

## **Connecticut State Statute on Sexual Misconduct by a Psychotherapist or School Employee**

Social workers who are psychotherapists, licensed or not, or school employees, certified or not, need to be aware of the Connecticut state statute, under the Connecticut Penal Code which defines sexual intercourse and sexual contact as sexual assault in the following situations:

1. Between a psychotherapist and a client or former client.
2. Between a school employee and a student in their school or school district.

Sexual intercourse is a second degree class C felony for which nine months of the sentence imposed may not be suspended or reduced by the court. A felony may mean loss of one's health care license or school certification.

Sexual contact is a fourth degree class A misdemeanor which may also mean loss of one's health care license or school certification.

### NASW Code of Ethics

The Code of Ethics prohibits social workers from engaging in sexual activities or sexual contact with current clients, former clients or relatives of clients or other persons with whom a client has a close personal relationship. Additionally, the Code prohibits social workers from providing clinical services to a person with whom the social worker has had a prior sexual relationship. (See section 1.09 Sexual Relationships of the NASW Code of Ethics.)

## **State Statute on Sexual Intercourse or Sexual Contact by a Psychotherapist or School Employee**

Connecticut state statute, under the Connecticut Penal Code, Sections 53a-65, 53a-71, and 53a-73a define sexual intercourse and sexual contact by a psychotherapist and a client or former client or by a school employee and a student as sexual assault. Sexual intercourse is a second degree class C felony and sexual contact is a fourth degree class A misdemeanor. **Psychotherapist as defined in the law includes social workers, licensed or not**, who perform or purport to perform psychotherapy and psychotherapy is broadly defined as “the professional treatment, assessment or counseling of a mental or emotional illness, symptom or condition. **School employee as defined in the law includes school social workers, certified or not**, who have sexual involvement with a student in their school or school district.

*What follow is the prohibitions under the penal code and the penalty for each. You may also want to see the definitions and citing of the NASW Code of Ethics at the end of this article.*

**Sexual Assault – Intercourse:** Under this section of the Penal Code a psychotherapist (*which includes social workers*) is guilty of sexual assault in the second degree when a.) the psychotherapist engaged in intercourse with another person who is a patient of the psychotherapist and the sexual intercourse occurs during the psychotherapy session; b.) a patient or former patient of the psychotherapist and the patient or former patient is emotionally dependent upon the psychotherapist; c.) a patient or former patient of the psychotherapist and the sexual intercourse occurs by means of therapeutic deception; d.) the psychotherapist accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care representative.

A school employee (*including school social workers*) is guilty of sexual assault in the second degree when a school employee engages in sexual intercourse with a student enrolled in a school in which the school employee works or a school under the jurisdiction of the local or regional board of education which employs the school employee.

Sexual assault in the second degree is a class C felony for which nine months of the sentence imposed may not be suspended or reduced by the court. *A felony may mean loss of one's health care license if licensed or other sanction by the Department of Public Health or if not licensed being ineligible for a license. For a school employee it may mean loss of one's school certification.*

**Sexual Assault – Sexual Contact:** Under this section of the Penal Code a psychotherapist (*which includes social workers*) is guilty of sexual assault in the fourth degree when a.) the psychotherapist subjects another person to sexual contact who is a patient of the psychotherapist and the sexual contact occurs during the psychotherapy session; b.) a patient or former patient of the psychotherapist and the patient or former patient is emotionally dependent upon the psychotherapist; c.) a patient or former patient of the psychotherapist and the sexual contact occurs by means of therapeutic deception; d.) the psychotherapist accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care.

A school employee is guilty of sexual assault in the fourth degree when a school employee subjects another person to sexual contact who is a student enrolled in a school in which the school employee works or a school under the jurisdiction of the local or regional board of education which employs the school employee.

Sexual assault in the fourth degree is a class A misdemeanor. *Sexual contact may mean loss of one's health care license if licensed or other sanction by the Department of Public*

*Health or if not licensed being ineligible for a license. For a school employee it may mean loss of one's school certification.*

*The following are key definitions in the Penal Code that will assist the reader in interpreting the above two sections of the Connecticut Penal Code:*

**Sexual Intercourse:** Means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of gender. Its meaning is limited to persons not married to each other. Penetration, however slight, is sufficient to complete intercourse and does not require emission of semen. Penetration may be committed by an object manipulated by the psychotherapist or school employee into the genital or anal opening of the victim's body.

**Sexual Contact:** Means any contact with the intimate parts of a person not married to the psychotherapist or school employee for the purpose of sexual gratification of the psychotherapist or school employee or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the psychotherapist or school employee with a person not married to the psychotherapist or school employee for the purpose of sexual gratification of the psychotherapist or school employee or the purpose of degrading or humiliating such person.

**Psychotherapist:** Means a physician, psychologist, nurse, substance abuse counselor, social worker, clergyman, marital and family therapist, mental health service provider or other person, whether or not licensed or certified by the state, who performs or purports to perform psychotherapy.

**Psychotherapy:** Means the professional treatment, assessment or counseling of a mental or emotional illness, symptom or condition.

**Emotionally Dependent:** Means that the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the patient or former patient is unable to withhold consent to sexual contact by or sexual intercourse with the psychotherapist.

**Therapeutic Deception:** Means a representation by a psychotherapist that sexual contact by or sexual contact with the psychotherapist is consistent with or part of the patient's treatment.

**School Employee:** Means a teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional board of education or a private elementary or secondary school or working in a public or private elementary or secondary school.

## **NASW Code of Ethics**

The Code of Ethics prohibits social workers from engaging in sexual activities or sexual contact with current clients. The Code also warns against sexual activities or sexual contact with former clients or relatives of clients or other persons that a client has a close personal relationship. Additionally, the Code prohibits social workers from providing clinical services to a person whom the social worker has had a prior sexual relationship with. See section 1.09 Sexual Relationships of the NASW Code of Ethics for the complete language of the Code.

*This article is presented for informational purposes and is not to be considered as legal advice.*