

A license is required to treat conditions including, Major Depression, Bipolar, Anxiety Disorder, Personality Disorders, PTSD and other mental health issues. A person may not provide counseling or therapy without a proper license. Additionally any unlicensed person providing counseling services shall provide to the client a “Notice of Unlicensed Status” and obtain a written “Client Statement of Unlicensed Status.”

A PERSON ACTING SUBSTANTIALLY OFFERING MENTAL HEALTH COUNSELING OR PSYCHOTHERAPY SERVICES THAT REQUIRE A LICENSE IN TENNESSEE AND OFFER SERVICES FOR DIRECT OR INDIRECT COMPENSATION, OR OFFER COUNSELING OR PSYCHOTHERAPY TO TREAT A MENTAL HEALTH CONDITION WITHOUT BEING LICENSED AS A MENTAL HEALTH PROVIDER IN TENNESSEE, ARE CIVILLY LIABLE TO THE PERSON SERVED. THE CONSUMER MAY MAINTAIN AN ACTION TO RECOVER THE CONSIDERATION PAID TO THE UNLICENSED PROVIDER, COSTS IN RECOVERING CONSIDERATION PAID, AND THREE (3) TIMES REASONABLE ATTORNEY’S FEES DETERMINED BY THE COURT. IN ADDITION, THE UNLICENSED PERSON ACTING AS A LICENSED MENTAL HEALTH PROFESSIONAL OR TREATING A MENTAL HEALTH ILLNESS FOR DIRECT OR INDIRECT COMPENSATION IS HELD TO THE ETHICAL AND PROFESSIONAL STANDARD OF CARE OF A LICENSED PROFESSIONAL, ENABLING CIVIL SUIT AS A HEALTHCARE LIABILITY ACT.

PERSONS EXEMPTED FROM THIS ARE THE FOLLOWING:

1. CLERGY NOT BEING PAID ON A FEE-FOR-SERVICE BASIS.
2. STUDENTS AND PRACTITIONERS-IN-TRAINING WHEN UNDER THE SUPERVISION OF A LICENSED MENTAL HEALTH PROFESSIONAL.
3. Persons holding a license under TCA Title 63 acting within their scope of practice

This bill does not expand or restrict the scope of practice for any persons holding a license under TCA Title 63.

Any non-licensed person offering counseling or psychotherapy on a fee-for-service basis will have a have a rebuttable presumption that the services **were not** to treat a mental health condition if the non-licensed person has a signed a copy of the “Client Statement for Unlicensed Therapist” in their possession.

Any non-licensed person offering counseling or psychotherapy on a fee-for service basis will have a have a rebuttable presumption that the services **were** to treat a mental health condition if the non-licensed person does not have a signed a copy of the “Client Statement for Unlicensed Status” in their possession.

NOTICE OF UNLICENSED STATUS

State law allows any person to provide counseling or therapy but does NOT confer authority to practice medicine or to undertake the diagnosis, prevention, treatment, or cure of any disease, or mental condition and specifically does not authorize any person other than one who is a licensed health practitioner to state that their counseling might cure any disease, disorder, or mental condition.

STATE LAW DOES NOT CONFER AUTHORITY TO PRACTICE COUNSELING TO TREAT DEPRESSION, ANXIETY OR ANY MENTAL DISEASE, DISORDER OR CONDITION WITHOUT OBTAINING A LICENSE AS EITHER:

MEDICAL PHYSICIAN, PSYCHOLOGISTS, PSYCHOLOGICAL ASSISTANT, LICENSED PROFESSIONAL COUSELOR, LICENSED CLINICAL SOCIAL WORKER, LICENSED MARRIAGE AND FAMILY THERAPIST, LICENSED PASTORAL COUNSELOR OR NURSE PRACTITIONER UNLESS THE PERSON PRACTICES UNDER THE SUPERVISION OF A LICENSED PROFESSIONAL

LICENSURE

- Provides CONFIDENTIALITY BY LAW that is not available to unlicensed counselors
- Ensures that the therapist is subject to oversight by other professionals
- Ensures that the therapist has passed required courses and has undergone a background check
- Requires ongoing professional education
- Is subject to a civil suit by you if they mistreat you

An unlicensed counselor or therapist

- Can be subpoenaed to testify about you in a court of law without your permission.
- The records of an unlicensed counselor or therapist may be used against you in a court of law.
- An unlicensed counselor or therapist may be able to talk about your treatment with others without your consent and with no consequences.
- An employer may be able to request, demand or obtain a copy of your records without your consent.
- A prosecuting attorney or grand jury may be able to obtain a copy of your records as part of a criminal investigation.
- CANNOT BE SUED FOR MALPRACTICE
- Has not undergone a background check by state authorities regarding criminal histories
- Has no requirements to maintain ongoing professional education to ensure competence

CLIENT STATEMENT FOR UNLICENSED STATUS

I know that _____ (unlicensed counselor) is providing counseling services to me and is NOT authorized by the State of Tennessee to diagnosis, prevent, or treat a mental condition that requires a license to treat. Because the above provider is not licensed, I know they:

- Are not authorized to treat a condition that require a license to treat including, Major Depression, Bipolar, Anxiety Disorder, Personality Disorders and other mental health issues.
- Have not undergone a background check by state authorities regarding criminal histories
- **THEY CANNOT BE SUED FOR MALPRACTICE**
- Have no legal requirements to maintain ongoing professional education to ensure competence
- Can be subpoenaed to testify about me in a court of law without my permission.
- Their records may be used against me in a court of law.
- They may be able to talk about my treatment with others without my consent and with no consequences.
- An employer may be able to request, demand or obtain a copy of my records without my consent.
- A prosecuting attorney or grand jury may be able to obtain a copy of my records as part of a criminal investigation.

- **STATE LAW DOES NOT CONFER AUTHORITY TO PRACTICE COUNSELING TO TREAT DEPRESSION, ANXIETY OR ANY MENTAL DISEASE, DISORDER OR CONDITON WITHOUT OBTAINING A LICENSE AS EITHER:**
Medical Physician, Psychologist, Senior Psychological Examiner, Licensed Professional Counselor, Licensed Clinical Social Worker, Licensed Marriage and Family Therapist, Licensed Pastoral Counselor, or Advance Practice Nurse Practitioner unless the professional practices under the supervision of a licensed professional.

I have been provided a copy of "NOTICE OF UNLICENSED STATUS" and of this signed acknowledgment, "CLIENT STATEMENT FOR UNLICENSED THERAPIST" and have agreed to be counseled by the above provider.

Client Name

Date