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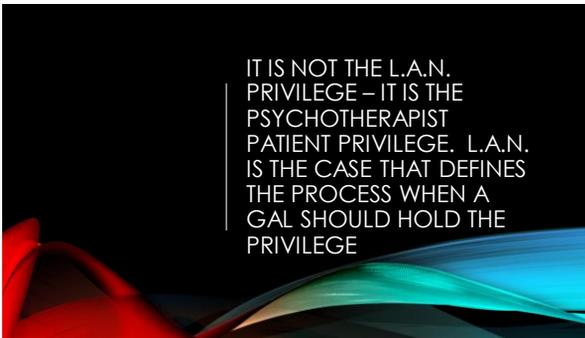
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**PEOPLE V. SISNEROS, 55 P.3D 797 (COLO. 2002)**

- We hold that the psychologist-patient privilege applies and shields the documents requested by Defendant from discovery even in camera review by the trial court. Once the privilege attaches, the privilege holder must waive, explicitly or implicitly, the privilege before Defendant can obtain discovery. The victim's testimony at the preliminary hearing did not constitute a waiver of the privilege. Since there was no waiver, the subpoena duces tecum should have been quashed. The trial court did not have discretion to conduct an in camera review of the documents. The rule to show cause is made absolute.
- The mere threat of disclosure destroys the sanctity of the psychologist-patient relationship.

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**PEOPLE V., DISTRICT COURT 719 P.2D 722 (COLO. 1986)**

- As we have noted, the right of a party to cross-examine adverse witnesses must in some circumstances bow to other considerations.<sup>3</sup> There is a strong public policy interest in encouraging victims of sexual assaults to obtain meaningful psychotherapy. The defendant's constitutional right to confrontation is not so pervasive as to place sexual assault victims in the untenable position of requiring them to choose whether to testify against an assailant or retain the statutory right of confidentiality in post-assault psychotherapy records. Accordingly, we conclude that where, as here, the victim has not waived the privilege afforded her by section 13-90-107(1)(a), the defendant is not entitled to examine the victim's post-assault psychotherapy records or to have the trial court review such records in camera on the basis that the records might possibly reveal statements of fact that differ from the anticipated testimony of the victim at trial.

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**DILL V. PEOPLE, 927 P.2D 1315 (COLO. 1996)**

- In view of the fact that the psychologist-client privilege is also designed to encourage a patient to seek counseling with the assurance that all communications will be kept confidential, see *People v. District Court, 719 P.2d at 726*, a conclusion that section 19-3-311 negates the psychologist-client privilege for post-report therapeutic communication would be inconsistent with the legislature's intent to shield a child victim from further harm. We therefore agree with the court of appeals that "the victim's psychologist-patient privilege afforded to her by § 13-90-107(1)(a) was not abrogated by statute with respect to ongoing treatment" and that the trial court did not err in denying discovery of the psychologist's notes with respect to ongoing treatment sessions with the child. *Dill, 904 P.2d at 1317.*

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PEOPLE V. MARSH 396 P.3D 1 (COLO. APP. 2011)

The nature of a conflict between the interests of a parent and of his or her child may preclude the parent from waiving the child's psychologist-patient privilege.

Mother could not waive daughter's psychologist-patient privilege so as to allow defendant to question daughter regarding psychologist's report from session with daughter; mother had a conflict of interest given that defendant was her father and was accused of sexually assaulting daughter, which put mother's natural affection and affinity for her child and her father in direct conflict.

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PURPOSE OF PRIVILEGE

- This is a child's right to have privacy and to process their trauma knowing they have absolute confidentiality. The case law supports that position.
- What are the other purposes of the privilege?



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WHAT HOLDING THE PRIVILEGE DOES AND DOESN'T MEAN

- Doesn't mean consent to treat
- Privilege vs. consent to treat
- Implied waivers
- Limited Waivers



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**WHO HOLDS THE PRIVILEGE**

- Child
- Appoint Counsel
- Parent
- GAL
- L.A.N. V.L.M.B



"We can tell him about Santa Claus now, but wait a couple years before we tell him about the IRS."

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Why you shouldn't ignore the privilege  
Findings for privilege holder  
Considerations on when to file

**DETERMINATION OF PRIVILEGE HOLDER**

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**WAIVERS**

- What constitutes a waiver
- Legal strategies in litigation to avoid waivers
- Consulting with child before waiving
- When is waiver readily apparent
- What information can be shared with team without waiving
- Limited waivers

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