



What You Should Know about Confidentiality in Therapy

Your therapist will treat what you tell them with great care. Our professional ethics (that is, our profession's rules about values and moral matters) and the laws of this state prevent us from telling anyone what you say unless you give written permission for us to do so. These rules and laws are the ways our society recognizes and supports the privacy of what we talk about; in other words, the "confidentiality" of therapy. But we cannot promise that everything you tell us will never be revealed to someone else. There are some times when the law requires us to tell things to others. There are also some other limits on our confidentiality. We need to discuss these, because we want you to understand clearly what can and cannot keep confidential. You need to know about these rules now, so that you don't say something as a "secret" that cannot be kept as a secret. So please read these pages carefully and keep this copy. You can discuss any questions you might have with your therapist.

1. **When you or other persons are in physical danger**, the law requires informing others about it. Specifically:
 - a. If your therapist comes to believe that you are threatening serious harm to another person, they are required to try to protect that person. Your therapist 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, your therapist may have to seek a hospital for you, or to call on your support system or others who can help protect you. If such a situation does come up, your therapist will fully discuss the situation with you before doing anything, unless there is a very strong reason not to.
 - c. In an emergency where your life or health is in danger, and your therapist cannot get your consent, your therapist may give another professional some information to protect your life. Your therapist will try to get your permission first, and will discuss this with you as soon as possible afterwards.
 - d. If your therapist believes or suspects that you are abusing a child, an elderly person, or a person with disabilities, a report must be filed with a state agency. To "abuse" means to neglect, hurt, or sexually molest another person. We 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, your therapist would reveal only the information that is needed to protect you or the other person. Your therapist would not tell everything you have said.

2. In general, **if you become involved in a court case or proceeding**, you can prevent your therapist from testifying in court about what you have said. This is called "privilege," and it is your choice to prevent or allow your therapist to or from testifying. However, there are some situations where a judge or court may require your therapist to testify:
 - a. In child custody or adoption proceeding, where your fitness as a parent or guardian 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 your therapist 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 being seen for court-ordered evaluations or treatment. In this case we need to discuss confidentiality fully, because you don't have to tell your therapist what you don't want the court to find out through the mandated court report.
- f. If you were sent for an evaluation by worker's compensation or Social Security disability, your therapist will generate a report that must be sent to a representative of that agency and it can contain anything that you say to your therapist.

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

- a. If your therapist is away for any extended period of time they may enlist a trusted fellow therapist to "cover" for them. This therapist would be available to you in an emergency. Therefore, they need to know about you. Of course, this therapist is bound by the same laws and rules as we are to protect your confidentiality. Your therapist would have you sign a release of information before sharing any of your personal information.
- b. We sometimes consult with colleagues and specialists about our ongoing work, which is always in the pursuit of quality assurance. Consultants and/or Mentors would be told only as much as they need to know to understand your situation and identifying information would be omitted. You will know ahead of time of your therapist's wish or need to seek consultation and, if applicable, will be given a release of information to sign.
- c. Your therapist is required to keep records of your treatment, such as the notes they take when you meet. You have a right to review these records. If something in the record might seriously upset you, your therapist may leave it out, but will fully explain why.
- d. The State of Maryland has a stringent child abuse reporting law in that it requires reporting of ALL cases of suspected abuse or neglect. Again, we do not have any legal power to investigate the situation to find out the facts. IF the state agency chooses to take the case, they will investigate it. The law does not differentiate among ages, which means that if you tell your therapist you were abused as a child and you are now an adult, a report is still required. In Maryland, the law still applies even if the identified perpetrator is now deceased. Often times the state agency chooses not to take such cases for investigation but we have no say into whether or not they do. No matter how old you are now, the healing process from childhood abuse and neglect is emotionally painful and the state's law sometimes complicates that. But, if this situation should arise in your therapy, every effort will be made to address it in a way that facilitates your healing process and empowers you as an adult survivor.

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 reimburse you for therapy fees, the insurance company, the managed care organization, or perhaps your employer's benefits office may ask to be provided information about your functioning in many areas of your life, your social and psychological history, and your current symptoms. They may also ask for a treatment plan for your problems and information on how you are doing in therapy. Your therapist will speak with you first and then release the minimum amount necessary.
- b. It is against the law for insurers to release information about our office visits to anyone without your written permission. Although we believe the insurance company will act morally and legally, we cannot control who sees your information after it leaves the offices of TBMC.
- c. If you have been sent by your employer's employee assistance program, the program's staffers may require some information. Again, we believe they will act morally and legally, but we cannot control who sees this information at their offices. If this is your situation, let us fully discuss it before we talk further.
- d. If your account at TBMC is unpaid and a payment plan has not been arranged, TBMC can use legal means

to get paid. The only information that would be given to the court, a collection agency, or a lawyer will be your name and address, the dates we met for professional services, as well as the amount(s) due.

5. Children and families create some special confidentiality questions.

- a. While privacy in therapy is crucial to successful progress, parental or guardian involvement with minors can also be essential. It is TBMC's policy not to provide treatment to a child under age 13 unless they agree that the therapist can share whatever information is considered necessary with a parent/guardian. As children grow more able to understand and choose, they assume legal rights. For those between the ages of 13 and 15, most of the details of things they say 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. The therapist may also have to tell parents/guardians some information about other adults that is told to them, especially if these others' actions puts the child or others in any danger. All other communication will require the child's agreement, unless the therapist feels there is a safety concern (detailed in the Adolescent Consent Form), in which case every effort will be made to notify the child of the therapist's intention to disclose information ahead of time and to handle any objections that are raised. There is a separate confidentiality agreement that clearly outlines the conditions under which confidentiality can be broken when treating a minor. In Maryland, if a child is old enough to consent for treatment, the law also grants the child control over who has access to their records. The age of such consent in Maryland is 16.
- b. In cases where several members of a family unit are being treated (parents/guardians/children/other relatives), the confidentiality situation can become very complicated. The therapist may have different duties toward the different members. At the start of treatment, there must be a clear understanding of our purposes and the therapist's role. Then we can be clear about any limits on confidentiality that may exist.
- c. If you tell your therapist something your spouse does not know, and not knowing this could harm them, we cannot promise to keep it confidential. Your therapist 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 your therapist needs to know about it. TBMC's professional ethics prevents us from doing both therapy and custody evaluations. Furthermore, you understand that it is your therapist's role to provide therapeutic services so that you might feel better and/or improve your functioning, especially as it relates to your family unit. Your therapist's role is not intended to gather information for the courts or to make judgments related to your family unit. Therefore, you agree that you will not call upon your therapist or TBMC to provide treatment records or to testify in a future divorce or custody action. You understand that courts can appoint professionals who have had no prior contact with your family unit to conduct independent evaluations and make recommendations to the court. You understand that it is TBMC's policy to have no court involvement in your case because that could harm the therapeutic relationship and the ability to achieve your goals.
- e. If you are being seen for marriage counseling, you must agree at the start of treatment that if you eventually decide to divorce, you will not request testimony from your therapist or TBMC for either side. The court, however, may order testimony from your therapist.
- f. At the start of family unit treatment, we must also specify which members of the family unit must sign a release form for the common record created in the therapy or therapies. (See point 7b, below.)

- 6. Confidentiality in group therapy is also a special situation.** In group therapy, the other members of the group are not therapists. They do not have the same ethics and laws that therapists have to work under. You cannot be certain that they will always keep what you say in the group confidential.

7. Finally, here are **a few other points**:

- a. Your therapy sessions will not be recorded in any fashion without your written permission.
- b. If you want information about your therapy to someone else, you must sign a “release-of-records” form. You can review a copy at any time, so you will know what is involved.
- c. Any information that you tell your therapist 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 neither your therapist or TBMC is able to give you legal advice. If you have special or unusual concerns, and so need special advice, you are strongly encouraged to a lawyer to protect your interests legally and to act in your best interests.

The signatures here show that we each have read, discussed, understand, and agree to abide by the points presented above.

Signature of client (or person acting for client)

Date

Printed name of client (or person acting for client)

Relationship to Client

Therapist's Name & Credentials

Date