

# True or False

written by Richard Leslie | September 30, 2019

## **Avoiding Liability Bulletin - October 2019**

**Something different this month! Answering (true/false/ depends!) and pondering the following questions will test your knowledge of some of the many questions that can arise during the course of one's professional career. I will address (or have addressed - you can research the CPH archives!) some of these questions in upcoming articles/blogs. The questions, many of which are intended to be thought-provoking, will hopefully trigger thoughts about related issues and provide the reader with a limited self-assessment of their confidence level re: the topics addressed below.**

1. The holder of the psychotherapist-patient privilege (or similarly titled privilege) when the patient is a minor and the parents are divorced is the parent with a court order of primary physical custody.
2. The holder of the psychotherapist-patient privilege (or similarly titled privilege) when the patient dies is the psychotherapist.
3. Even though a psychotherapist may not be the holder of the privilege, a psychotherapist may claim or assert the privilege when served with a subpoena from an attorney adverse to the patient's interests.
4. If a couple is the identified patient, the holder of the privilege is the couple, and either one may waive the privilege for the couple.
5. There is no psychotherapist-patient privilege with respect to criminal cases.
6. All communications between a psychotherapist and patient are privileged as a matter of law.
7. Psychotherapists may release patient information without the patient's signed authorization and over the patient's objections in circumstances unrelated to the patient being a danger to self or others.
8. Psychotherapists must release patient confidential information without the patient's signed authorization under some circumstances.
9. Federal regulations (HIPAA related) specify the required elements of the authorization form to release confidential patient information to third parties.
10. State law specifies the required elements of an authorization form to release confidential patient information to third parties.

11. Patients are not always entitled to a copy of their treatment records.
12. Under federal regulations (HIPAA related), patients are not entitled to a copy of all of the treatment records in the practitioner's file.
13. If a patient informs his therapist of his participation in a prior felony crime, the therapist must generally keep this information confidential.
14. If a therapist is convicted of petty theft from a department store, the licensing board may take disciplinary action against the therapist even though there is no evidence of patient harm.
15. Therapists are generally not permitted to sue their patients because to do so would breach the patient's confidentiality.
16. LMFTs and licensed psychologists are permitted to form partnerships with each other in order to conduct their private practices.
17. It is permissible and ethical to inform prospective patients that you prefer not to treat patients who intend to involve you in litigation, and in the event that such involvement is requested, you will not willingly provide testimony in any court proceeding.
18. A therapist advertises that he has 10 years of clinical experience in treating patients. The advertisement does not disclose that 4 of those years were as a pre-licensed person gaining hours of experience. The advertisement is not false, fraudulent, misleading, or deceptive.
19. Licensed health practitioners are generally permitted to refuse to treat prospective patients who insist that minimal records be kept in order to protect their privacy.
20. Licensed health practitioners are permitted to keep minimal records when patients request such action in order to protect their personal privacy.
21. Licensed health practitioners may properly refuse to treat patients who insist that the practitioner not contact any other health care practitioners about the patient's mental or physical health.
22. Termination of treatment is legally and ethically required when a conflict of interest or dual relationship arises during the course of therapy.
23. Dual or multiple relationships are either unlawful or unethical, or both – and they should be avoided.
24. The psychotherapist-patient relationship begins when the practitioner orally agrees (via telephone) to see the prospective patient for \$150 an hour and makes an appointment for the first visit.
25. Once a proper termination of the therapist-patient relationship occurs, the therapist owes no duty to treat the former patient who later calls for assistance.