

Disclosure - How Much? How Direct?

written by Richard Leslie | August 1, 2024

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NOTE: *This article was first published on the CPH website in April 2015. It appears below with minor changes. Making specific disclosures to patients is sometimes required by law and sometimes up to the sound discretion of the practitioner. Disclosures to patients, in advance of treatment, can help to prevent disputes at a later time. They also serve to protect and inform the consumer. But how much disclosure is the right amount?*

DISCLOSURE - HOW MUCH? HOW DIRECT?

Picture the following scenario as a prospective patient seeking therapy. You come to see a licensed mental health professional in a particular state for a free, as advertised, twenty-minute consultation designed to determine whether a professional relationship would be appropriate for both parties. You tell the practitioner that you have relationship problems with your spouse of twelve years, that you are employed as a district manager for a national corporation, that you have two children, ages 6 and 10, that you occasionally use cocaine and frequently smoke marijuana, and that you are a bit depressed. "I need your help. I have been told that you are a really good therapist. What do you charge per hour?"

The following response is at times "tongue in cheek." sarcastic. intended to be humorous. and presented to promote thought. Isn't the more information disclosed best for the consumer? Maybe not!

The practitioner's response: "Well, my fee is \$170 per hour, but before we go any further, I'd like to make some additional disclosures so that you are sure that you want to commence treatment with me. First, a little bit about your privacy and confidentiality. Because of the law in this (unnamed) state, there are many public policy exceptions to confidentiality. Some of these exceptions to confidentiality are permissive (I can choose to release confidential information without your written authorization) and some are mandatory (I have no choice - I must make certain disclosures under specified circumstances). For example, I am required to make a child abuse report if I have a reasonable suspicion, during the course of my treatment of you, that a child has been abused physically or sexually, or that a child's health is endangered (e.g., you tell me that you drive your child to school while under the influence of drugs or alcohol). In situations where no physical injury has occurred, I am required to report neglect - that is, a report is required if I have a reasonable suspicion that you or your spouse have failed to provide adequate food, clothing, shelter, medical care, or supervision to one or both of your children.

In addition to the above exceptions to confidentiality, if I believe you present an imminent danger of serious physical violence against someone else, one of my options is to call the police to report the

danger. Alternatively, I may attempt to warn the intended victim, or I may notify law enforcement and attempt to warn the intended victim. I can also decide to hospitalize you (involuntarily) for evaluation and possible treatment. If you are deemed by me to be a danger to yourself, I may make such disclosures as I deem appropriate under the circumstances in order to prevent you from harming yourself.

If you use insurance to pay for your mental health care, I am expected and permitted to let the insurance company know the mental disorder that I determine you are suffering from, thereby entitling you to obtain payment. In the event that you are involved in litigation where you are suing someone for the harm that they caused to you, my treatment records may become available to the opposing party and I may have to testify about my treatment of you. In the unlikely event that you do not pay me for sessions that were held, I have the right to sue you and to testify to the fact of our professional relationship and your failure to pay me. There are many more exceptions to confidentiality, and I can inform you of them if you so desire. I don't want to overwhelm you at the start of our relationship!

I am a licensed marriage and family therapist with a masters' degree. You can also seek therapy from licensees who have more education than I do - like an MD psychiatrist or a licensed psychologist, who will have a doctorate degree. I am not a specialist or an expert, and I cannot guarantee that I will either cure you or that you will get better as a result of my treatment. There are some studies that suggest that those who decide upon no treatment or that use self help remedies will fare just as well as those who obtain psychotherapy. I cannot tell you with any degree of certainty how long the treatment will last. You can terminate treatment anytime you want. I will terminate treatment with you, for example, when I determine that you are no longer benefiting from the therapy or when I believe that your problems can better be treated by another health care provider or facility.

Because the state licensing board may at times be misinformed about dual relationships, I will have nothing to do with you outside of our professional relationship. Please do not invite me to any function, no matter how important it is to you. I will resign from any organization, or committee thereof, if it is discovered that we are serving on the same committee or attending functions of the same organization. If I see you in a public setting, I will not say hello to you or otherwise acknowledge that I know you. If you greet me under such circumstances, you do so at your own risk. For example, if a friend of yours asks who I am, you may tell the truth, avoid the question, or make up a story. With further respect to dual relationships, you and I should have nothing to do with each other for two years after therapy is terminated. This is a reasonable period of time after which we can interact with each other in a human and healthy way should our paths ever cross again.

Psychotherapy is both an art and a science. It can be defined in a number of ways, such as the diagnosis and treatment of mental disorder and other mental or emotional conditions. In essence, you will be involved with mental health treatment. It is important that you be open and honest with me, since that will enable me to develop a treatment plan in a more focused way so that I can better and more quickly help you with your problems and issues. Psychotherapy is, in a sense, a process of self-discovery, and it is possible that you may not like what you discover. It is possible that you could get more depressed

than you currently are. You might even have to grapple with issues of divorce, self harm or thoughts of suicide. These are some of the risks of psychotherapy. I will be there with you throughout the process, or at least, until treatment is terminated.

With respect to my \$170 fee, I reevaluate my fee structure from time to time. I have the right to raise your fees during the course of your treatment, and any increase will be no more than 10 percent of your then current fee. If you believe that the increase in fees is beyond what you can afford, I will refer you to another therapist or to an organization that offers a sliding fee scale – something I do not use. You are expected to pay me before each session occurs. I do this so that we do not ever enter upon a debtor creditor relationship, which might be viewed by the licensing board as an improper dual relationship.

When would you like to begin treatment?"