your best interests.