

Group Therapy

Avoiding Liability Bulletin - December 2005

... With respect to the psychotherapist-patient privilege or similarly named privileges, the general rule is that the patient is the “holder” of the privilege. Since group therapy involves more than one patient, a question arises as to whether or not the communications and information about one of the group participants will be privileged if later subpoenaed in a lawsuit involving that particular group participant. The question arises because state laws usually provide that if the patient voluntarily shares otherwise confidential information with a third party (typically, someone other than the therapist), the privilege is waived. State laws dealing with privilege should contain, and many do, an exception to that general rule so that the privilege of all group therapy participants is preserved.

As an example, one state’s law provides, in part, that a confidential communication between patient and psychotherapist means information transmitted between a patient and his/her psychotherapist in the course of that relationship and in confidence by a means which, so far as the patient is aware, discloses the information to no third persons other than those who are present to further the interest of the patient in the consultation. Each participant in group therapy would arguably be present to further their own interest and the interest of the other group participants as well. Thus, since there has been no breaking of confidentiality, the privileged character of the communication and information should remain privileged.

Do the psychotherapist-patient privilege laws in your state protect group therapy communications and information? Remember, there is a difference between privilege and confidentiality (see Archives – Privilege and Confidentiality – August 2005, Volume 1).

Author:

Richard Leslie