Ethics Article #2: Patient Access

This second article in a series of three explores intrusions into the sanctity of the consulting room, this time created by patients themselves. Of these articles describing the various ways the consulting room doors can be pried open, the first focused on intrusions originating from psychologists, and the next will concern itself with intrusions originating from the government. The three categories of intrusion considerably overlap with one another. Yet they hopefully provide the reader with an improved understanding of ways psychotherapeutic privacy can be compromised.

Patients can knock down the door to the consulting room in any number of ways. Actually, since they are the holder of the privilege in almost all cases (one exception being if they are minors), they could tell anyone they are in treatment. They can request that you release their records, or talk to, anyone of their choosing. They could complain to the licensing board if they are unhappy with you.

Of the ways patients may limit the confidentiality of their communications in psychotherapy, making requests to consult another provider may be the most common. Clinically, this may indicate a desire for infantilization. Ethically, if they request it, and resist interpretation of its meaning, their request should typically be honored. The psychologist may therefore find him or herself consulting with their last treating psychologist, their physician, or even their attorney. Sometimes these consults are indeed necessary, such as in cases of acute psychosis, a propensity for impulsive behavior, or some other real psychiatric or medical emergency. Again, however, usually these consults are unnecessary, and consist of the psychologist basically performing a function that a more fully empowered patient would be able to do themselves. The psychologist

of course must obtain a signed authorization to talk to any other party. The patient's confidentiality should not be otherwise compromised but the absolute sanctity of the room has certainly been violated by such a contact. In many psychotherapies, the possibility of the psychologist having contact with the outside party remains open – a constant reminder of another's presence in the consulting room.

Closely related to the issue of consults would be any situation in which the patient develops a condition or some sort of an emergency that would require the psychologist to contact another. Most often patients can still be kept in charge of these communications. Should a serious depressive condition evolve, for example, and you or the patient suggests provision of psychotropic medication, it should certainly be the patient's responsibility to contact a psychiatrist (which the psychologist may well recommend) and make an appointment. The same protocol would apply to the development of some sort of a serious medical condition or should there be a need for a legal consultation. Patients may want the psychologist involved, and in some cases the psychologist will want to or should be involved, but doing so always comes at the price of some of the patient's confidentiality. While not yet an absolute in terms of standard of care, the profession appears to be evolving to the point that regular contact with a treating psychiatrist, for example, may be considered professionally appropriate and necessary to provide proper psychotherapeutic services.

What sometimes ends up dragging in another party, and always requires a breach of confidentiality, would be any anticipated act of violence by the patient. If a reasonable victim of their violence can be identified, then the psychotherapeutic privacy must be breached in accordance with the Tarasoff precedent. Psychologists may choose, in

accordance with Evidence Code section 1024, to report suicidal behavior or risk of danger to property; this particular report must be done most carefully, however, in that they expose the psychologist to lawsuit for breach of confidentiality if the report lacks risk of danger. Here the conflict between "public peril" and privilege reigns supreme.

Psychologists, as we all now know, must also report child or elder abuse (and possibly, soon, spousal abuse). This swings the consulting room door wide open, typically resulting in law enforcement and/or Child Protective Services personnel literally if not figuratively entering psychotherapists' offices. In many of these cases, these outside parties are involved over the long term, often compromising the treatment itself. Quite often, for example, a formal Child Abuse Report, while necessary under the law, will result in a course of psychotherapy ending.

That essentially covers the various ways that patient behavior can result in intrusions into psychotherapeutic privacy, from their request to a medical need to consulting with a psychiatrist to having to make a mandated report. Breaches of confidentiality often prove necessary, particularly if public safety is at issue, but always occur with a substantial clinical price. The next article, the final in this series of three, will focus on the various disruptions in psychotherapeutic privacy that can result from various state and federal laws.