

Practising safe hypn+sis

A Risk Management Guide



Roger Hambleton

“Roger Hambleton has written a superbly comprehensive book that should be required reading for anyone involved in the field of hypnotherapy.”
– Peter Mabbutt FBSCH, FBAMH,
Director of Studies, London College of Clinical Hypnosis.

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A Risk Management Guide*

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Introduction

When studying hypnosis as an alternative form of medicine I was interested in finding out if there were any risks involved in its use. I could find no single book, or other document, comprehensively covering the numerous risks and the associated adverse psychological effects.

This book collects together journal articles and extracts from books, concerned with hypnotic settings, relating to the risks and adverse psychological effects that can arise from hypnosis.

By bringing together these writings, and presenting them in a readily understandable and readable form, five distinct categories of risk have been identified. Each category examines a different aspect and attempts to cover the whole spectrum of risk.

The second part of the book addresses the laws of criminal and civil assault, and the law of negligence, as they apply to both transient and serious psychological effects – otherwise called injuries – caused by, or arising from the induction of a hypnotic trance, or the application of other hypnotic procedures.

Using my legal background and knowledge of psychology and hypnosis knowledge I have quantified the total liability of the hypnotiser at both criminal and civil law. At the same time I advise practitioners how to avoid some adverse effects by the application of good practice management.

Hypnotic adverse effects range from a headache and dizziness to anxiety and depression. Whilst the former do not qualify as injury within the meaning of an illegal assault or negligence, the latter most certainly do. In Chapter 4 a benchmark has been adopted to ascertain what qualifies as psychological injury. Without such an injury there cannot be an assault, or act of negligence, and therefore some considerable time is spent upon examining the many and varied injuries, which are directly associated with the dangers of hypnosis.

Psychological injury is often expressed to be occasioned to the 'mind'. Throughout this book Arthur S. Reber's (1995, 460) definition of the mind, from his *Dictionary of Psychology*, is adopted as being equivalent to the brain. Even though Reber points out that little is known about the brain, the definition '[...] must be in the final analysis be true'.

There are three principal areas for the use of hypnosis:

- (1) in the laboratory setting for research and experimentation;
- (2) in a clinical setting as a therapeutic medium; and
- (3) upon the stage and television for the amusement of an audience.

In addition there is the amateur setting which usually consists of students experimenting with hypnosis for fun. Each of these settings is investigated in this book with reference to injuries that might result from hypnosis. Before doing so it is necessary to explore the history and theories of hypnosis from which the reader will acquire a better understanding of some of the key elements of this book.

The book starts in the eighteenth century with Franz Mesmer and his 'animal magnetism' and follows the development in hypnotism to the present day. Hypnotherapy is rapidly becoming accepted as complementary to traditional medical therapies, with many medical practitioners recommending it to their patients.

The nature of hypnosis is enigmatic, and poorly understood. Much dispute surrounds the theories of hypnosis. The nature of hypnosis is the subject of lengthy discussion: is it an altered state of consciousness, or not a separate state at all.

I have included typical methods of induction, deepeners and termination of a trance, together with explanations of attendant hypnotic jargon. It is appropriate to explain what is meant by the susceptibility of a person to hypnosis and, in addition, to describe the many symptoms of a hypnotic trance at its various levels. Such levels vary from a light hypnotic trance, experienced by everyone about ten times a day (e.g. daydreaming), to the somnambulistic level, which is a suitable depth of trance for surgery.

I know of no cases of criminal and civil assault where it has been alleged that injury was caused by, or is associated with hypnosis (the well known case of *Gates v McKenna* [1998], is based upon negligence and not assault). In the absence of legal precedent, part of the book is devoted to the elements of both types of assault and then application to injury caused by hypnosis. It is a similar situation in respect of the law of negligence, which for pragmatic reasons is considered separately from illegal assault. The results were very different to what was anticipated, particularly at the level of accountability of the hypnotiser, in both the criminal and civil laws of assault and the law of negligence.

Next, I discuss the validity of some of the different forms of consent available to persons in respect of the infliction of injury upon themselves and the application to hypnosis. I go on to mention 'informed consent', extremely important to the medical profession.

The application of the law relating to hypnosis and criminal and civil assault, the tort of negligence and consent provides a perspective upon which all hypnotisers may rely in respect of their total potential liability at English law. Thereafter, the potential liability is extended to a comparative study of American and Australian law.

It is frequently pointed out to the reader where liability to a criminal prosecution, or payment of compensation, can be incurred. However, in accordance with the main theme of this book – a risk management guide – hypnotisers are often advised how these liabilities can be avoided.

The final chapter contains a brief summary of the main themes discussed in the book.

In the UK there is a very active British Society of Medical and Dental Hypnosis (born out of an amalgamation and reconstruction of two associations in 1968) and the British Society of Experimental and Clinical Hypnosis which was founded by a group of psychologists in 1978. There is also the International Society of Hypnosis and the European Society of Hypnosis, which is proof enough that medical hypnosis has clearly advanced since

the days of animal magnetism. The same can also be said of the other main area of the use of hypnosis, that is for the purposes of entertainment, with stage shows now being widely broadcast on the television.

Chapter 1

History and Theories of Hypnosis

History

Doctor David Waxman, author of numerous articles and books on hypnotherapy, psychiatrist and founder member of The Medical and Dental Hypnosis section of the Royal Society of Medicine informs us:

From the beginnings of the human race, man has endeavoured to impose his will and strength upon his fellow for good or for evil. From the dawn of history, with the use of witchcraft or of wizardry, of revelation through supernatural agencies, with the power of the word or the use of suggestion, he has sought to influence the destiny of others. From the accidental discovery of a natural phenomenon, through magical powers and magnetic fluids have emerged the refined techniques of the twentieth century, which produce the state known as hypnosis (1981, 1).

Some people believe that the miracles, particularly the 'cures', depicted in the Bible, can be explained by hypnotic abilities of the miracle worker. Although there is no scientific proof that any early form of hypnosis was involved, the accounts of miracle healings point towards an understanding that body and mind are interrelated in some way. An early example of Waxman's 'power of the word', perhaps.

The influence of mind over body was an important part of therapeutic 'sleep temples' of ancient Greece and Egypt. Participants were 'hypnotised' during their sleep whilst given curative suggestions. Ceremony and mysticism were important parts of the proceedings, adding weight to the visitors' belief that cures could be found within the temples.

Michael Heap, a clinical psychologist and Secretary of The British Society of Experimental and Clinical Hypnosis, informs us that:

It is possible to make comparisons between modern hypnosis and the healing practices associated with the “sleep temples” of the ancient Egyptians and Greeks.

The Greek physician, Hippocrates (460–377 BC), often referred to as the ‘father of medicine’, was certainly aware of the interrelationship between body and mind. He maintained that the brain not only controlled the entire body, but also our feelings and emotions, as well as being the seat of disease.

Half a millennium later Galen of Pergamum (129–199 AD) expanded upon the mind – body relationship and suggested that a heavenly, or ethereal fluid formed a bridge between the two. He believed that mental problems could cause physical ailments and *vice versa*. Galen, and many scientists and philosophers after him, concluded that if this fluid could be harnessed, the course of the disease could be influenced. Moreover, he thought that the fluid was instrumental in the transmission of light, heat and impulses in the nervous system.

In the sixteenth century a Swiss physician with the grand sounding name of Theophrastus Bombastus von Hohen-Heim (otherwise known as Paracelsus) radically changed most of the medical theories of the time. He agreed with the Greeks that heavenly bodies could affect humans and the course of disease. Soon afterwards a German, Athanasius Kircher, proposed that a natural power – ‘animal magnetism’ – was an integral to the successful treatment of ailments. Kircher’s credibility was greatly enhanced when Sir Isaac Newton, endorsed his theory of animal magnetism.

The interrelationship between the body and the mind, through ethereal fluids, magnetic forces and heavenly bodies, was not the sole domain of European physicians and philosophers. In Africa and Asia the witch doctor, the fakir and the yogi practised their own specialised skills, involving different supernatural powers.

During the Middle Ages, the use of suggestion for healing purposes was regarded as sacrilegious to Christians. But many

so-called 'miracle cures' were effected through sacred relics or shrines, allegedly endowed with special healing powers.

It may be that what we know as hypnosis today is derived from these ancient rituals and the customs of many cultures.

German scientist, Franz Anton Mesmer (1734–1815), introduced a fresh approach – 'animal magnetism'. While animal magnetism and hypnosis are two distinct processes, producing two somewhat different states, they no doubt coexisted in most cases.

Mesmer's dissertation at Vienna University (he graduated as a Doctor of Medicine in 1766) was entitled, 'The Influence of the Planets on the Human Body'. The central notion was that the gravitational attraction of the planets affected human health, because of an invisible fluid found in the body.

In 1775 Mesmer adjusted his theory and referred to it as 'animal magnetism', the invisible fluid behaved according to the laws of magnetism rather than gravity. He went on to explain that disease was the result of obstacles in the flow of invisible fluid through the body, with these obstacles capable of being broken by crises (trance states often ending in delirium or fits). The harmony of personal fluid flow was restored and the patient restored to good health.

There has been a belief that magnets had some sort of special curative power since ancient times. Mesmer's revised theory concluded with a great fascination with the mysteries of electricity, the power of lodestone and iron magnets. This may explain why he used the phrase 'animal magnetism'.

Mesmer applied his revised theory of animal magnetism by encouraging his patients to grasp an iron conducting rod connected to 'magnetised' iron filings and bottles of water. Mirrors were placed strategically around the room, and music was played to create an emotional atmosphere. Mesmer, dressed in a lilac coloured cloak, with an iron rod in his hand, made 'passes' – stroking movements – up and down the body, without touching the patient. This procedure was supposed to 'magnetise' the patient, and generate a crisis to cure the patient.

Acclaim for Practising Safe Hypnosis

“Roger Hambleton is to be congratulated. He achieves the first comprehensive and systematic treatment of the issues. Ferreting out all the reported sources of risk from diverse sources and arriving at an assessment of them (particularly from the differing legal perspectives of the countries covered) has been a major *tour de force*. The emergent conclusions are invaluable. It is necessarily the case that anyone professionally involved in this area must need to be *au fait* with Hambleton’s findings.

“Lest it be thought that this book is for the specialist audience alone, there is much here for the general reader. A lot about the nature and development of hypnosis emerges and, organised into a form suitable to his unique purposes, it emerges far more clearly than elsewhere.”

– **Dr Jim Lord, Principal Lecturer in the Philosophy of Law, Manchester Metropolitan University.**

“This is an important volume. Practitioners shall consult it when legal questions arise in the use of hypnosis. Students of hypnotism and trainees shall find here a concise learning guide. Ethicists shall realize that it is not easy to break the law with hypnosis for the careful practitioner or researcher. All will be reassured: hypnosis is not merely effective as a healing modality but also safe. The investigation conducted by Mr Hambleton has all the hallmarks of serious research. This book is well worth reading.”

– **Dr Daniel Araoz, Diplomate in Clinical Hypnosis, American Board of Psychological Hypnosis, author of *The New Hypnosis, Self-transformation through the New Hypnosis*, Professor, CW Post Campus, Long Island University.**

“This book uniquely contains a comprehensive description of all the risks associated with the three major hypnotic settings and their adverse effects. Without doubt, the detailed application of English criminal and civil law to the risks (with chapters on American and Australian law) renders it a definitive work concerning the total legal liability of a hypnotist. I unhesitatingly recommend it to every hypnotist – whether engaged in clinical practice, entertainment, or research and experimentation – as well as those who have a general interest in hypnosis. It will also make an excellent reference book for hypnotist and lawyer alike.”

– **Greg Pyne, Clinical Psychologist and Hypnotherapy tutor.**

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