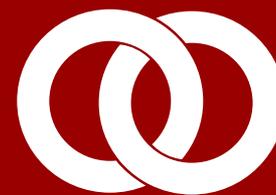




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Writing Letters and offering opinions

July 23, 2021



Disclaimer

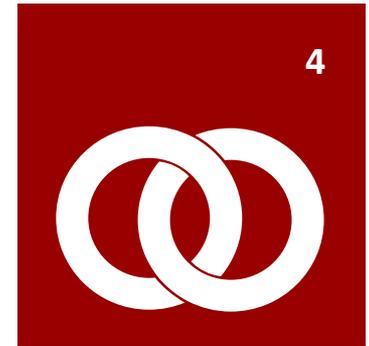
The information provided in this workshop is for educational purposes only. It is not intended to serve as legal advice or to act as a substitute for independent legal advice.



Discussion topics

- I.** Introduction/workshop overview
- II.** A request for a letter is often a request for the therapist's professional opinion.
- III.** Writing a letter is not a duty.
- IV.** Questions to consider before writing a letter for a client/patient
- V.** Issues involving scope of competence
- VI.** Limits of professional opinions
- VII.** Common problems involving court-involved cases
- VIII.** Avoiding problems involving conflicting and/or dual roles
- IX.** Vignette(s) for discussion

“My client asked me to write a letter.”



Therapists are often asked to write letters for a variety of reasons. Generally speaking, a request for a letter is really a request for the therapist to provide his or her professional opinion or recommendations regarding the client.

In reality, the therapist's opinion, regardless of whether it is documented in a report, expressed on the witness stand, or written in a letter, can have a powerful impact on a person's life.



Writing a letter is a choice

A therapist who fails to consider the possible consequences of writing a letter runs the risk of a malpractice lawsuit, ethics complaint, or a disciplinary action by a licensing board.

It is possible to minimize the likelihood of encountering problems if, prior to stating their opinion, the therapist determined whether it is appropriate to comment on the particular issue.

Depending on the circumstances, the therapist may decide not to comment on an issue or to offer any recommendations in a letter, or, the therapist may decide to request additional information from the client.

The therapist would also be free to provide the requested letter, once they have determined that it was appropriate to do so.



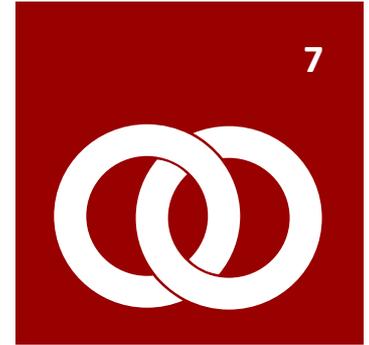
The right to say “no”

Many therapists believe that they are required to write a letter for a client, regardless of circumstances.

As a general rule, a therapist is entirely free to decline such a request.

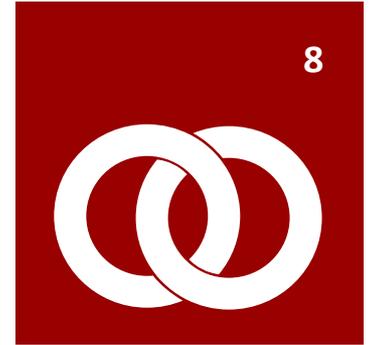
There is no legal or ethical “duty to write a letter” and a client’s request, in and of itself, does not obligate a therapist to perform such a function.

Before you write a letter: Questions to consider



- Who is asking for the letter?
- Why are they asking for the letter?/What do they want from you? Is it clear to you?
- What does the request have to do with your role as a therapist in the case?
- How do you feel about writing a letter in this case?

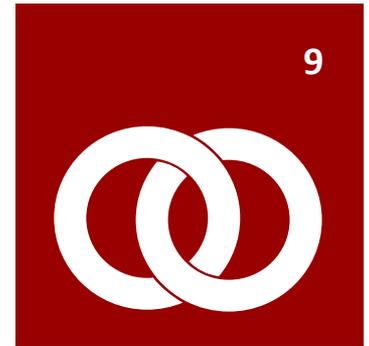
Before you write a letter: Questions to consider



- **Have you already been asked to write a letter? If so, how did you respond?**
- **If you already declined to write a letter, how do you feel about being asked the same question again?**
- **Do you feel pressured or compelled to respond to the request? If so, why?**

Before you write a letter: Questions to consider

- **Is it appropriate for you to provide the information that is being requested?**
- **Are there any problems involving confidentiality or privilege?**
- **Are you qualified/competent to express an opinion regarding the particular person or issue?**





Legal and ethical issues

- Therapists must consider legal and ethical issues which may impact or limit what they are able to say, under the given circumstances.
- This includes the therapist's scope of competence, and the possibility of bias or lack of objectivity, dual/multiple relationships or conflicts of interest.



Scope of competence

- Scope of competence is both a legal and an ethical issue.
- The therapist's scope of competence is an important consideration when the therapist offers a professional opinion regarding the client/patient, or some issue.



Scope of competence

- **Scope of competence**: In order for the therapist to provide their professional opinion or recommendations regarding an issue, the therapist must be *competent* to do so.
- This means that the therapist must have a sufficient degree of education, training and experience in order to competently address the particular issue.



Scope of competence

- A therapist who offers their professional opinion concerning some issue, while lacking the competency to do so, may be accused of unprofessional conduct.

- §4982(s) Business & Prof. Code

(s) Performing or holding oneself out as being able to perform mental health services beyond the scope of one's competence, as established by one's education, training, or experience



Unprofessional conduct

- §1845 Unprofessional Conduct
- Marriage and family therapists take care to provide proper diagnoses of psychological disorders or conditions and do not assess, test, diagnose, treat, or advise on issues beyond the level of their competence as determined by their education, training, and experience...

Scope of competence

Code of ethics



- **5.11 SCOPE OF COMPETENCE**: Marriage and family therapists take care to provide proper diagnoses of psychological disorders or conditions and do not assess, test, diagnose, treat, or advise on issues beyond the level of their competence as determined by their education, training, and experience...



Scope of competence

Code of ethics

- **5.14 LIMITS OF PROFESSIONAL OPINIONS: Marriage and family therapists do not express professional opinions about an individual's psychological condition unless they have treated or conducted an examination and assessment of the individual, or unless they reveal the limits of the information upon which their professional opinions are based, with appropriate cautions as to the effects of such limited information upon their opinions. (See also section 10.7 Professional Opinions in Court-Involved Cases.)**

Common problems in court-involved cases



- Therapists are often asked to write letters for clients/patients in court-involved cases. There are special issues to consider in such circumstances and it is important to exercise caution in order to avoid legal, and/or ethical problems, including potential disciplinary action by a regulatory board.



Common problems in court-involved cases: Conflicting roles

- **10.3 CONFLICTING ROLES**: Whenever possible, marriage and family therapists avoid performing conflicting roles in legal proceedings and disclose any potential conflicts to prospective clients/patients, to the courts, or to others as appropriate. At the outset of the service to be provided and as changes occur, marriage and family therapists clarify role expectations, limitations, conflicts, and the extent of confidentiality to pre-existing or prospective clients, to the courts, or to others as appropriate.

Common problems in court-involved cases: Dual roles



- **10.4 DUAL ROLES**: Marriage and family therapists avoid providing both court evaluations and treatment concurrently or sequentially for the same clients/patients or treatment units in legal proceedings such as child custody, visitation, dependency, or guardianship proceedings, unless otherwise required by law or initially appointed pursuant to court order. When pre-existing clients/patients become involved in a legal proceeding and the marriage and family therapist continues to provide treatment, they should discuss the potential effects of legal involvement with their clients/patients, including clarifying the potential role conflicts, clients'/patients' expectations, and possible requests to release treatment information.



Professional opinions in court-involved cases

- **10.7 PROFESSIONAL OPINIONS IN COURT-INVOLVED CASES**: Marriage and family therapists shall only express professional opinions about clients/patients they have treated or examined. Marriage and family therapists, when expressing professional opinions, specify the limits of the information upon which their professional opinions are based. Such professional opinions include, but are not limited to, mental conditions, emotional conditions, or parenting abilities. *(See also section 5.14 Limits of Professional Opinions.)*



Vignette for discussion

- **Mary, an MFT, was contacted by the mother of a ten year old boy (“Tim”) due to concerns over his acting-out behavior. Tim’s parents are in the midst of a difficult divorce. He lives primarily with his mom, and visits his dad on Wednesdays and every other weekend. According to mom, Tim has become more and more resistant to visiting his dad. Tim’s dad however, says that Tim’s mom is too soft on him and is simply letting Tim decide what the rules are. After the third visit, Tim’s mom told Mary to expect a call from her attorney, so Mary can write a letter about her observations of the difficulty Tim is experiencing visiting his dad.**



Vignette for discussion

- **Gerald contacted Ron, an MFT, for help with his depression. After 5 visits, Gerald said that that he was “doing better,” and wanted to “handle things on his own.” Although Gerald scheduled a termination visit, he called Ron the day before the session to cancel it. During the phone call, Gerald asked Ron if he could write a letter to Gerald’s attorney about the fact that Ron has been depressed, ever since he was fired from his job.**



Vignette for discussion

- Roger, an MFT associate, recently began providing therapy to Jane, a sophomore at Cal. State Fullerton. Jane has a history of severe, recurrent depression. Jane told Roger that her depression became so bad that she stopped doing schoolwork and is now in danger of failing. She recently agreed to meet with a psychiatrist for a medication evaluation. Jane asked Roger if he could write a letter to Cal. State Fullerton explaining that she suffers from depression and supporting her request to withdraw from her classes.



Vignette for discussion

- Sara, an MFT, received a call from Jim, an employee at XYZ corporation. Jim informed her that he was referred for mandatory counseling because he has had problems with his temper in the workplace. According to Jim, he had some loud arguments with another employee at work, and he was placed on administrative leave, and needed to attend counseling for “anger management.” Jim says he has a long history of good performance on his job. After 4 sessions, Jim said his employer wanted a letter confirming that he was attending counseling, and that he was not a risk to others if he returned to work.



■ **THANK YOU!!**