

1 CALIFORNIA CODE

2

3 EVIDENCE CODE

4 SECTION 1010-1027

5

6 CODE ON PSYCHOTHERAPIST-PATIENT PRIVILEGE

7 (downloaded January 31, 2001)

8

9 1010. As used in this article, "psychotherapist" means:

10 (a) A person authorized, or reasonably believed by the patient to
11 be authorized, to practice medicine in any state or nation who
12 devotes, or is reasonably believed by the patient to devote, a
13 substantial portion of his or her time to the practice of psychiatry.

14 (b) A person licensed as a psychologist under Chapter 6.6
15 (commencing with Section 2900) of Division 2 of the Business and
16 Professions Code.

17 (c) A person licensed as a clinical social worker under Article 4
18 (commencing with Section 4996) of Chapter 14 of Division 2 of the
19 Business and Professions Code, when he or she is engaged in applied
20 psychotherapy of a nonmedical nature.

21 (d) A person who is serving as a school psychologist and holds a
22 credential authorizing that service issued by the state.

23 (e) A person licensed as a marriage, family, and child counselor
24 under Chapter 13 (commencing with Section 4980) of Division 2 of the
25 Business and Professions Code.

26 (f) A person registered as a psychological assistant who is under
27 the supervision of a licensed psychologist or board certified
28 psychiatrist as required by Section 2913 of the Business and
29 Professions Code, or a person registered as a marriage, family, and
30 child counselor intern who is under the supervision of a licensed
31 marriage, family, and child counselor, a licensed clinical social
32 worker, a licensed psychologist, or a licensed physician certified in
33 psychiatry, as specified in Section 4980.44 of the Business and
34 Professions Code.

35 (g) A person registered as an associate clinical social worker who
36 is under the supervision of a licensed clinical social worker, a
37 licensed psychologist, or a board certified psychiatrist as required
38 by Section 4996.20 of the Business and Professions Code.

39 (h) A person exempt from the Psychology Licensing Law pursuant to
40 subdivision (d) of Section 2909 of the Business and Professions Code
41 who is under the supervision of a licensed psychologist or board
42 certified psychiatrist.

43 (i) A psychological intern as defined in Section 2911 of the
44 Business and Professions Code who is under the supervision of a
45 licensed psychologist or board certified psychiatrist.

46 (j) A trainee, as defined in subdivision (c) of Section 4980.03 of
47 the Business and Professions Code, who is fulfilling his or her
48 supervised practicum required by subdivision (b) of Section 4980.40
49 of the Business and Professions Code and is supervised by a licensed
50 psychologist, board certified psychiatrist, a licensed clinical
51 social worker, or a licensed marriage, family, and child counselor.

52 (k) A person licensed as a registered nurse pursuant to Chapter 6
53 (commencing with Section 2700) of Division 2 of the Business and
54 Professions Code, who possesses a master's degree in psychiatric
55 mental health nursing.

56 (l) A person rendering mental health treatment or counseling
57 services as authorized pursuant to Section 6924 of the Family Code.

58

59 1010.5. A communication between a patient and an educational
60 psychologist, licensed under Article 5 (commencing with Section 4986)
61 of Chapter 13 of Division 2 of the Business and Professions Code,

62 shall be privileged to the same extent, and subject to the same
63 limitations, as a communication between a patient and a
64 psychotherapist described in subdivisions (c), (d), and (e) of
65 Section 1010.

66
67 1011. As used in this article, "patient" means a person who
68 consults a psychotherapist or submits to an examination by a
69 psychotherapist for the purpose of securing a diagnosis or
70 preventive, palliative, or curative treatment of his mental or
71 emotional condition or who submits to an examination of his mental or
72 emotional condition for the purpose of scientific research on mental
73 or emotional problems.

74
75 1012. As used in this article, "confidential communication between
76 patient and psychotherapist" means information, including information
77 obtained by an examination of the patient, transmitted between a
78 patient and his psychotherapist in the course of that relationship
79 and in confidence by a means which, so far as the patient is aware,
80 discloses the information to no third persons other than those who
81 are present to further the interest of the patient in the
82 consultation, or those to whom disclosure is reasonably necessary for
83 the transmission of the information or the accomplishment of the
84 purpose for which the psychotherapist is consulted, and includes a
85 diagnosis made and the advice given by the psychotherapist in the
86 course of that relationship.

87
88 1013. As used in this article, "holder of the privilege" means:

- 89 (a) The patient when he has no guardian or conservator.
90 (b) A guardian or conservator of the patient when the patient has
91 a guardian or conservator.
92 (c) The personal representative of the patient if the patient is
93 dead.

94
95 1014. Subject to Section 912 and except as otherwise provided in
96 this article, the patient, whether or not a party, has a privilege to
97 refuse to disclose, and to prevent another from disclosing, a
98 confidential communication between patient and psychotherapist if the
99 privilege is claimed by:

- 100 (a) The holder of the privilege.
101 (b) A person who is authorized to claim the privilege by the
102 holder of the privilege.
103 (c) The person who was the psychotherapist at the time of the
104 confidential communication, but such person may not claim the
105 privilege if there is no holder of the privilege in existence or if
106 he or she is otherwise instructed by a person authorized to permit
107 disclosure.

108 The relationship of a psychotherapist and patient shall exist
109 between a psychological corporation as defined in Article 9
110 (commencing with Section 2995) of Chapter 6.6 of Division 2 of the
111 Business and Professions Code, a marriage, family, and child
112 counseling corporation as defined in Article 6 (commencing with
113 Section 4987.5) of Chapter 13 of Division 2 of the Business and
114 Professions Code, or a licensed clinical social workers corporation
115 as defined in Article 5 (commencing with Section 4998) of Chapter 14
116 of Division 2 of the Business and Professions Code, and the patient
117 to whom it renders professional services, as well as between those
118 patients and psychotherapists employed by those corporations to
119 render services to those patients. The word "persons" as used in
120 this subdivision includes partnerships, corporations, limited
121 liability companies, associations and other groups and entities.

122

123 1015. The psychotherapist who received or made a communication
124 subject to the privilege under this article shall claim the privilege
125 whenever he is present when the communication is sought to be
126 disclosed and is authorized to claim the privilege under subdivision
127 (c) of Section 1014.

128
129 1016. There is no privilege under this article as to a
130 communication relevant to an issue concerning the mental or emotional
131 condition of the patient if such issue has been tendered by:

- 132 (a) The patient;
- 133 (b) Any party claiming through or under the patient;
- 134 (c) Any party claiming as a beneficiary of the patient through a
135 contract to which the patient is or was a party; or
- 136 (d) The plaintiff in an action brought under Section 376 or 377 of
137 the Code of Civil Procedure for damages for the injury or death of
138 the patient.

139
140 1017. (a) There is no privilege under this article if the
141 psychotherapist is appointed by order of a court to examine the
142 patient, but this exception does not apply where the psychotherapist
143 is appointed by order of the court upon the request of the lawyer for
144 the defendant in a criminal proceeding in order to provide the
145 lawyer with information needed so that he or she may advise the
146 defendant whether to enter or withdraw a plea based on insanity or to
147 present a defense based on his or her mental or emotional condition.

148
149 (b) There is no privilege under this article if the
150 psychotherapist is appointed by the Board of Prison Terms to examine
151 a patient pursuant to the provisions of Article 4 (commencing with
152 Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

153
154 1018. There is no privilege under this article if the services of
155 the psychotherapist were sought or obtained to enable or aid anyone
156 to commit or plan to commit a crime or a tort or to escape detection
157 or apprehension after the commission of a crime or a tort.

158
159 1019. There is no privilege under this article as to a
160 communication relevant to an issue between parties all of whom claim
161 through a deceased patient, regardless of whether the claims are by
162 testate or intestate succession or by inter vivos transaction.

163
164 1020. There is no privilege under this article as to a
165 communication relevant to an issue of breach, by the psychotherapist
166 or by the patient, of a duty arising out of the
167 psychotherapist-patient relationship.

168
169 1021. There is no privilege under this article as to a
170 communication relevant to an issue concerning the intention of a
171 patient, now deceased, with respect to a deed of conveyance, will, or
172 other writing, executed by the patient, purporting to affect an
173 interest in property.

174
175 1022. There is no privilege under this article as to a
176 communication relevant to an issue concerning the validity of a deed
177 of conveyance, will, or other writing, executed by a patient, now
178 deceased, purporting to affect an interest in property.

179
180 1023. There is no privilege under this article in a proceeding
181 under Chapter 6 (commencing with Section 1367) of Title 10 of Part 2
182 of the Penal Code initiated at the request of the defendant in a
183 criminal action to determine his sanity.

184
185 1024. There is no privilege under this article if the
186 psychotherapist has reasonable cause to believe that the patient is
187 in such mental or emotional condition as to be dangerous to himself
188 or to the person or property of another and that disclosure of the
189 communication is necessary to prevent the threatened danger.

190
191 1025. There is no privilege under this article in a proceeding
192 brought by or on behalf of the patient to establish his competence.

193
194 1026. There is no privilege under this article as to information
195 that the psychotherapist or the patient is required to report to a
196 public employee or as to information required to be recorded in a
197 public office, if such report or record is open to public inspection.

198
199 1027. There is no privilege under this article if all of the
200 following circumstances exist:

201 (a) The patient is a child under the age of 16.

202 (b) The psychotherapist has reasonable cause to believe that the
203 patient has been the victim of a crime and that disclosure of the
204 communication is in the best interest of the child.

205