

LEGAL AND ETHICAL ISSUES Handout

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Hi there I am Zoilita Grant. I have the honor of being Vice President of the ACHE and I have for you some information to help you practice safely and successfully.

The difference between legal and ethical issues stems from the division between law and ethics; law controls what people can and cannot do, while ethics are moral standards that govern what people should or should not do. Legal and ethical issues arise frequently and are commonly encountered in hypnosis professions.

Each hypnosis professional has a responsibility to uphold the public trust and must seek high levels of training both in hypnosis skills and the ethical application of those skills. Just like the ACHE has always held the highest standards for training we want our members to have the highest standards of ethics possible. The ACHE has created a Code of Ethics that is designed to be a guide for ethical professional conduct. This serves as a companion to Federal and state laws and regulations.

To begin with the practice of hypnosis is governed by very different laws according to the state, province or country you live in. You are responsible for finding out what those laws are and following them. For instance in Colorado Hypnotherapists and Hypnotists must practice as psychotherapists. In New York they are not allowed to call themselves psychotherapists. So laws differ and you must discover what they are and practice accordingly.

Ethics are not as black and white and require awareness and understanding American Council of Hypnotist Examiners provides standards and guidance for the practice of hypnosis and regulates the conduct of its members in their practice. All members are required to comply with the ACHE Code of Ethics. I go through carefully on the video and have included a copy here for your review. I have also included some sample forms you may use in your practice.

ACHE CODE OF ETHICS

1. I regard as my primary obligation the welfare of my client, whether individual or group.
2. I will comply with the requirements of the law in the jurisdiction where I practice, including requirements with regard to dealings with clients in relation to race, religion, age, and gender status.
3. I will offer services only within my scope of practice and boundaries of competence and the recognized knowledge and competences of the professions of hypnotherapy and hypnotic coaching.
4. I will not claim to diagnose, prescribe treatment for, or treat any mental or physical illness unless I possess qualifications additional to hypnotherapy certification, which legally entitle me to do so in the jurisdiction where I practice.
5. I will not use any licensed or restricted title to which I am not legally entitled in the jurisdiction where I practice.
6. I will advise a client whose requirements are outside my boundaries of competence to seek an appropriate alternative service.
7. I will advise any client presenting symptoms of physical illness, including pain, to seek the advice of a medical practitioner if this has not already been obtained.
8. I will not guarantee cures for any condition or make misleading claims or statements as to the outcome of the services I offer.
9. I will make clear to the client, prior to the provision of services, the terms, conditions and charges for my services.
10. I will maintain confidentiality of information obtained during the course of providing my services, within the legal limits of reporting requirements in the jurisdiction where I practice. I will disclose any such limits of confidentiality to my clients prior to providing services. I will ensure that the client's anonymity and privacy is safeguarded in the publication of any clinical material.
11. I will obtain the written consent of a parent or guardian before providing services to a minor.
12. I will not engage in intimate social contact with a client until a

period of at least two years from the final session with that client.

13. I will undertake continuing professional development and education in accordance with the requirements of ACHE as updated from time to time.

14. I accept responsibility to help protect the community against unethical practice by any individuals engaged in providing hypnotherapy services e.g. by reporting professional misconduct to the proper bodies or authorities.

15. I treat with respect the findings, views and actions of professional colleagues and use appropriate channels to express my opinions on these matters.

16. I will conduct myself in a manner consistent with upholding the good reputation of the profession of hypnotherapy.

17. I will distinguish clearly in public between my statements and actions as an individual and as a representative of an organization.

Since its creation in 1980, the ACHE has operated as a non-profit professional organization engaging in self-regulation of all who utilized hypnotism, hypnotherapy, and hypnotic coaching as an integral part of a professional practice. The American Council of Hypnotist Examiners, is an International organization that now has certified more than nine thousand hypnosis practitioners worldwide, including numerous physicians, psychiatrists, psychologist, and representatives of the healing arts, counseling, and allied professions. We are now also certifying hypnotic coaching, and since coaching is the fastest growing human development profession, I am sure we will be expanding more into that field in the near future.

The A.C.H.E. is the primary organization that has been responsible for the recognition and regulation of hypnosis training in the USA. We continue to have the highest credibility with state mental health boards. This organization is a state-chartered, non-profit professional

corporation that has established standards for specialized education and maintains standards of practices as well as our code of ethics.

In addition, the A.C.H.E. provides examinations for hypnotists, hypnotherapists, and hypnotic coaches who have met the qualifications for specialized education, training, and experience. Successful completion of the written and practical demonstration examination before a Designated Examiner and signing the A.C.H.E. Code of Ethics leads to nationally recognized certification. We have always held our members to the highest standards of education and ethics. You as a member can feel pride about being part of our organization.

Ethics refers to the human conduct of being able to make judgements between what is morally right and what is morally wrong. It could be that there are several factors that may encourage one to adopt unethical behavior, but the honorable person is she/he who, despite facing ethical dilemmas, assesses the situations, and capably makes differentiation between what is morally good and morally bad in order to follow the rules and codes of their professional conduct. Having a high standard of personal ethics causes us to gain the confidence of others while promoting integrity in our field. Which means, we choose to continue doing honorable things even when we are not watched. In their simplest form, ethics are the moral standards you, as a professional, rely on when you make a decision. They define the honorable, legal, and the best parameters to guide your everyday business practices in while outlining the kind of behavior that business professionals should not engage in. For responsible decision making in a hypnosis profession, a good set of ethics is key.

There are special considerations around ethics for hypnosis professionals.

There are a lot of fears about hypnosis and while, some may have begun with a drop of truth, most are, in practice, the results of public misinformation and societal myths about hypnosis. That blend creates the sense of danger for potential clients.

1. Control

There is often a basic fear that the hypnosis practitioner has complete control over the client. What they will believe, think, and do. This has led to fears about the client being a puppet who can create harm. Many CIA type security forces around the world have experimented with this for many years. The bottom line is that the ‘Manchurian Candidate’ effect or the ‘sleeper’ is very difficult if not impossible to achieve without the willing participation of the subject (which rather negates the original idea).

2. Post Hypnotic Suggestions

Another fear is that the client will do something of danger to themselves or others after the hypnotic session that was unintended by the hypnosis practitioners. The classic case is the mention of a trigger word that causes the person to fall asleep, perhaps at the wheel of a car.

In practice, post-hypnotic suggestions are often deliberate for therapeutic purposes. Professional hypnosis practitioners understand these hazards well and carefully avoid or remove these.

3. Contexts

Hypnosis can occur in a number of contexts, each of which have their own ethical considerations.

However, there are some general ethical considerations that can be applied to all applications of hypnosis:

Informed Consent – A good basic rule of any hypnosis experience is that the subject understands something of what is going to happen to them beforehand and *has the free and unchallenged opportunity to back out at any time.*

a. On stage

In stage hypnosis, members of the audience are often made to perform what may seem to be demeaning and embarrassing acts. Some would say that *any* stage hypnosis is unethical. I disagree, the reality is that the audience members are volunteers and generally know what they are getting into.

The hypnosis practitioners should never the less *take care to avoid delicate personality types.*

It is also more effective to *find people who enjoy the identity boost of showing off* under the guise of ‘being hypnotized’. In practice, stage hypnosis is often as much an agreement between the hypnosis practitioner and the subject to have fun as it is about trance and suggestion.

b. In therapy

The therapeutic situation is very different from the stage. Subjects are, by definition, seeking help for psychological or emotional issues, and become your clients. The hypnotherapist has the same responsibilities as a doctor here:

- At the minimum – to do *no harm*
- To do their best to effect a lasting *positive* change

Supporting the healing of the human mind is not as straightforward as an operation and therefore *has to be done with great care*.

When hypnotherapy treatments require delving into painful areas, the hypnotherapist needs to gain consent beforehand about what is to be dealt with, although it may well not be practical to gain consent for what exactly they will do, as they may be responding to whatever emerges. In any case, the hypnotherapist must always be asking themselves:

- Should I stop now?
- What are the risks to the client's wellbeing?
- Is now the best time for the client, from the client's perspective, to go on?

Being able to gauge how far to proceed in a session and when to create greater client resources before moving forward requires the ethical judgement that I have been talking about. Sometimes, the hypnotherapist knows information weeks before the client is ready to discover that same information. Being able to understand waiting, preparing the client with appropriate tools, and ensuring the client *wants to* move into the awareness of certain issues is part of being an Ethical and honorable hypnotherapist.

c. In hypnotic coaching

Hypnotic coaching is a developmental model that assumes that, just like the acorn that grows into the mighty oak, the client already has the seeds of their own magnificence. One of the things that distinguishes hypnotic coaching from hypnotherapy is that coaching is a professional contractual relationship of equals. The hypnotic coach needs to demonstrate ethical respect for the client in supporting the achievement of the client's goals.

d. Amateur context

Exactly where does hypnosis start? Many people try it out on their friends and relatives. With light trances, the subjects are always aware and negative effects very seldom occur. Nevertheless, there is opportunity here to cause harm and such experiments should be done with great care and prior learning.

Ensure your participants are educated about what your practicing, and have an opportunity to freely decide if they want to partake after they know what the potential risks and benefits are to them.

e. Confidentiality

Under hypnosis, the subject may reveal personal and sensitive information. It is important that the hypnosis practitioner respects the person and keeps all information confidential. This includes ensuring any notes about the person are stored securely and cannot fall into the wrong hands. Thus, locked cupboards and file cabinets are necessary. In fact, if you keep your client files on a computer, it is best that the computer is not attached to the internet. Some states even make that a requirement. In Colorado, all therapists are required to do that. In any case, absolutely use protected passwords for any client files. This protects your client's information from being hacked.

The importance of ethics in professional life can be evidenced by a number of instances of the failure of business and public figures due ethical issues. It may be rightly said that the situations would not have developed if there had been clear observance of ethical standards. Therefore, maintaining ethical standards is a must for the prosperity of our profession, as well as for the development of our member's

individual practices. Good ethics will lead us to maintain our honest image. It will enable us to refrain from such activities that may bring discredit to our profession. Thus, adhesion to good ethics is to let our consciences be our guide at all times.

As Zig Zigler said, “The most important persuasion tool you have in your entire arsenal is integrity.”

Sample Consent To Do Hypnosis With A Minor
(Your Name and Contact information)

I, _____,
(print) as a legal parent or guardian, give my

permission for _____ to receive hypnosis from

Signature of Legal Guardian or Parent

Date

Sample Consent for Release of Confidential Information
(Your Name and Contact information)

I, _____ hereby authorize that
(Clients Name)

(Person or Agency Releasing Information)

May release all confidential professional information pertaining to me
(or my minor children that I have legal custody of)

to: _____
(your name)

I understand that I may revoke this consent at any time by informing the
above parties in writing.

In consideration of this consent, I hereby release the above parties from
any legal liability for the release of this information.

Signature:

Date:

Sample Disclosure Statement

(This form is required to be signed by the client by the end of the second session. Make a copy to give to the client and keep the original in the client's file. This is what is required by the state of Colorado)

Name, Business address, Business telephone number

(List any degrees, credentials, certifications, registrations, and licenses held or obtained, including the education, experience, and training you were required to satisfy in order to obtain the degree, credentials, certifications, registrations, or licenses)

The practice of licensed or registered persons in the field of psychotherapy is regulated by the Mental Health Licensing Section of the Division of Registrations. The Board of Registered Psychotherapists Examiners can be reached at 1560 Broadway, Suite 1350, Denver, Colorado 80202, (303) 894-7800. As to the regulatory requirements applicable to mental health professionals:

Registered psychotherapist is a psychotherapist (this includes hypnosis practitioners who do not have coach specific training) listed in the State's database and is authorized by law to practice psychotherapy in Colorado but is not licensed by the state and is not required to satisfy any standardized educational or testing requirements to obtain a registration from the state.

Certified Addiction Counselor I (CAC I) must be a high school graduate, complete required training hours and 1,000 hours of supervised experience.

Certified Addiction Counselor II (CAC II) must complete additional required training hours and 2,000 hours of supervised experience.

Certified Addiction Counselor III (CAC III) must have a bachelor's degree in behavioral health, complete additional required training hours and 2,000 hours of supervised experience.

Licensed Addiction Counselor must have a clinical master's degree and meet the CAC III requirements.

Licensed Social Worker must hold a master's degree in social work.

Psychologist Candidate, a Marriage and Family Therapist Candidate, and a Licensed Professional Counselor Candidate must hold the necessary licensing degree and be in the process of completing the required supervision for licensure.

Licensed Clinical Social Worker, a Licensed Marriage and Family Therapist, and a

Licensed Professional Counselor must hold a master's degree in their profession and have two years of postmasters supervision.

A Licensed Psychologist must hold a doctorate degree in psychology and have one year of postdoctoral supervision.

Generally speaking, the information provided by and to the client during therapy sessions is legally confidential and cannot be released without the client's consent. There are exceptions to this confidentiality, some of which are listed in section 12-43-218 of the Colorado Revised Statutes as well as other exceptions in Colorado and Federal law. For example, mental health professionals are required to report suspected child abuse to authorities. If a legal exception arises during therapy, if feasible, you will be informed accordingly. The Mental Health Practice Act (CRS 12-43-101, et seq.) is available at: <http://www.dora.state.co.us/mental-health/Statute.pdf>.

In a professional relationship, sexual intimacy is never appropriate and should be reported to the board that licenses, registers, or certifies the licensee, registrant or certificate holder. You are entitled to receive information from your therapist about the methods of therapy, the techniques used, the duration of your therapy (if known), and the fee structure. You can seek a second opinion from another therapist or terminate therapy at any time.

The charge for Hypnotherapy (psychotherapy) is (your fee) an hour. Payment is due at the conclusion of each session. Since I have reserved our appointment time for you, it is my policy to charge for cancellations received less than 24 hours notice unless we are able to reschedule the appointment within the same week. There is no charge for brief calls. Calls lasting longer than 10 minutes will be charged to the client on a prorated basis.

I am available to receive phone calls during most normal business hours. If I am in session, you will get my voice messaging. I pick up my messages regularly. If you have a major emergency and cannot reach me, you may need to seek help at a mental health center or hospital. (Make any changes you desire)

It is always your right to terminate therapy at any time. However, I strongly encourage you to discuss this decision with me. It has been my experience that, particularly in a therapeutic relationship of any length, termination is a very important process. If I see you approaching readiness to leave therapy, I will

certainly discuss this with you. I will also discuss your progress at any time.

I have read the preceding information, it has also been provided verbally, and I understand my rights as a client or as the client's responsible party.

Print Client's name

Date

Client's or Responsible Party's Signature Date

If signed by Responsible Party, please state relationship to client and authority to consent:

Sample Hypnotic Coaching Agreement

Please complete these forms and either bring, mail, fax or email them back to me prior to our first call or bring to our first in person appointment.

Name:

Address:

City:

Province/State:

Postal/Zip:

Res. Phone:

Bus. Phone:

Cell phone:

Email:

Occupation:

Birthday MO./Day

Referred by:

Coaching Start Date:

Master Card/Visa # _____

Expiration Date _____ CODE _____

Introductory Session (fee) _____

Then either pay (fee)____ per hour, (fee)____ for 45 minute session or please check the plan you selected:

I will pay per hour._____. I will pay for a 45 minute session_____.

I have selected Plan A4: 4 Sessions (fee) includes four one hour calls or in person sessions, CDs and handouts as needed. _____.

I have selected Plan A10: 10 Sessions (fee)_____. Fee includes ten one hour calls or in person sessions, CDs and handouts as needed. _____.

I have selected Plan B4: 4 Sessions (fee)_____. Fee includes four 45 mins calls or in person sessions, CDs and handouts as needed._____.

I have selected Plan B10: 10 Sessions (fee)_____ includes ten 45 mins calls or in person sessions, CDs and handouts as needed._____.

The fee is paid the first session.

I _____(print name) agree to employ (your name_____) at the fee indicated above for the purpose of coaching me on my personal and professional goals. I further agree to the following:

1. I take personal responsibility for the results of my coaching experience.
2. I realize that my commitment is essential to my success.
3. I agree to give 24 hours notice for any change or cancellation of sessions. I understand that I will be charged for any missed sessions if I do not give this notice.
4. I will call or visit my coach on time. I understand that if I am more than 15 minutes late for a call or session my coach will assume I will not be calling and will charge for the call or session.
5. I understand that the purpose of my sessions with my coach is to assist me in goals related to my personal development.
6. I understand that although my hypnotic coach is exclusively a coach. I further understand that hypnotic coaching does not take the place of hypnotherapy.
7. I give my coach permission to be honest, direct, supportive, and to challenge me.

8. I understand and agree that I am fully responsible for my well being, including my choices and decisions. I understand that I am always free to reject any advice, suggestions or requests made by my coach at any time.

9. I understand that my coach will honor my confidentiality unless required by law to disclose information about me.

10. I understand that coaching is not to be used in lieu of professional advice for psychological, legal, financial, medical, tax, or other matters normally handled by other professionals

We may find in our work together that it is beneficial for you to learn and use hypnosis. I will teach you hypnosis. In addition, we will use hypnosis to help you improve your focus, create a positive mindset and attitudes, improve your skills and abilities, and reinforce positive habits and behaviors.

It is a tool to help you achieve your goals.

Date of Contract: _____

Client Signature: _____

Coach: _____ (your name)

DISTINCTIONS BETWEEN HYPNOTHERAPY AND HYPNOTIC COACHING

Hypnotherapy

Deals mostly with a person's past and trauma and seeks healing.

Doctor-patient relationship (Therapist has the answers).

Assumes emotions are a symptom of and something wrong.

The Therapist provides professional expertise and guidelines to give you a path to healing.

Hypnotic Coaching

Deals mostly with a person's present and seeks to guide them into a more desirable future.

Co-creative equal partnership (Coach helps client discover their own answers).

Assumes emotions are natural normalizes them

The Coach stands with you, and helps YOU identify the challenges, then works with you to turn challenges into victories and holds you accountable to reach your desired goals.

As part of coaching, hypnotic coaching is a developmental model that assumes that, just like the acorn that grows into the mighty oak, the client already has the seeds of their own magnificence.

I would add that one of the things that distinguishes coaching from therapy is that coaching is a professional contractual relationship of equals.

This is adapted from an article written by Patrick Williams EdD. MCC. in Choice Magazine Volume 5 #3. Dr Williams is the Director of the Life Coach Training Institute and former Education chair of the International Coach Federation

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