

OPINION

New York Mental Health Law as Related to the Practice of Hypnosis

When new State legislation has been passed, there is usually confusion as to the proper interpretation and application of the contents of the Law to various groups and individuals. Such is the case with Chapter 676, Laws of New York, 2002, Rules and Regulations for Mental Health Practitioners, as it may apply or specifically affect persons that practice hypnotism in the State of New York. Although this Law took effect in 2006, there have been no true interpretations of the meaning (application) of the Law to hypnotists through Court-established precedent or governmental activities concerning enforcement by which one could definitely reach a conclusion as to the parameters of the Law. One may think that 10 years is a long time and that every aspect of the Law should have come to light, but there are thousands of Laws in the States that just lie dormant or relatively un-enforced and un-interpreted, but subject to being enforced at any given time.

In 2004-2005 I was part of a three man team that considered the terms of the New York legislation in question relative to the practice of hypnotism. We also had the guidance and counsel of a New York attorney who rendered us an opinion as to the parameters of the law. There were conclusions made by the team which are always 'non-binding' in nature as persons who have questions and issues with the existing Law are always advised to seek their own privately retained counsel. Over the past 30 years I have found that hypnotists sometimes react to advice that does not coincide with their desires or needs, but all that any person that renders an opinion such as this can do is state what he or she believes is the correct interpretation and application of the Law or other happenings in the daily affairs of hypnotists in the practice of their profession.

The suggested practice of hypnotism by persons in New York State who are not licensed mental health professionals. The "do's" and "don't's":

1. The term 'therapy' is not to be used.
2. The terms 'hypnotherapy' and 'hypnotherapist' are not to be used.
3. Use only earned titles
4. Practice non-therapeutic hypnosis. (There is no opinion given here on practicing therapeutic hypnosis with a written referral from a licensed health professional, as this is always a gray area when not specifically mentioned and authorized by State Statute)
5. Your hypnotic services to the public should be founded on and with arrival at mutually-agreed goals through the employment of self-hypnosis instruction
6. Use the correct terminology in advertising and case-writing to avoid being accused of practicing therapeutic hypnotism.

7. Be especially careful with advertising to avoid making therapeutic claims in your website, flyers, business cards, facebook, twitter, and all media.

8. Use terminology that may be recommended by reliable hypnosis organizations of which you may be a member.

9. Do not diagnose, nor offer a prognosis, nor prescribe.

10. Practice on the side of caution.

11. The client is the most important person in the hypnotist-client relationship and must be protected by you, the hypnotist, practicing within your own personal limits and within the limits of existing Law whether you agree with said Law or not.

NOTE: This is a personal opinion of hypnotist, Anthony F. De Marco, and is not intended to be used as 'legal advice'. It is not an opinion of COPHO or any of its Members. Seek proper legal advice from a privately retained attorney in your State if there are any unanswered questions, confusion, or issues that should be resolved concerning the conduct of your practice.