

Article 1F.

Psychotherapy Patient/Client Sexual Exploitation Act.

§ 90-21.41. Definitions.

The following definitions apply in this Article:

- (1) Client. – A person who may also be called patient or counselee who seeks or obtains psychotherapy, whether or not the person is charged for the service. The term "client" includes a former client.
- (2) Psychotherapist. – A psychiatrist licensed in accordance with Article 1 of Chapter 90 of the General Statutes, a psychologist as defined in G.S. 90-270.2(9), a licensed clinical mental health counselor as defined in G.S. 90-330(a), a substance abuse professional as defined in G.S. 90-113.31(8), a social worker engaged in a clinical social work practice as defined in G.S. 90B-3(6), a fee-based pastoral counselor as defined in G.S. 90-382(4), a licensed marriage and family therapist as defined in G.S. 90-270.47(3), or a mental health service provider, who performs or purports to perform psychotherapy.
- (3) Psychotherapy. – The professional treatment or professional counseling of a mental or emotional condition that includes revelation by the client of intimate details of thoughts and emotions of a very personal nature to assist the client in modifying behavior, thoughts and emotions that are maladjustive or contribute to difficulties in living.
- (4) Sexual exploitation. – Either of the following, whether or not it occurred with the consent of a client or during any treatment, consultation, evaluation, interview, or examination:
 - a. Sexual contact which includes any of the following actions:
 1. Sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, into the oral, genital, or anal openings of the client's body by any part of the psychotherapist's body or by any object used by the psychotherapist for the purpose of sexual stimulation or gratification of either the psychotherapist or the client; or any intrusion, however slight, into the oral, genital, or anal openings of the psychotherapist's body by any part of the client's body or by any object used by the client for the purpose of sexual stimulation or gratification of either the psychotherapist or the client, if agreed to, or not resisted by the psychotherapist.
 2. Kissing of, or the intentional touching by the psychotherapist of, the client's lips, genital area, groin, inner thigh, buttocks, or breast, or of the clothing covering any of these body parts, for the purpose of sexual stimulation or gratification of either the psychotherapist or the client, or kissing of, or the intentional touching by the client of, the psychotherapist's lips, genital area, groin, inner thigh, buttocks, or breast, or of the clothing covering any of these body parts, if agreed to or not resisted by the psychotherapist, for the purpose of sexual stimulation or gratification to either the psychotherapist or the client.

- b. Any act done or statement made by the psychotherapist for the purpose of sexual stimulation or gratification of the client or psychotherapist which includes any of the following actions:
 - 1. The psychotherapist's relating to the client the psychotherapist's own sexual fantasies or the details of the psychotherapist's own sexual life.
 - 2. The uncovering or display of breasts or genitals of the psychotherapist to the client.
 - 3. The showing of sexually graphic pictures to the client for purposes other than diagnosis or treatment.
 - 4. Statements containing sexual innuendo, sexual threats, or sexual suggestions regarding the relationship between the psychotherapist and the client.
- (5) Sexual history. – Sexual activity of the client other than that conduct alleged by the client to constitute sexual exploitation in an action pursuant to this Article.
- (6) Therapeutic deception. – A representation by a psychotherapist that sexual contact with the psychotherapist is consistent with or part of the client's treatment. (1998-213, s. 1; 2019-240, s. 3(g).)