

FIDUCIARY DUTIES OF PSILOCYBIN FACILITATORS

Licensing Subcommittee
Oregon Psilocybin Advisory Board
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Fiduciary duties are intended to protect the more vulnerable parties in relationships where one party has greater expertise and influence. The relationships between lawyers and their clients, and between doctors and their patients, are of a fiduciary nature, which makes them something greater than mere contractual relationships.

Like a client seeking the expertise of an attorney, or a patient seeking the knowledge and skill of a physician, psilocybin clients seek the services of facilitators because they have undergone the training, and acquired the relevant skill, necessary to become licensed in the State of Oregon. Moreover, while under the influence of psilocybin, clients may be in a vulnerable position relative to facilitators. Due the asymmetries of knowledge and power that characterize the provision of psilocybin services, the relationship between facilitators and clients shall be construed as a fiduciary relationship.

Facilitators licensed by the Oregon Health Authority shall owe clients fiduciary duties of loyalty, care, and confidentiality.

Duty of Loyalty: While acting in the role of fiduciary, facilitators shall have a duty to put their clients' interests above their own. When soliciting a client's consent for psilocybin services, facilitators shall have a duty to disclose all information that is material to the client's decision, including but not limited to, any personal or financial interests unrelated to the client's welfare that may affect the facilitator's judgement. Should such information arise after consent is obtained, the facilitator has an ongoing duty to disclose it to the client.

Duty of Care: Facilitators shall have a duty to use the degree of skill, knowledge, and care that other reasonably careful licensed facilitators would use in the same or similar circumstances. Facilitators shall understand the laws and regulations governing the provision of psilocybin services, comply with the facilitator's professional code of conduct, and complete the continuing education necessary to maintain the requisite level of skill, knowledge, and care.

Duty of Confidentiality: Facilitators shall have a duty to maintain the confidentiality of client information. When disclosure of client information may be permitted under Section 56 of the Oregon Psilocybin Services Act, facilitators should attempt to maintain the confidentiality of client information to the greatest extent possible, and if compliance can be achieved without disclosing client information, the facilitator should avoid disclosure.