

Hugs and Other Touching

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I have been asked for my opinion about hugging that may occur between a patient and a therapist or counselor. Is it proper? Is it lawful? Can I get in trouble? Should I do it only on special occasions or never at all? What about informed consent - is it necessary? These are interesting questions and are not easy to answer - even though it might appear that the answers are not that difficult. Some might say - "of course you can engage in non-sexual hugs with a patient. Hugging is simply a way to greet someone. It shows more warmth than a mere handshake or a nodding acknowledgment. We are allowed to be human with our patients and do not have to treat them like they have the plague or that they are so disordered as to not be able to engage in a common custom and practice. Some patients may initiate a non-sexual hug, and for the therapist to be forced to reject that gesture is both unnecessary and possibly hurtful to the patient."

One can certainly make such an argument. But here is a scenario that presents a bit different perspective. "I was taken aback when my therapist hugged me at the beginning and end of sessions. During a few sessions when I was grieving over my deteriorating personal situation, my therapist again hugged me. I began to wonder if the hugs were something that my therapist needed. I didn't feel comfortable saying anything because I thought that the therapist might take offense, think less of me, and think that my reaction was now grist for the therapeutic mill. I wondered why the therapist didn't say anything to me about the touching that would occur before we started our therapeutic relationship. I never thought that touch was a part of therapy. My friend said that the therapist should have first obtained my written and informed consent."

Which camp (perspective) do you fall into? Whatever your leaning, let me now address the questions asked above. Before doing so, it is important to understand that the advice a therapist may receive about any particular legal issue depends in large measure upon the question asked. For instance, there is a big difference between a question that asks whether a particular act is legal, and a question that asks whether there is a reasonable likelihood that one can get in trouble even though the act may have been lawful. Additionally, it is important to keep in mind that some who seek advice want to lean in favor of conservatism (keep me out of trouble at all costs!), while others are willing to be more liberal, as long as their actions are lawful or likely defensible. They may believe that the practice of the "art" of therapy provides them with a reasonable degree of freedom.

Once the variables cited above are clear and understood by the therapist or counselor, the answers to the questions may become easier. Thus, if the therapist wants to avoid risk at all costs, don't hug and don't touch. Just do talking therapy or counseling, and if a patient were to ever initiate or attempt a hug, be prepared (because you have thought about this topic in advance) with a clinically appropriate and

respectful declination or statement of preference. As to the question about getting in trouble, I once spoke with a therapist who was charged with sexual misconduct – the patient alleged that during a hug, the patient became aware that the therapist had an erection. The therapist vehemently denied the allegation. If the therapist did not hug, the allegation might not have been made. When the therapist is questioned by the attorney representing the state (the licensing board) or by an opposing attorney in a malpractice case, the questioning may make the therapist look bad – even though his acts may have been lawful and proper.

For example, an attorney might ask with a challenging and sarcastic tone: “Do you routinely hug your patients? Isn’t it a fact that you hug female patients only? Can you please explain where each part of your body was when it touched the body of the complainant? Do you know what an A-frame hug is? Did you learn that in your practicum? Did you learn about hugging in your educational program? Is it recommended for clinical purposes in the professional literature? No? Then why did you do it? Is it something that perhaps you needed, doctor?” This kind of case and questioning should illustrate that “yes” – you can get in trouble for doing something that is lawful and proper. Sometimes patients lie (or they are mistaken) – and they may take innocent acts and turn them into false allegations.

One other situation might be helpful to consider. I have spoken with therapists who have asked me whether they can get in trouble if they use their therapy license in conjunction with their license (or other authority) to practice massage by combining massage with the psychotherapy. In other words, massage the client and talk about personal and mental health problems. Their position is that both activities, in and of themselves, are lawful and proper, so why can’t they be combined? My advice is that if they want to practice both professions separately, in separate offices, with separate clients, they can do so. But marriage and family therapy, for example, does not involve rubbing the patient’s shoulders and other parts of the body for the purpose of relaxation or ameliorating pain or discomfort!

As to the issue of hugging on special occasions, that presents a different dynamic. Circumstances may arise during the course of a therapeutic relationship that may result in some touching (e.g., hugging). A patient may break down in tears over some tragedy that has befallen him/her, or a patient may be celebrating a marriage or birth of a child. If a therapist were to hug the patient on such an occasion, the risk is certainly less than it would be during a regular hugging “regimen.” Likewise, adverse inferences that others may draw should certainly be minimal. Touching in and of itself is not illegal. After all, therapists do on occasion shake hands with patients!

As to the issue of informed consent, it is my view that therapists and counselors who incorporate some form of touch or physical contact within their practices should first obtain some form of “informed consent.” The precise form of the informed consent may depend upon state law requirements. Just as a therapist might first ask a patient whether or not it is okay to call the patient at home, or at work, if necessary, or to send a bill or correspondence to the patient at his or her address, so too should the therapist find out from the patient whether or not it is permissible to touch the patient on a regular basis. In other words, if hugging routinely occurs or other forms of touch are incorporated into the counseling or therapy, why not provide the patient with a written and signed informed consent, where

the nature and purpose of the touch is disclosed.

The exact content of the informed consent must be carefully considered and drafted. The content will of course vary with the nature and purpose of the prospective touch. The patient should be given an opportunity to consent or object to the touch, and the patient should be assured that if consent is not given (e.g., for hugging before and after sessions), the therapist will fully respect the decision and no negatives will flow from the refusal to consent. If the touching is in any way related to treating the patient or is in any way intended to help the patient, then the informed consent document should disclose the clinical rationale and support for such an approach. The potential risks and benefits of the approach should be fully and accurately disclosed.