

Florida Institute of Hypnotherapy

Florida Law, State-Licensure and the Practice of Hypnotherapy

This document states the official position of the Florida Institute of Hypnotherapy (FIH) concerning Florida Law, State-Licensure and the American Council of Hypnotist Examiners (ACHE) Standards.

It has been brought to our attention that many people are not clear about Florida Law and the legal limits of hypnotherapy practice. The following document has been prepared to ensure absolute clarity about this issue.

Interested persons reading this are encouraged to understand the law and to operate within the scope of their training and credentials while educating others accordingly. Misunderstandings concerning this issue are just as harmful to our profession as are the myths and misconceptions that exist about hypnotism itself.

Leaders in this field are actively working to improve its reputation, standards and credentials. FIH, along with the ACHE, is continually working to ensure the “free and open practice of hypnotherapy.” We are continually raising the standards of our occupation and the freedom to practice it.

Rumors will always develop; therefore we encourage interested persons to know the facts and to immediately bring any concerns to the attention of the school’s current Executive Director.

While our Fundamentals of Hypnotism Manual covers this information in depth over an expanse of 14 pages, the basics are repeated here for the sake of clarity. Also, our Advanced Hypnotism Manual’s first 14 pages cover other aspects of ethics, law and proper practice management. In the end, it is the responsibility of each individual to operate within the law of his or her respective state and within the Code of Ethics of the ACHE.

Signed,
Matthew Brownstein, CHt
Current Executive Director, Florida Institute of Hypnotherapy
Florida Department of Education License #3448
ACHE Certified Hypnotherapy School #198-146

Dated: June 2, 2008

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American Council of Hypnotist Examiners General Statement

Hypnotherapists certified by the A.C.H.E. who are not licensed as mental health practitioners in their State may use hypnosis within the legal limits of their training, competence and education and in conformance with Federal and State Laws.

What is a Hypnotherapist?

.079.157.010 – Hypnotherapist
As defined in the Dictionary of Occupational Titles
Published by the United States Department of Labor

“Hypnotherapist induces hypnotic state in client to increase motivation or alter behavior pattern through hypnosis. Consults with client to determine the nature of problem. Prepares client to enter hypnotic states by explaining how hypnosis works and what client will experience. Tests subjects to determine degrees of physical and emotional suggestibility. Induces hypnotic techniques of hypnosis based on the interpretation of test results and analysis of client’s problem. May train client in self-hypnosis conditioning.”

Florida Department of Education – State-Licensing through the Commission for Independent Education

The Florida Institute of Hypnotherapy is licensed to offer Diplomas using the name “Florida Institute of Hypnotherapy” and the following three program certifications through the State of Florida Department of Education:

1. Hypnotherapist
2. Clinical Hypnotherapist
3. Transpersonal Hypnotherapist

Note: The use of the term Hypnotherapy does not imply that a Hypnotherapist treats medical or mental health conditions. It is merely an occupational title. Neither the State of Florida, nor the ACHE, distinguish between the terms “hypnotist,” “hypnotism practitioner,” or “hypnotherapist.” It is to be understood that any use of the prefix “hypno” in a professional title implies the practice of hypnosis, whether for therapeutic or non-therapeutic purposes.

Definition Non-Medical and Non-Therapeutic

You will notice that the definition of a hypnotherapist contains no medical terms, nor does it say you have to be a licensed physician, psychologist, or social worker. It simply means that the U.S. Department of Labor defines *hypnotherapist* in the specific ways stated above.

In 1971, California Senator James Whetmore asked the question, “Is the practice of hypnotism restricted by state law to persons licensed to practice medicine or psychology?” The answer came in the form of a formal ruling from the California Attorney General:

OPINION #17-24-April 14, 1971. “The practice of hypnotism is not prohibited by state law unless practice constitutes the unauthorized practice of medicine or psychology.”

You have a constitutionally guaranteed civil right to pursue gainful employment in a lawful (not forbidden by law) occupation. Don’t be misled by those who fail to understand the law. Legislative committees in numerous states have repeatedly determined that licensing of an occupational group shall be required only when the unlicensed practice is proven to represent a threat to public health and safety. There has never been a documented case of harm from the use of hypnosis. Therefore, hypnotherapy remains a non-licensed profession.

What Constitutes being an ACHE Certified Hypnotherapist?

(Current as of 2008)

A. Certified Hypnotherapist

Has completed at least two hundred (200) hours of instruction from an ACHE approved hypnotism school that is licensed by their State Board of Education. The Hypnotherapist must also pass the ACHE written and practical skills exam. Exceptions are considered on a non-discriminatory basis and may be granted by the Qualifying Board.

B. Certified Clinical Hypnotherapist

Has fulfilled all of the requirements for Hypnotherapist and has completed a total of three hundred (300) hours instruction in hypnosis from a school approved by the appropriate state agency and by the American Council of Hypnotist Examiners.

FLORIDA LAW

Law can be an intimidating topic. As read by those untrained in the practice of Law, it can easily be misunderstood. Even those trained in law frequently debate it in Courts of Law and in Colleges of Law. Therefore, the following includes a synopsis of the Florida Laws concerning hypnosis as understood within the profession of hypnotherapy in general and secondly, the Florida Statutes themselves.

Synopsis

Hypnosis is only to be used for medical or therapeutic purposes by licensed practitioners of the healing arts within the scope of their training. **Hypnosis may be used by anyone else for non-therapeutic purposes.**

Current Florida Statutes governing the practice of Hypnotherapy in the State of Florida

It is important to understand the practice of hypnotherapy in the State of Florida as Florida's Statutes are quite clear that hypnosis should only be practiced by hypnotherapists within the scope of their training. Clinically certified hypnotherapists are clearly not to practice medical or therapeutic hypnosis unless they are licensed professionals of the healing arts or are under the supervision, prescription, direction or referral of such practitioners. Hypnosis may be practiced by anyone legally as long as it is non-therapeutic.

“Hypnotherapist” is an occupational title and does not imply that the practitioner is practicing medical or therapeutic hypnosis. “Hypnotherapy” as practiced by a Certified Hypnotherapist is not necessarily therapeutic or non-therapeutic. The following except from Statute 485.002 outlines this theme:

“It is recognized that hypnosis has attained a significant place as another technique in the treatment of human injury, disease, and illness, both mental and physical; that the utilization of hypnotic techniques for therapeutic purposes should be restricted to certain practitioners of the healing arts who are qualified by professional training to fulfill the necessary criteria required for diagnosis and treatment of human illness, disease, or injury within the scope of their own particular field of competence; or that such hypnotic techniques should be employed by qualified individuals who work under the direction, supervision, or prescription of such practitioners.”

Therapeutic hypnosis has been clearly defined as referring to the treatment of human injury, disease and illness, both mental and physical or where such diagnoses are concerned.

Those qualified to practice this form of hypnosis are outlined in these Statutes as practitioners of the “Healing Arts:”

"Healing arts" shall mean the practice of medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic medicine, naturopathy, podiatric medicine, chiropody, psychology, clinical social work, marriage and family therapy, mental health counseling, and optometry.”

Without being licensed in one of these professions a person still may legally practice hypnotherapy, **however it must be for non-therapeutic purposes, unless a referral from such a licensed practitioner is received.** On this, the law reads:

"Practitioner of the healing arts" shall mean a person licensed under the laws of the state to practice medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic medicine, naturopathy, podiatric medicine, chiropody, psychology, clinical social work, marriage and family therapy, mental health counseling, or optometry within the scope of his or her professional training and competence and within the purview of the statutes applicable to his or her respective profession, and who may refer a patient for treatment by a qualified person, who shall employ hypnotic techniques under the supervision, direction, prescription, and responsibility of such referring practitioner."

A well-trained hypnotherapist is considered a "qualified person" to receive referrals from practitioners of the healing arts. The law states:

"Qualified person" shall mean a person deemed by the referring practitioner to be qualified by both professional training and experience to be competent to employ hypnotic technique for therapeutic purposes, under supervision, direction, or prescription."

Again, it is legal to practice hypnosis in the State of Florida as long as the qualified person does not hold him or herself out to the public as possessing a license that he or she does not actually have. Statute 491 reads:

*"A person licensed under this chapter who is qualified as determined by the board may practice hypnosis as defined in s. 485.003(1). The provisions of this chapter may not be interpreted to limit or affect the right of any person qualified pursuant to chapter 485 to practice hypnosis pursuant to that chapter or to practice hypnosis for **nontherapeutic purposes**, so long as such person does not hold herself or himself out to the public as possessing a license issued pursuant to this chapter..."*

THE PRACTICE OF NON-THERAPEUTIC HYPNOSIS

The issue then is what is non-therapeutic hypnosis?

Therapeutic Hypnosis: The use of hypnosis in the treatment of human injury, disease and illness, both mental and physical, or where such diagnoses are concerned.

Non-Therapeutic Hypnosis: Hypnosis used for purposes other than to treat human injury, disease and illness, both mental and physical, or where such diagnoses are concerned.

The following list is compiled from ACHE sources for some of the non-therapeutic uses of hypnosis, however there are countless others. It is important to understand that the ACHE does not override Florida Law and in the end it is up to each individual practitioner as to when to refer a client out and when it is safe and legal to work with a client.

Non-therapeutic uses of hypnosis:

- Develop and express awareness and intuition.
- Feel worthwhile, self-confident, zestful.
- Gain a happier home life; become a better husband, wife, parent or friend.
- Acquire the ability to relax completely in any situation.
- Make better decisions.
- Improve concentration.
- Overcome procrastination.
- Increase the quality of your emotional expression.
- Reduce conflict and stress.
- Promote health and well-being.
- Regain your natural ability to sleep easily.
- Sell yourself, your ideas and your services with confidence and enthusiasm.
- Increase your income.
- Attract and maintain worthwhile friendships.
- Discover your negative mental patterns and how they affect you.
- Free yourself from hostility, resentment, fear of rejection.
- Select your goals in life; chart your course for their realization.
- Program your mind with positive mental concepts and success attitudes.
- Develop the ability to construct mental images easily.

Various Forms of Hypnosis and its Applications

According to the ACHE, Hypnotic services are available in four major forms and eight application areas. Some of these could fall into the category of therapeutic hypnosis depending on how the process of hypnosis is used. For instance, hypnosis is noted below as a modality to be used for athletics and sports motivation. However, if it is used to treat injuries as the result of athletics, then it clearly has gone into the realm of being therapeutic. **You will note that many of the items listed below are clearly non-therapeutic:**

The four major forms are:

1. individual consultations
2. small group settings such as weight-loss and stop smoking programs
3. self-hypnosis classes
4. books and cassette tapes/CDs

The eight areas of application are:

1. mental and emotional health
2. physical health
3. psychic and spiritual development
4. creative and educational endeavors
5. athletics and sports motivation
6. business interests
7. legal concerns
8. use of imagery to achieve personal goals

Hypnotherapists assist clients in using imagery to:

- (a) gain insight
- (b) find new solutions
- (c) restructure old, restrictive, limiting ideas
- (d) intensify positive feelings
- (e) eliminate negative feelings
- (f) strengthen a sense of self-control
- (g) develop new, healthy habits
- (h) reduce or eliminate a symptom
- (i) discover initial causes of problems
- (j) re-educate and reprogram the sub-conscious mind
- (k) rediscover their "Divine Nature"

OTHER USES OF HYPNOTHERAPY

The following list is not complete as there are many other uses for the practice of hypnosis. Items that are considered of a medical or mental health nature are to be treated by only licensed professionals who are qualified to do so or through the referral of such a practitioner of the healing arts.

| | |
|----------------------------------|---|
| Weight Control | Healing Grief and Loss |
| Problem Solving | Increasing Physical Energy |
| Stress Management | Resolving Angry Feelings |
| Physical and Mental Relaxation | Becoming More Optimistic |
| Motivation Problem | Spiritual Guidance |
| Gambling Problem | Expansion of Consciousness |
| Excessive Drinking | Trauma (incest, rape, physical and emotional abuse, cult abuse) |
| Pain Management | Sexual Dysfunctions |
| Driving Phobias | Concentration Difficulties |
| Test Anxiety | Behavior Modification |
| Insomnia | Dentistry |
| Self Esteem | Amnesia |
| Panic Attacks | Analgesia |
| Depression | Anesthesia |
| Excessive Anxiety | Prevention of Gagging and Nausea |
| Study and Exam Performance | Creative Visualization for Healing |
| Bed Wetting | Birthing |
| Migraine Headaches | Hypnotic Dreamwork |
| Emotional Difficulties | Uncovering Normally Inaccessible Memories |
| Sports Performance | Ending Fears and Phobias |
| Changing Habitual Behavior | Stopping Addictions |
| Ending Insomnia | Improving Job Performance |
| Lowering High Blood Pressure | Finding Your Earthly Purpose |
| Relationship Problems | Increasing Financial Prosperity |
| Enhancing Sports Performance | Ending Writers Block |
| Present and Past-Life Regression | Stuttering |
| Healing Claustrophobia | |

Ethical Advertising Regulations

(From the ACHE)

It has come to our attention that a timely caution about the inappropriate content of promotional material is necessary. (If you have already been licensed by a board of regulation, for example as a psychologist, clinical social worker, etc., elements of the following do not pertain.)

Do not make grandiose claims that project hypnosis or hypnotherapy as a panacea. Be certain that your advertising does not infer or imply that you have medical or psychotherapy training or any training that would qualify you for state licensing as a medical or mental health professional.

It is especially important that hypnotherapists avoid the use of the following words: "psychologist," "psychotherapist," "psychotherapy," "psychological," "counseling," "medical," ("clinical" in New Mexico only) "dental," "treatment," "cure," "health care," ("approved instructor" if no longer with an ACHE approved school that is also State Licensed,) or other similar wording in the title of business or any other promotional materials that could mislead the public.

Your hypnotherapy school training prepares you for certification by the American Council of Hypnotist Examiners. Hypnotherapy is a "non-licensed" profession. Certification by the A.C.H.E. is granted only after the completion of specified levels of education provided by hypnotherapy schools licensed by their State's Board of Education (or equivalent). The name for such a regulatory agency varies from State to State). Licensing of a professional group can only be authorized by a law passed by a State legislature and implemented by a State Agency.

Understanding Scope of Practice

Not all licensed practitioners of the healing arts can use hypnosis freely and without a referral system. Statute 485 states:

“It is the intent of the Legislature to provide for certain practitioners of the healing arts, such as a trained and qualified dentist, to use hypnosis for hypnoanesthesia or for the allaying of anxiety in relation to dental work; however, under no circumstances shall it be legal or proper for the dentist or the individual to whom the dentist may refer the patient, to use hypnosis for the treatment of the neurotic difficulties of a patient. The same applies to the optometrist, podiatric physician, chiropractic physician, osteopathic physician, or physician of medicine.”

Every profession has its scope of practice. This is true of dentists, doctors and hypnotherapists alike. Just as it is illegal for a podiatrist to perform dentistry, so, too, is it illegal for a hypnotherapist.

Even psychologists, social workers and licensed mental health counselors cannot treat medical conditions outside of the scope of their training. For instance, a social worker who can practice hypnosis for mental health disorders could not use it for surgery or dentistry without the referral of an appropriate practitioner of the healing arts. The same is true for hypnotherapists.

Now that you have read the previous pages you can better understand Florida Law on the pages that follow. Any disagreements or misunderstandings should be addressed to the Florida Institute of Hypnotherapy's Executive Director, Matthew Brownstein. He is responsible for the content of the previous pages. FIH is committed to ensuring the accuracy of this information and welcomes readers to immediately point out any discrepancies.

FLORIDA STATUTE FOR THE PRACTICE OF HYPNOSIS

CHAPTER 485 AND BEYOND

HYPNOSIS

485.001 Short title.

485.002 Legislative intent.

485.003 Definitions.

485.004 When practice of hypnosis prohibited.

485.005 Penalties.

485.001 Short title.--This chapter shall be known as the "Hypnosis Law."

History.--s. 2, ch. 61-506; s. 201, ch. 2000-160.

Note.--Former s. 456.30.

485.002 Legislative intent.

(1) It is recognized that hypnosis has attained a significant place as another technique in the treatment of human injury, disease, and illness, both mental and physical; that the utilization of hypnotic techniques for therapeutic purposes should be restricted to certain practitioners of the healing arts who are qualified by professional training to fulfill the necessary criteria required for diagnosis and treatment of human illness, disease, or injury within the scope of their own particular field of competence; or that such hypnotic techniques should be employed by qualified individuals who work under the direction, supervision, or prescription of such practitioners.

(2) It is the intent of the Legislature to provide for certain practitioners of the healing arts, such as a trained and qualified dentist, to use hypnosis for hypnoanesthesia or for the allaying of anxiety in relation to dental work; however, under no circumstances shall it be legal or proper for the dentist or the individual to whom the dentist may refer the patient, to use hypnosis for the treatment of the neurotic difficulties of a patient. The same applies to the optometrist, podiatric physician, chiropractic physician, osteopathic physician, or physician of medicine.

(3) It is, therefore, the intent and purpose of this chapter to regulate the practice of hypnosis for therapeutic purposes by providing that such hypnotic techniques shall be used only by certain practitioners of the healing arts within the limits and framework of their own particular field of competence; or by qualified persons to whom a patient may be referred, in which event the referring practitioner of the healing arts shall be responsible, severally or jointly, for any injury or damages resulting to the patient because of either his or her own incompetence, or the incompetence of the person to whom the patient was referred.

History.--s. 1, ch. 61-506; s. 2, ch. 65-170; s. 194, ch. 97-103; s. 48, ch. 97-264; ss. 195, 267, ch. 98-166; s. 201, ch. 2000-160.

Note.--Former s. 456.31.

485.003 Definitions.--In construing this chapter, the words, phrases, or terms, unless the context otherwise indicates, shall have the following meanings:

- (1) "Hypnosis" shall mean hypnosis, hypnotism, mesmerism, posthypnotic suggestion, or any similar act or process which produces or is intended to produce in any person any form of induced sleep or trance in which the susceptibility of the person's mind to suggestion or direction is increased or is intended to be increased, where such a condition is used or intended to be used in the treatment of any human ill, disease, injury, or for any other therapeutic purpose.
- (2) "Healing arts" shall mean the practice of medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic medicine, naturopathy, podiatric medicine, chiropody, psychology, clinical social work, marriage and family therapy, mental health counseling, and optometry.
- (3) "Practitioner of the healing arts" shall mean a person licensed under the laws of the state to practice medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic medicine, naturopathy, podiatric medicine, chiropody, psychology, clinical social work, marriage and family therapy, mental health counseling, or optometry within the scope of his or her professional training and competence and within the purview of the statutes applicable to his or her respective profession, and who may refer a patient for treatment by a qualified person, who shall employ hypnotic techniques under the supervision, direction, prescription, and responsibility of such referring practitioner.
- (4) "Qualified person" shall mean a person deemed by the referring practitioner to be qualified by both professional training and experience to be competent to employ hypnotic technique for therapeutic purposes, under supervision, direction, or prescription.

History.--s. 3, ch. 61-506; s. 2, ch. 65-170; s. 1, ch. 95-279; s. 195, ch. 97-103; s. 1, ch. 97-198; s. 193, ch. 97-264; ss. 196, 268, ch. 98-166; s. 201, ch. 2000-160.

Note.--Former s. 456.32.

485.004 When practice of hypnosis prohibited.--It shall be unlawful for any person to engage in the practice of hypnosis for therapeutic purposes unless such person is a practitioner of one of the healing arts, as herein defined, or acts under the supervision, direction, prescription, and responsibility of such a person.

History.--s. 4, ch. 61-506; s. 201, ch. 2000-160.

Note.--Former s. 456.33.

485.005 Penalties.--

(1) MISDEMEANOR.--Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) REVOCATION OF LICENSE.--A violation of any of the provisions of this chapter by any person licensed to practice any branch of the healing arts in this state shall constitute grounds for revocation of license, and action may be taken by the respective boards in accordance with the applicable statutes.

(3) CIVIL LIABILITY.--Any person who shall be damaged or injured by any practitioner of the healing arts, or by any person to whom such a practitioner may refer a patient for treatment, may bring suit against the practitioner either severally, or jointly, with the person to whom the referral was made.

(4) CONSTRUCTION IN RELATION TO OTHER LAWS.--No civil or criminal remedy for any wrongful action shall be excluded or impaired by the provisions of this chapter.

History.--s. 5, ch. 61-506; s. 387, ch. 71-136; s. 201, ch. 2000-160.

Note.--Former s. 456.34.

491.041 f.s.

Abstract: --A person licensed under this chapter who is qualified as determined by the board may practice hypnosis as defined in s. 485.003(1). The provisions of this chapter may not be interpreted to limit or affect the right of any person qualified pursuant to chapter 485 to practice hypnosis pursuant to that chapter or to practice hypnosis for nontherapeutic purposes, so long as such person does not hold herself or himself out to the public as possessing a license issued pursuant to this chapter or...

490.0141 f.s.

Abstract: --A licensed psychologist who is qualified as determined by the board may practice hypnosis as defined in s. 485.003(1). The provisions of this chapter may not be interpreted to limit or affect the right of any person qualified pursuant to chapter 485 to practice hypnosis pursuant to that chapter or to practice hypnosis for nontherapeutic purposes, so long as such person does not hold herself or himself out to the public as possessing a license issued pursuant to this chapter or use a title ...

485.002 f.s.

Abstract: (3) It is, therefore, the intent and purpose of this chapter to regulate the practice of hypnosis for therapeutic purposes by providing that such hypnotic techniques shall be used only by certain practitioners of the healing arts within the limits and framework of their own particular field of competence; or by qualified persons to whom a patient may be referred, in which event the referring practitioner of the healing arts shall be responsible, severally or jointly, for any injury or damages...

485.004 f.s.

Abstract: 485.004 When practice of hypnosis prohibited. --It shall be unlawful for any person to engage in the practice of hypnosis for therapeutic purposes unless such person is a practitioner of one of the healing arts, as herein defined, or acts under the supervision, direction, prescription, and responsibility of such a person. 61-506; s.

485.004 f.s.

Abstract: 485.001 Short title. --This chapter shall be known as the "Hypnosis Law." 61-506; s.

485.004 f.s.

Abstract: 485.004 When practice of hypnosis prohibited. --It shall be unlawful for any person to engage in the practice of hypnosis for therapeutic purposes unless such person is a practitioner of one of the healing arts, as herein defined, or acts under the supervision, direction, prescription, and responsibility of such a person. 61-506; s.

485.001 f.s.

Abstract: 485.001 Short title. --This chapter shall be known as the "Hypnosis Law." 61-506; s.

485.003 f.s.

Abstract: (2) "Healing arts" shall mean the practice of medicine, surgery, psychiatry, dentistry, osteopathic medicine, chiropractic medicine, naturopathy, podiatric medicine, chiroprody, psychology, clinical social work, marriage and family therapy, mental health counseling, and optometry. (4) "Qualified person" shall mean a person deemed by the referring practitioner to be qualified by both professional training and experience to be competent to employ hypnotic technique for therapeutic purposes ...

490.003 f.s.

Abstract: 2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an accrediting agency recognized and approved by the United States Department of Education or was comparable to such programs. 2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an agency recognized and approved by the United States ...

464.012 f.s.

Abstract: Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time

determined to be appropriate for preparing for and passing the national certification examination.
(2) The board shall provide by rule the appropriate requirements for advanced registered nurse practitioners in the...