

Is practicing hypnotherapy legal in California?

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By Michael H. Cohen

Is practicing hypnotherapy legal in California? That all depends on what the practitioner is doing and claiming.

Are Hypnotherapists Licensed

The first thing to understand is the different between *licensure* and *scope of practice*.

You're either a *licensed healthcare practitioner* or *non-licensed*.

If licensed, you're either:

- A physician (MD or DO). You have "unlimited licensure."

This means you can offer whatever therapies are appropriate to prevent and treat disease — subject to concerns about professional standards of care (i.e., don't be negligent) and medical board discipline (ditto; and don't commit fraud).

- An Allied Health Professional (such as clinical psychologist, nurse or nurse practitioner, or dentist). Your licensure is limited to the *scope of practice* set forth in your licensing statute, or by your board's regulations (and sometimes interpreted by case law). You cannot diagnose and treat disease, generally speaking.

You can use the accepted tools of your profession to do the things your licensure allows; this may or may not require physician supervision, depending on whether you are an independent or a dependent healthcare professional.

- A Complementary and Alternative Medicine Practitioner (such as a chiropractor, an acupuncturist, or a massage therapist). As with allied health practitioners, your licensure is limited to your scope of practice.

For example, as a chiropractor, you can manipulate the spine; but can you do colonic irrigation? It depends on your state; this may require legal research. Similarly, as an acupuncturist, can you order X-rays or recommend herbs? Again, it depends.

In California, there is no separate licensing category called "hypnotherapist."

Rather, as in most states, hypnotherapy would be considered a *modality* that would be part of the scope of practice of a

specific profession.

For example, physicians may employ medical hypnosis; dentists, dental hypnosis; and clinical psychologists, clinical hypnotherapy.

California Addresses Hypnosis (hypnotherapy)

California Business & Professions Code Section 2908 addresses hypnosis:

Nothing in this chapter shall be construed to prevent qualified members of other recognized professional groups licensed to practice in the State of California, such as, but not limited to, **physicians, clinical social workers, educational psychologists, marriage and family therapists, optometrists, psychiatric technicians, or registered nurses, or attorneys** admitted to the California State Bar, or persons utilizing hypnotic techniques by referral from persons licensed to practice medicine, dentistry or psychology, or persons utilizing hypnotic techniques which offer avocational or vocational self-improvement and do not offer therapy for emotional or mental disorders, or duly ordained members of the recognized clergy, or duly ordained religious practitioners from doing work of a psychological nature consistent with the laws governing their respective professions, provided they do not hold themselves out to the public by any title or description of services incorporating the words “psychological,” “psychologist,” “psychology,” “psychometrist,” “psychometrics,” or “psychometry,” or that they do not state or imply that they are licensed to practice psychology; except that persons licensed under Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 may hold themselves out to the public as licensed educational psychologists.

Note: attorneys can use hypnosis. (You are getting sleepy ... in a moment you will pick up the phone and call our law firm.....)

Let's break this down. California law does not prohibit:

- licensed professionals from practicing hypnosis (for example, physicians, clinical social workers, educational psychologists....)
- persons using “hypnotic techniques” when referred by doctors, dentists or psychologists
- persons from using “hypnotic techniques” for “avocational or vocational self-improvement” so long as they *do not offer therapy for emotional or mental disorders*
- duly ordained members of the recognized clergy, or duly ordained religious practitioners from “doing work of a psychological nature consistent with the laws governing their respective professions”

provided that these individuals:

- do not hold themselves out to the public by any title or description of services incorporating the words “psychological,” “psychologist,” “psychology,” “psychometrist,” “psychometrics,” or “psychometry”
- do not state or imply that they are licensed to practice psychology

This is a variation on title licensure: essentially, individuals listed in the statute, can use hypnotic techniques for the purposes and within the limitations identified in the statute, so long as they do not use the “psychologist” title or reference practice of psychology.

Although the drafting and language are not the clearest, the main concern here seems to be to prohibit non-psychologists from using hypnosis for “emotional or mental disorders,” since those are considered the province of the licensed psychologist.

Suggestions

If you're a licensed provider, make sure that hypnosis would be considered within your scope of practice.

From a regulatory standpoint, one sanction for violating these rules could be prosecution of unlicensed of psychology. To stay on the safer side, avoid referencing mental or emotional disorders.

In general, it's safer to talk about things like:

- relaxation and balance
- goals and goal-setting
- habits (as long as we're talking about improving habits, and not about some obsessive-compulsive habit or some other indicator of what could be considered, mental pathology)
- performance (again, steering clear of psychological conditions that can be impediments to improved performance)

Also, if you're in California and non-licensed, we recommend an SB 577 disclosure / consent form to provide services under the umbrella of law.

My Voice Will Go With You

Sure, the legal rules can be scary.

I wrote in *Future Medicine* that the laws were initially written from the perspective of preventing fraud. We are talking about licensing laws, not about the Bill of Rights. They were not necessarily written from an evolved consciousness with the intention to promote transformation of human potential.

Professional licensure has largely been acknowledged to be a political process, rife with turf battles.

Having said that, my journey as a healthcare lawyer began with my own study of Ericksonian hypnotherapy – a long time ago and in a galaxy far, far away. (Well, actually it was New York City).

I'm a big believer in the power of the unconscious mind, and in the importance of personal and societal healing.

As a lawyer, I set my clients straight about the legal boundaries, so they can practice in a way that is mindful of our existing legal framework.

Do [contact our healthcare legal team](#) for legal counsel whenever setting up a hypnotherapy practice, any practice when you are non-licensed, or any therapy where you are unsure of the legal and regulatory boundaries and consequences. Understanding your legal risk, and implementing good risk mitigation strategies, both are important in protecting your professional services from legal jeopardy.

[Contact our healthcare law](#) and [FDA attorneys](#) for legal advice relevant to your healthcare venture.