

This is an amendment to 16.22.2 NMAC, Section 9, effective on 03/21/09.

16.22.2.9 IMPAIRED OBJECTIVITY AND DUAL RELATIONSHIPS

A. Impaired psychologist. The psychologist shall not undertake or continue a professional relationship with a client when the psychologist is impaired due to mental, emotional, physiologic, pharmacologic, or substance abuse conditions. If such a condition develops after a professional relationship has been initiated, the psychologist shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination, and shall assist the client in obtaining services from another professional.

B. Prohibited dual relationships.

(1) The psychologist shall not undertake or continue a professional relationship with a client or patient when the objectivity or competency of the psychologist is compromised because of the psychologist's present or previous familial, social, sexual, emotional, or legal relationship with the client or a relevant person associated with or related to the client.

(2) The psychologist, in interacting with a current or former client or patient to whom the psychologist has at any time within the previous twelve (12) months rendered counseling, psychotherapeutic, or other professional psychological services for treatment or amelioration of emotional distress or behavioral inadequacy, shall not:

(a) engage in any verbal or physical behavior toward the client or patient which is sexually seductive, demeaning, or harassing; or

(b) engage in sexual intercourse, or sexual contact or other sexual intimacies with the client or patient; or

(c) enter into a business or financial (other than fees for professional services) or other potentially exploitative relationship with the client or patient.

(3) The prohibitions set out in Paragraph (2) of Subsection B of 16.22.2.9 NMAC shall not be limited to the 12-month period but shall extend longer unless the psychologist can demonstrate that the client or patient is not vulnerable to exploitative influence by the psychologist. The psychologist who engages in such sexual or financial relationship after the twelve (12) months following cessation or termination of treatment bears the burden of proving that there has been no exploitation, in light of all relevant factors, including:

(a) the amount of time that has passed since the therapy terminated;

(b) the nature and duration of the therapy;

(c) the circumstances of termination;

(d) the client or patient's personal history;

(e) the client or patient's mental status;

(f) the likelihood of adverse impact on the client or patient and others; and

(g) any statements or actions made by the psychologist during the course of therapy suggesting or inviting the possibility of a post-termination sexual or other potentially exploitative relationship with the patient or client.

(4) The psychologist shall not serve in varied capacities that confuse the role of the psychologist. Such confusion is most likely when the psychologist changes from one role to another and fails to make clear who is the client or patient. The psychologist is responsible for taking appropriate precautions to avoid harmful dual relationships and is responsible for informing all affected individuals, preferably in writing, when such a change is necessary. Examples of situations requiring extra caution include:

(a) treating a person who is the family member of a current or former patient or client;

(b) treating a family as a unit after treating a family member or, conversely, treating a family member after treating the family as a unit;

(c) moving from a confidential role to a non-confidential one, such as from therapist or mediator to evaluator, arbitrator, or [~~"wise person; and"~~] "wise-person"; and

(d) moving from a position of authority into a confidential role, such as from court-appointed evaluator to the role of therapist.

(5) If one family member is a minor, the psychologist shall ensure that the child understands how the role of the psychologist is changing (for example, moving from therapist for the child to therapist for the family) and shall explain the limits of confidentiality that result from this changed role.

(6) When a psychologist agrees to provide services to several persons who have a relationship (such as husband and wife or parents and children), the psychologist shall clarify at the outset:

(a) which of the individuals are patients or clients and

(b) the relationship the psychologist will have with each person; this clarification includes the role of the psychologist and the possible uses of services provided or information obtained.

(7) As soon as it becomes apparent that the psychologist may be called on to perform potentially conflicting roles (such as marital counselor to husband and wife and then witness for one party in a divorce proceeding), the psychologist shall clarify and withdraw from or adjust roles, as appropriate.

[16.22.2.9 NMAC - Rp, 16.22.2.9 NMAC, 11/15/06; A, 03/21/09]