

Ethical Principles in Practice for Mental Health Professionals

From Service Inception to Conclusion

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OBJECTIVES

Review the definition and purpose of professional ethical guidelines for mental health professionals.

Discuss guideposts for ethical decision making in practice.

Review ethical documentation for mental health professionals in the state of Mississippi and Tennessee.

Outline ethical responses to legal requests for client records and subpoenas in the state of Mississippi and Tennessee.

Determine to employ highest standard of ethical and HIPPA compliance in your practice or agency.

Manage the ethical risks and benefits of using new and emerging communication technologies in clinical practice



What is the definition of *ethics*?

- **Ethics** - the principles of conduct governing an individual or a group professionals
 - A guiding philosophy
 - A consciousness of moral importance
- *Ethics* can refer broadly to moral principles; one often sees it applied to questions of correct behavior within a relatively narrow area of activity.
- *Ethics* tends to suggest aspects of universal fairness and the question of whether an action is responsible or irresponsible.
- **Morals** often describe an individual's particular values concerning what is right and what is wrong
 - *Usually connotes an element of subjective preference*

“Ethics is an endeavor. It refers to ways of understanding what is good and right in human experience. It is about discernment, knowledge and self-reflection, and it is sustained through seeking, clarifying, and translating. It is the concrete expression of moral ideals in everyday life. Ethics is about meaning, and it is about action”

~ Laura Weiss Roberts (2002a)



What is the overall purpose of a professional ethical code?

- Provides us with a clearer sense of professional identity.
 - Social workers are more involved in the systems that a person must navigate to get the support they need. (Counseling@Northwestern blog, June, 2022)
 - Counselors focus on the mental health care of people, families, and communities. (Counseling@Northwestern blog, June, 2022)
 - Addiction professionals specialize in addiction prevention, intervention, treatment, recovery support, and education. (NAADAC.org)
 - Case management facilitates the achievement of client wellness and autonomy through advocacy, assessment, planning, communication, education, resource management, and service facilitation. (CCMCertification.org Definition of Case Management)
- Shapes how the public perceives our professional roles and purpose.
- Offers guidelines for our professional behavior and develops professionalism.

Development of Professionalism

“Professionalism is a multidimensional concept that encompasses ethics; relationships with one’s patients, colleagues, and community; public policy; and self awareness.” (Roberts & Termeuhelen, 2022)

Three Key Concepts of Professionalism:

- Interpersonal professionalism
- Public professionalism
- Intrapersonal professionalism



Interpersonal professionalism

- Relationships and interactions with patients/clients and colleagues
- Shared decision-making with clients and care team
- Compassion
- Honesty/authenticity
- Appropriate use of power/position
- Sensitivity to diverse populations



Public Professionalism



- Fulfilling the expectations society has for mental health professionals.
- Adherence to ethical codes.
- Technical competency.
- Enhancing the welfare of the community.

Intrapersonal Professionalism

- ❖ Maintenance of the ability to function as a mental health professional.
- ❖ Self-awareness.
- ❖ Knowledge of one's limits.
- ❖ Lifelong learning.
- ❖ Self-care.



Other Benefits of Ethical Training for Professionals

- Higher quality of care (Broadhead & Higbee, 2012)
- Increased consumer protection/protects the rights of persons with mental illness
- Safeguards the interest of researchers
- Allow service providers the opportunity to improve the quality of treatment they provide.
 - EG Encouraging clinicians from taking more clients than they can handle, practice more readily within one's competency area, and provide higher quality care to those that they currently have on their caseload
- Helps to mitigate consumer loss, reputation damage, and litigation (Broadhead & Higbee, 2012)

Good ethical practice = good professionalism = good risk management practice = healthy environments for clients to heal.

- Having a strong ethical compass is paramount to being a good counselor.

State Board Ethics Mandates

MS State Board of examiners for licensed professional counselors

- Part 2201. CHAPTER 7

Rule 7.1: Standards of Practice

“....Persons licensed by the Board shall adhere to all parts of the current American Counseling Association Code of Ethics and Standards of Practice with the exception of any parts superseded by state law, policy, or rules and regulations adopted by the Mississippi State Board of Examiners for Licensed Professional Counselors.”

MS State Board of examiners for social workers and marriage and family therapists

Miss. Code Ann. § 73-53-11 § 73-53-11. - Board powers and duties

(1) In addition to the duties set forth elsewhere in this chapter and in Sections 73-54-1 through 73-54-39, the board is authorized to:

(j) Adopt a code of ethics for licensed social workers that includes the current National Association of Social Workers Code of Ethics.

TN State Board Ethics Mandates

0450-01-.13 Code of the General Rules Governing Professional Counselors in the State of Tennessee

PROFESSIONAL ETHICS. All licensees and certificate holders shall comply with the current code of ethics adopted by the American Counseling Association, except to the extent that it conflicts with the laws of the state of Tennessee or the rules of the Board.

“...all licensees and certificate holders who practice counseling electronically shall comply with the Ethical Standards for Internet Online Counseling adopted by the American Counseling Association, www.counseling.org, except to the extent that they conflict with the laws of the state of Tennessee or the rules of the Board.”

TN State Board of examiners for social workers and marriage and family therapists

1365-01-.01 Standards of Conduct: “All licensees shall comply with the code of ethics adopted by the National Association of Social Workers (NASW)...except to the extent it conflicts with the laws of the State of Tennessee or the rules of the Board”

Our responsibility as mental health professionals

ACA Code of Ethics

Section C Professional Responsibility

C.1. Knowledge of and Compliance With Standards Counselors have a responsibility to read, understand, and follow the ACA Code of Ethics and adhere to applicable laws and regulations.

NASW Code of Ethics

“The Code is relevant to all social workers and social work students, regardless of their professional functions, the settings in which they work, or the populations they serve.”

Association for Addiction Professionals (NAADAC)

“The NAADAC Code of Ethics shall be a statement of the values of the addiction profession, and the guide for making ethical clinical decisions. This Code shall also be utilized by state certification boards and educational institutions to evaluate the behaviors of addiction professionals and to guide the certification process.

COMMISSION FOR CASE MANAGER CERTIFICATION® (CCMC®) CODE OF PROFESSIONAL CONDUCT for CASE MANAGERS

The objective of the Code is to protect the public interest and prescribe the level of conduct required of every Board-Certified Case Manager (“CCM®”).

- √What are the most common liability claims for MH practitioners?
- √How do we integrate our ethics with state and federal laws???
- √How do we integrate these codes within our daily clinical and business practices???
- √How do we balance our ethics code with state and federal mandates (e.g., subpoenas, release of records, etc.)?

Ethics in Practice



Overall Statistics on Professional Liability Claims

According to the CAN and HPSO Counselor Liability Claim Report, 2nd Edition (2019)

- 53.7% of all professional liability closed claims occurred in a counselor-based office location
- 15.9% = Counselor in private practice group
- 10.2% = MH/Counseling outpatient clinic (not affiliated with a hospital)
- 8.7 = Alcohol/drug tx center
- 2.9% = School counseling; govt healthcare facility; group home
- 1.4% = Religious institution; vocational rehabilitation facility
- Closed claim = a claim that has been settled with the injured third party or successfully defended on your behalf.

More Statistics...

Distribution of Closed Claims by Counselor Specialty

23.3% = Licensed Professional Counselors (LPC) – temp licensed

15.9% = Licensed Clinical Professional Counselor (LCPC)

14.5% = Marriage and Family Therapist (MFT)

13.0% = Alcohol/drug counselor

7.1% = Other

Average total cost incurred per incident = **\$113,642.00**



- \$7.8 million paid for counselor malpractice claims over the 5-year study period; \$8 million paid during the previous 10 years.

Allegations involving sexual/romantic relationships accounted for 43.9% of malpractice allegations.

\$5,454 average license defense cost; up from \$3,727 in the 2014 report, a 46.3% increase.

Deposition assistance and record request matters increased 456% since the 2014 report.



HPSA Counselor Liability Claim Report:

2nd Edition (2019)

- Total incurred costs for all coverage types is \$14.7 million and has nearly doubled since 2014 claim report.
- While tele behavioral health technologies are increasingly utilized, the 209 dataset does not reflect any tele behavioral health claims.
- Deposition assistance and record request matters increased 456% since 2014 claim report.
- Deposition assistance expenses averaged \$2,150 USD
- Child custody matters compromised 37.8% of all underlying matters for deposition and record request assistance expenses.
- 63.7% of license protection claims closed with no action taken by the board, representing a successful defense of the insured counselor.
- The average payment of a license protection claim is \$5,454 - a 46.3 % increase since the 2014 report.

Top License Protection Allegations for Counselors

- Improper sharing of confidential information/breach of confidentiality.
- Failure to practice within boundaries of competency.
- Failure to promote the welfare of the client/sexual misconduct.
- Failure to maintain professional standards.
- <https://www.hpsso.com/Documents/Risk%20Education/individuals/Claim-Reports/Counselor/HPSO-CNA-Counselor-Claim-Report-2019.pdf>

Most Frequently Substantiated NASW Code of Ethics Violations

1.01 – Commitment to Clients

1.06 – Conflicts of Interest

1.07 – Privacy and Confidentiality

1.09 – Sexual Relationships

2.11 – Unethical Conduct of Colleagues

3.04 – Client Records

4.04 – Dishonesty, Fraud, and Deception

4.06 – Misrepresentation

<https://www.socialworkers.org/About/Ethics/Professional-Review>



Employing Strong Ethical Decision-Making Skills

Ethical Decision-Making Key Attributes

1. Commitment –the desire to do the right thing, regardless of the cost;
2. Competency –the ability to collect and evaluate information, develop alternatives, and foresee potential consequences and risks; and
3. Consciousness –the awareness to act mindfully and consistently, applying moral convictions to behavior.

Ethical Decision-Making Model

1. Identify the ethical dilemma or legal issues. Examine the nature and dimensions of the dilemma.

2. Apply your profession's Code of Ethics and applicable laws.

3. Consult with a clinical supervisor, consultant-expert, or experienced colleague.

Determine if there are any potential legal concerns, and if consultation with an attorney is warranted.

4. Generate a list of potential courses of action and solutions.

5. Evaluate each option to identify potential consequences of acting on the actions/ solutions generated.

6. Implement the chosen course(s) of action.

7. Document the entire situation, including the ethical decision-making activity, appropriately.

Identify the Problem

- Gather as many facts about the situation as you can.
 - Is it ethical, legal, professional or a clinical problem?
 - It is a combination of more than one of these?
- Is the issue related to me and what I am doing/not doing?
- Is it related to a client/client's cohort and what are they doing/not doing?
- Is it related to technology? Record keeping? Providing services?
- Is it related to policies/procedures or lack there of?



Apply your Professional Code of Ethics

- Refer to the ACA/NASW/NAADAC/CCMM
- Refer to your state professional code of ethics
- Consider multicultural perspectives on the case



Determine the nature and dimensions of the dilemma

- ⇒ Review relevant professional literature to ensure you are using the most current professional thinking and are aware of diversity issues involved in the situation.
- ⇒ Consult with experienced professional counselors and/or supervisors who also abide by your professional code. They may be able to provide you a perspective you have not considered or are able to be objective about.
- ⇒ Consult with your state or national professional associations (NOT the board) to see if they can provide help with the situation.

Generate potential courses of action

Brainstorm as many potential courses of action as possible.

Be creative a list ALL options you can think of, even ones you are not sure will work.



Consider the potential consequences & determine course of action

- Consider the information you have gathered and the priorities you have set, evaluate each option, assess the potential consequences for all parties involved (you, the client, staff, agency, community, etc.)
- Eliminate options that cause more problematic consequences.
- Review remaining options to determine which ones fit the situation and address the priorities you have identified.



Evaluate the selected course of action

- ❖ See if any new ethical considerations arise when reviewing your selected course of action.
- ❖ Apply three (3) tests to selected courses of action to ensure that is is appropriate,
 - ❖ Justice: assess your own sense of fairness by determining whether you would treat others the same in this situation.
 - ❖ Publicity: Would you want your behavior reported in the press
 - ❖ Universality: Assess whether you could recommend the same course of action to another counselor in the same situation.
- ❖ If you can answer “**YES**” to each of these questions you are ready to implement your plan.

Implement course of action

- Strengthen your resolve to carry out your plan (it is often scary to do so)
- Follow up on the situation to assess whether your actions had the anticipated effect and consequences



Making Distinctions in Ethical Decisions

Making ethical decisions requires the ability to make distinctions between competing options. When engaging in ethical decision-making exercises, consider these steps to help make appropriate and ethical distinctions between competing options:

1. Stop and think: This provides several benefits. It prevents rash decisions, prepares us for more thoughtful discernment, and can allow us to mobilize our discipline.
2. Clarify your prevailing objectives: Before you proceed, clarify your short-term and long-term objectives.
3. Determine the facts: Be sure you have adequate information to support an intelligent choice. To determine the facts, first determine what you know and what you need to know. Be prepared to gather additional information and verify assumptions and other uncertain information. In addition: i. consider the reliability and credibility of the people providing the facts. ii. consider the basis of “the facts”

4. Develop a realistic menu of options: Once you know what you want to achieve and have made your best judgment as to the relevant facts, make a list of actions you can take to accomplish your objectives. Talk to someone you trust (i.e., supervisor, consultant, wisest colleague) to broaden your perspective and think of new choices.

5. Consider consequences: Filter your choices to determine if any of your options will violate any ethical, legal or professional principles or laws. If the choice is not immediately clear, identify who will be affected by your decisions and how the decisions are likely to affect them.

6. Choose: Make a decision. If others found out about your decision, would you be concerned?

7. Monitor and modify: Ethical decision-makers monitor the effects of their choices. If they are not producing the intended results, or are causing additional unintended and undesirable results, they re-assess the situation and make new decisions.



Health Insurance Portability and Accountability Act

HIPPA and HITECH Adherence

Health Insurance Portability & Accountability Act (HIPAA)

HIPPA's purpose is to provide consumers with privacy rights and protection of their personal health information.

How the information is used and disclosed by health plans and health care providers.

It is linked to our ethical code regarding:

- Communication with a patient's family members, friends, and others involved in their care.
- Communication with the parent of a minor/under aged patient.
- Communication with law enforcement and others when a patient presents in a serious and imminent threat of harm to themselves or others.

Information Related to Mental and Behavioral Health, including Opioid Overdose go to:

<https://www.hhs.gov/hipaa/for-professionals/special-topics/mental-health/index.html>

HITECH – Addendum to HIPPA

Health Information Technology for Economic and Clinical Health Act (HITECH)

(<https://www.healthcareinfosecurity.com/essential-guide-to-hitech-act-a-2053>)

-HIPPA privacy and security rules, and penalties, now apply directly to business associates (e.g., banks, claims clearinghouses, billing firms software companies, etc.) as though they were healthcare organizations.

-Business associates that have access to protected health information.

-Business Associates Agreements (BAA) needed in working with associated businesses (e.g., video conferencing, email, banks, etc.)

-Sample BAA Agreement http://www.fpanetwork.org/fv/groups/internet/documents/web_content/c_816005.pdf

-Intent was to help ensure that digital information remains secure.

Components:

Individuals have the right to receive an electronic copy of their personal health information.

This includes information regarding treatment, payment & operations.

Healthcare organizations can charge a fee to cover labor costs for producing the copy.

Breach of Information:

“Breach” = the unauthorized acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information.

Application of Ethics in Daily Practice & Operations



Advertising Services/Attracting Clients

Identify your credentials in an accurate manner that is free of misleading, deceptive, or fraudulent information. (ACA C3.a/NASW 1.04a)

Insure you are conveying yourself/agency in a manner that is inclusive of all people

Free of any discrimination against prospective or current clients, students, employees, supervisees, or research participants based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital/ partnership status, language preference, socioeconomic status, immigration status, or any basis proscribed by law. (ACA C5/NASW 2.01)

Be clear about WHO you are and WHAT you do

The average consumer is unfamiliar with the differences in training and educational background of most mental health professionals

Differences between counselor, social worker, psychologist, etc.

Claim professional qualifications (e.g., areas of university study), type of licensure, professional membership participation and areas of specialized training/certification as concisely and truthfully as possible. (ACA C4.a & b/NASW 1.04)



Refrain from soliciting testimonials about your services or expertise from current OR former clients

Clients can provide testimonials but only after discussing the implications of such with clients and obtaining their permission to use their testimonial. (ACA C.3.b/NASW 1.06.b & 4.07.b)

CCMC Section 2,S 3 — REPRESENTATION OF QUALIFICATIONS

Board-Certified Case Managers (CCMs) will represent the possession of the CCM credential to imply the depth of knowledge, skills, and professional capabilities as intended and demonstrated by the achievement of board certification.

A client makes a call for services.....

All staff of your practice/agency have obtained training in risk management, confidentiality and HIPPA compliance (ACA B.3.a/NASW 3.07.d)

Obtaining initial information about services desired in a discreet and ethical manner.

Take only the information required to establish your client with the proper staff member and/or department for services.(ACA B.1.b/NASW 3.04.c/CCMC Section 4)

Ensure all information is transmitted confidentially through the use of each and all mediums employed by your practice/agency. (ACA B.3.e/NASW 1.07.m)

Create a system that alleviates risk for a client's personal information to be exposed unnecessarily.

Intake Documentation

Informed consent in the counseling relationship (ACA A.2/NASW 1.03)

Information is communicated in a manner that is developmentally and culturally appropriate

Sensitivity to language barriers

The counselor's qualifications, credentials, and relevant experience

Explain to clients what your training is and what the letters after your name mean.

Inform clients about fees and billing arrangements

Obtain written permission/signature to bill third party payors

Discuss how third-party insurance will work to assist in the payment for services

Deductibles, co-pay, co-insurance, etc.

Clarify that the explanation of benefits for insurance will go to the policy holder NOT the client (impact on confidentiality)

Outline procedures for non-payment of services or missed appointment fees

Must make client aware of intention to use collection agency or legal action if neglect to pay for services in initial paperwork!

Determine if Telehealth is a Viable Option

The Telehealth Communication Guidelines for TN Dept of Mental Health & Substance Abuse Services:

Inclusion/Exclusion Criteria

“A determination must be made whether telehealth is a viable means of conducting the assessment based on the individual’s behavior and psychiatric condition. If the individual’s presenting condition is inappropriate for a telehealth assessment or if visual or sound quality is inadequate, the professional should proceed with an on-site, face-to-face assessment.

Assessment of an individual via telehealth may not be viable if:

The individual is too agitated to focus (e.g., PANDAS, CPTSD, panicking, ADHD);

They are violent, and the violence would potentially result in injury to staff or damage to equipment;

The individual’s delusional system would prevent him/her from engaging in the process; or

The individual has an untreated acute medical condition.

Consent forms & Client Direction with Telehealth



- Clinicians are encouraged to have their clients sign a telehealth consent form.
 - *Add “telehealth” as an option for care modality in your consent to treat forms/intake forms could assist in overall care plans.*
 - Discuss the limitations and benefits of performing telehealth services.
 - *HITECH/HIPPA*
- Social media policies should be established/maintained and be clearly explained to clients and signed by your clients.
 - *Clients may blur the lines with Facebook, Instagram, etc. with the use of telehealth options.*
 - Inform the client that when performing telehealth, that they must be in a secure, private place and that you will be clarifying their location before beginning each session.
 - *Shopping or driving while doing their session is NOT an acceptable option.*

Competency/Dual Relationship

Determining which staff member would best serve the client

Competency (ACA C.2/NASW1.04)

Clinicians are called to practice ONLY within the boundaries of their competence.

-Education

-Training

-Supervised/professional experience

-State and national professional credentials

Free of conflicts of interest that may interfere with exercising the highest level of professional discretion and impartial judgment (ACA A6.a, A8/NASW 1.06/CCMC Sec 5)

- dual or multiple relationships with clients*
- provide services to two or more people who have a relationship with each other (for example, couples, family members)*
- Previous relationship with the clinician*



Confidentiality

Explain confidentiality laws and limitations of information provided (ACA B.2/NASW1.07.e)

- *Mandated reporting (Post a Notice of Privacy Practices in your office)*
- *Subpoenas from the court*
- *Suicidality/homicidal intention*
- *Interdisciplinary team usage*
- *Supervisors for clinicians*
- *Mandated client's rights and limitations to confidentiality.*

Release of information

Explain how ROI's work and be clear on documentation of such for release of clinical information

Emergency contacts obtained and information to be shared clarified.



Improper sharing of confidential information

- Accounts for 4.4% of the closed liability claims.
- To help prevent confidentiality problems:
 - Discuss the limitations of confidentiality with your clients within your intake forms, policies and procedures.
Don't forget electronic transmission of information and communication!
 - Ensure the safe, ethical storage of confidential records.
Notify clients in your forms how their health information will be stored and how they can obtain it upon written request.
 - Understand and obey mandatory reporting laws.
Abused and Neglected Child Reporting Act. (325 ILCS 5/)
Adult Protective Services Act.(320 ILCS 20/)
 - Know your federal and state laws
HIPPA, HITECH, Illinois Mental Health & Developmental Disabilities Confidentiality Act

What is done in the event of a breach of information?

-If a business experiences a breach they must notify the covered entity, which then must notify the individuals impacted.

-Impacted individuals must be notified within sixty (60) days if protected health information is breached.

-Dept of Health & Human Services and local news media are to be notified if the breach involves more than five-hundred (500) individuals.



-The healthcare organization is to send out a first-class letter to any patients who may have been affected by the breach.

-Email can be used if the individual previously agreed to receive electronic notifications.

-If the first ten (10) letters are returned for a bad address, the hospital/agency must post notification of the breach on its home page and offer a toll-free breach information number for ninety (90) days.

=The organization could also publish a notice of breach in the local news media.

-Agencies/providers must maintain a log of all data security reaches and annually submit it to the Dept. of Health and Human Services.

-Penalties can be levied against individuals within a healthcare organization as well as the organization itself!

Important exceptions!!

- Notification of a breach is NOT required if the information was unintentionally disclosed to an authorized recipient and not further disclosed.
- Breach does NOT have to be reported if the data involved was rendered unreadable via encryption.
- Organizations are to conduct a “risk assessment” to determine if there is a significant risk of harm to the individual because of the impermissible use or disclosure of personal health information.
- Federal regulators are largely leaving it up to the healthcare organization to determine if they need to give notification.

Social Media Usage & Policies

(ACA H.6/NASW 1.07.m)

Discuss the role of technology and how social media will be used

- Email, text communication, video conferencing, Facebook, etc.
- Fanning, following, and interacting with staff/providers on social media.
- Location services on your mobile devices.
- Business review sites and providing complaints or testimonials.

Obtain written consent to utilize electronic means of communication with clients on your intake paperwork.

-What email do you want us to use?

-Can develop a code to use with clients to ensure it is THEM you are communicating with via email.

-Do we have permission to leave a message on your voicemail?



Development of a social media policy for BOTH clients and employees/contractors

- Part of good risk management for your practice/agency.

- For clients

- For staff – don't follow or "troll" your clients on social media, be aware of what YOU post as it can come back to your employer/practice (e.g., political, religious, etc. issues/beliefs)

"...counselors who are on Facebook both personally and professionally need to set up distinct, separate profiles for each....Your personal profile should not have the same email or name as your professional profile," (Meyers, L. 2014)

Developing Social Media Policies

(ACA C.6.c; H.6.a; H.6.d/NASW 4.06/5.01)

Be inclusive of ethical guideline requirements as outlined in your profession's ethical code and make statements that are consistent with your ethical code

- In cases where clinicians wish to maintain a professional and personal presence for social media use, separate professional and personal webs pages and profiles to distinguish between the two kinds of virtual presence.
- Explain to clients the limitations and boundaries in using social media.
- Clinicians respect the privacy of clients' presence on social media (no creeping!)
- When making ANY statements that represent your profession be accurate and understand you are representing your fellow clinicians.

Other considerations.....

- Stick to your area of expertise and provide unique, individual perspectives on what's going on in your profession and in the world.
- Post meaningful, respectful comments (no spam and no remarks that are off-topic or offensive).
- Always pause and think before posting. Once its out there, its out there!!
- When disagreeing with others' opinions, keep it appropriate and polite.
- When in doubt, ask OR opt to refrain.
- Don't cite or reference clients, partners or associates without their prior approval. When a reference is made, where possible, link back to the source.
- Ethnic slurs, personal insults, foul language, or conduct that would not be acceptable in the workplace should not be used.

Examples of Social Media Policies

Example of Mayo Clinic's social media policy available at:

<https://sharing.mayoclinic.org/guidelines/for-mayo-clinic-employees/>

Example of Vanderbilt's social media policy available at:

<https://ww2.mc.vanderbilt.edu/socialmediatoolkit/26923>

Example of Cleveland Clinic's social media policy available at:

<https://my.clevelandclinic.org/about/website/social-media>

Evaluation & Assessment in Treatment

(ACA Section E/NASW 5.02)

- Promote the well-being of individual clients or groups by developing and utilizing appropriate educational, mental health, psychological, and career assessments.
- Purpose of assessment/evaluation is to assist in client decision making, treatment planning, diagnostic determination.
- Clinicians are to use only those testing and assessment tools for which they have been trained and are competent in using.
- Clinicians utilize assessment/evaluation instruments that possess a high level of validity, reliability, and are appropriate for assisting with diagnosis formation, forming conclusions, or making appropriate treatment recommendations.

- Clinicians are sensitive to cultural and socioeconomic impact in utilizing assessment tools and diagnosing mental disorders. (ACA E5 and E8/NASW 1.05/NAADAC 1.5)
- In reporting assessment results, clinician will consider the client's personal and cultural background, level of client understanding of the data, and the impact the results may have upon the client.
- Clients are to provide full consent to assessment/evaluation.
- Clients have the right to understand the reasoning behind the assessment/evaluation and the interpretation of the results obtained from the assessment tool(s).



Cultural Competency

ACA A.2.c Developmental and Cultural Sensitivity

“...counselors consider cultural implications of informed consent procedures and, where possible, counselors adjust their practices accordingly.”

NASW 1.05 Cultural Competence and Social Diversity

“Social workers should understand culture and its function in human behavior and society, recognizing the strengths that exist in all cultures.”

“Social workers should obtain education about and seek to understand the nature of social diversity and oppression with respect to race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, and mental or physical disability.”

NAADAC III-21 Multicultural Competency

“Addiction professionals shall deliver multiculturally-sensitive counseling and other services by gaining knowledge specific to multiculturalism, increasing awareness of the diverse cultural identifications of clients, developing cultural humility, displaying an attitude favorable to differences, and increasing skills pertinent to being culturally-sensitive.”

Cultural Competence Self-Assessment Checklist Items

Awareness	How true are these statements for you?
Self-Knowledge	I have a clear sense of my own ethnic, cultural and racial identity
Discomfort	I am aware of my discomfort when I encounter differences in race, color, religion, sexual orientation, language and ethnicity
Check my assumptions	I am aware of the assumptions that I hold about people of cultures different from my own
Assumptions	I am aware of the assumptions that I hold about people of cultures different from my own.
Judgement	I am aware of how my cultural perspective influences my judgement about what are “appropriate” or “normal” behaviors, values and communication styles.
Flexibility	I work hard to understand the perspectives of others and consult with my diverse colleagues about culturally respectful and appropriate courses of action.

(Taken from the Western Centre for Research & Education on Violence Against Women and Children)

Dual Relationships: Uncommon Areas



- Counselors are prohibited from engaging in a personal OR virtual relationship with individuals with whom they have a current counseling relationship (e.g., through social and other media). (ACA A.5.e)
- Counselors are prohibited from engaging in counseling relationships with friends or family members with whom they have an inability to remain objective. (ACA A.5.d)
- Counselors consider the risks and benefits of accepting as clients those with whom they have had a previous relationship. (e.g., mutual or past membership in a professional association, organization, or community.) Be certain to take appropriate professional precautions such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired, and no exploitation occurs. (ACA A.6.a)

Counselors consider the risks and benefits of extending current counseling relationships beyond conventional parameters. For example, attending a wedding, graduation, etc.; purchasing a service or product provided by a client; attending a client's family member's funeral. Take appropriate professional precautions such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired, and no harm occurs. (ACA, A.6.b)

Counselors must officially document, prior to the interaction (when feasible), the rationale for such an interaction, the potential benefit, and anticipated consequences for the client (or former client) and other individuals significantly involved with the client or former client.

If unintentional harm occurs to the client or former client, or to an individual significantly involved with the client or former client, the counselor must show evidence of an attempt to remedy such harm. (ACA, A.6.c)



Role Changes in the Professional Relationship

If a clinician changes their role with a client from the original, or most recent, contracted relationship, they obtain informed consent from the client and explain the client's right to refuse services related to the change.

For example:

1. changing from individual to relationship or family counseling, or vice versa.
2. changing from an evaluative role to a therapeutic role, or vice versa.
3. changing from a counselor to a mediator role, or vice versa.

Clients must be fully informed of any anticipated consequences (e.g., financial, legal, personal, therapeutic) of counselor role changes. (ACA, A.6.d)

Record Keeping & Documentation

(ACA B.6/NASW 1.08)

Provide clear information about how records are kept and how a client can obtain a copy of his/her record from your practice/agency

Creation and maintenance of client records

SOAP notes

Timeliness and accuracy of documentation

Storage of records/client information

Client access to records/documentation

Disposal of client records after termination



Department of Mental Health Record Guide For Mental Health, Intellectual and Developmental Disabilities, and Substance Abuse Community Providers in MS (2015)

Required for all records:

Face Sheet/Intake Form

Consent to Receive Services

Rights of Individuals Receiving Services

Acknowledgment of Grievance Procedure

Consent to Release/Obtain Information

Initial Assessment

Trauma History

Medication/Emergency Contact Information

Individual Service Plan

Individual Crisis Support Plan (if needed)

Support Implementation Plan for Recovery/ Resiliency

Periodic Staffing/ Review of the Individual Service Plan

Progress Note(s)/Weekly Progress Note

<http://www.dmh.ms.gov/wp-content/uploads/2015/08/2015-DMH-Record-Guide-Final-Version.pdf>

Consent to treat

Provide in writing, and verbally, the client's rights and responsibilities in entering this therapeutic relationship

The purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services

Purpose = e.g., provide outpatient mental health counseling with a licensed, clinical practitioner to treat mood disorders, anxiety disorders, etc. with adults 18+

Goals = identify, alleviate, maintain, etc. mental health related concerns

Techniques = CBT, DBT, neurofeedback, psychological testing, EMDR, art therapy, etc.

Procedures = outpatient mental health, IOP, etc.

Limitations = level of care (e.g., outpatient vs. inpatient), availability of clinician (24 hour call), etc.

Potential risks = insurance EOB's going to the insured vs. the client directly

Benefits of services = possible alleviation or amelioration of symptoms, improved relationships, improved physical health, etc.

Billing & Fees for Service

(ACA A10/NASW 1.13; 3.05)

Fees are to be clearly denoted in your intake paperwork.

- No Surprises Act (2022)

Fees are to be fair, reasonable, and commensurate with the service performed.

Fees can be adjusted, when legally permissible, to assist clients that may be unable to pay

- Pro bono

- Sliding scale

- Bartering services

- Refer client to affordable, comparable service provider/agency.

Billing for services is to be performed in an ethical and timely fashion as to not inadvertently overwhelm the client financially

- Billing to accurately reflect the nature and extent of services.





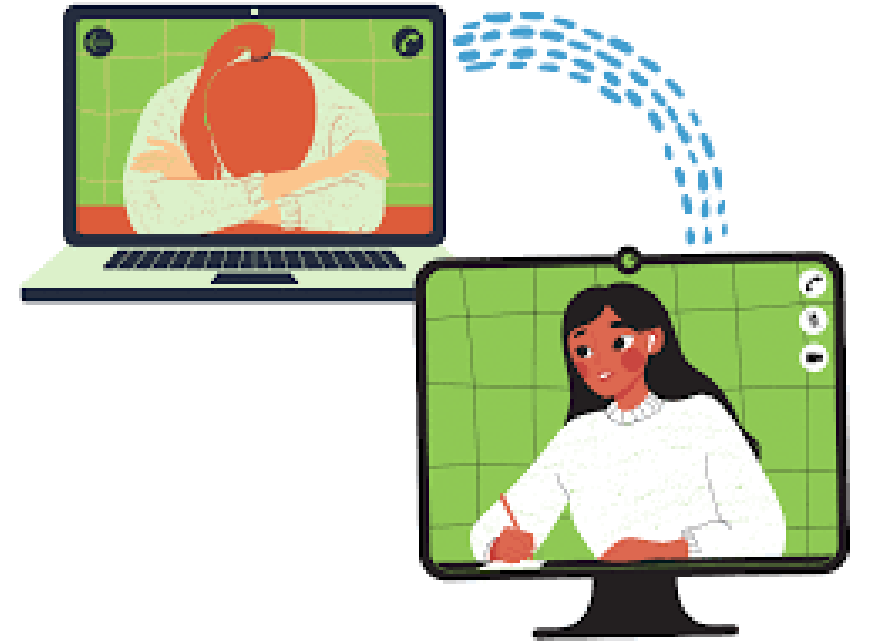
5 THINGS About
**THE NO
SURPRISES ACT**

Treatment Modalities, Effectiveness of Treatment & Consultation

- Treatments utilized in client care are to be grounded in theory and/or have an empirical or scientific foundation (ACA C.7.a/NASW 4.01)
- If developing or innovating techniques/procedures/modalities, the clinician explains the potential risks, benefits, and ethical considerations of such (ACA C.7.b)
- Clinicians will monitor their effectiveness as professionals and take steps to improve when necessary (ACA C.2.d & C.2.f/NASW 1.04.c; 2.05.b; 3.08; 4.01.b)
- Consultation, continuing education, assessments/evaluations of client symptoms
- Clinicians will obtain appropriate consultation from experts in the area of study/practice when expanding their clinical skill set (ACA C.1/NASW 1.04/2.05)

Telehealth Essentials in MS & TN

- The MS LPC Board requires that LPC and LPC-S licensees who offer distance professional counseling services or supervision hold the required credential or show proof of completion of professional training according to Rule 7.5.
- Be an Active Status LPC in Mississippi and have a license in good standing.
- Hold the Board Certified TeleMental Health (BC-TMH) credential or its equivalent as recognized by the Center for Credentialing and Education, Inc. (CCE) or the National Board of Certified Counselors OR completed professional training according to Rule 7.5.
 - *The professional training must be a minimum of nine (9) clock hours and must include the areas listed in Rule 7.5. Professional training can be gained by either: (1) Graduate-Level Academic Training (as documented on the syllabus) or (2) Continuing Education training course (as documented by certificate).*
- Submit to the Board verification of credential or of completion of professional training in Tele Mental Health counseling by uploading a copy of the credential certificate OR training certificate to your profile at the bottom right side of the General Registration tab.



Other MS & TN requirements for telehealth

*The Telecommunication Guidelines for TN
Dept of Mental Health & Substance Abuse
Services:*

“All behavioral health professional licensure requirements are the same for telehealth as for on-site face-to-face services.”

Privacy/Confidentiality:

“The physical location in which the telehealth assessment takes place should be one which provides the most privacy available.”

TN Telehealth Guidelines read:

“All telehealth sites shall ensure that telehealth equipment is located in a space conducive to a clinical environment and provides adequate comfort and privacy for the individual being evaluated. Both visual and audio privacy are important, and placement and selection of the rooms used for conducting telehealth assessments should consider this. Proper lighting is required to keep shadows off the faces of the participants.”

- ✓ Discuss the possibility of technology failure during services and outline alternate methods of service delivery (e.g., signing onto another device, phone)
- ✓ Be prepared with at least two (2) devices on which you can perform telehealth
- ✓ (e.g., Computer(s), smart phone, iPad)
- ✓ Discuss the protocol and procedures if you are unable to reconnect with them if there is technology failure, power outages, weather related interference, etc.
- ✓ Outline anticipated response time and expectations of arrival with telehealth appointments.
- ✓ Clients are encouraged to be on the call in a timely fashion as they would be for an in-person session.
- ✓ Clarify time zone differences and ensure clear appointment times.
- ✓ Discuss cultural and/or language differences that may affect delivery of services via telehealth.
- ✓ NASW code of ethics, 1.05(d), guides social workers to be aware of, assess, and respond to cultural, environmental, economic, ability, linguistic, and other social diversity issues that may affect delivery or use of services that involve the use of technology.
- ✓ Discuss potential denial of insurance benefit coverage for telehealth services.

Telehealth Platforms & Protocols

- HIPPA/HITECH compliant platforms for telehealth:
 - Zoom (business account)
 - Vsee.com
 - Doxy.me (free)
 - Psychology Today (free if have an account with them)
 - EHR system may have a telehealth portal option (e.g., MyClients Plus, Simple Practice, TheraNest)
- Download software on at least two (2) different devices to ensure timely sessions.
- Encourage clients to do the same!

Working with other Professionals/Treatment Team

(ACA B.3/NASW 2.02 & 2.03)

Inform clients that their information or presence may be seen/shared with:

Administrative staff/supervisees/volunteers/other employees

- Billing/insurance utilization
- Interns/professional development
- Cleaning crew, etc. may be present when they are in your facility for services

Interdisciplinary team

- Psychiatrist, psychologist, supervisor/consultant, physician, OT/PT, etc.

Third-party payors

- Within reason to obtain reimbursement for services.



Treatment of a Minor

(ACA B.5/NASW 1.07.e; 1.14)



- Age of majority in the state of MS is 21
 - *Can enter a contract at the age of 18 in MS.*
 - *No specific age for emancipation in the state of MS.*
 - *No specific age of majority on minor's consent to medical tx.*
- Age of majority in the state of TN is 18
 - *Can enter a contract at age 18 in TN.*
 - *Can become emancipated at 16 with an adult "next friend" petition.*
 - *Individuals 16 years old and up are presumed to have the maturity to consent to medical care (including mental health) in TN*
- HIPPA defers to state law to determine the age of majority and the rights of parents to act for a child in making health care decisions (45 CFR 164.502(g))
- Just because child is on your insurance does not give the insured the right to know everything about the case
 - Typically provided if child at risk for harming self or others or engaging in illegal behavior that would negatively effect client and family

- HIPPA indicates that a parent does NOT have a right to receive a copy of psychotherapy notes about a child's mental health treatment (45 CFR 164.501)
- Psychotherapy notes are primarily for personal use by the treating professional and are not disclosed for other purposes.
- Keep separate from the medical record!
- If it is not in the best interest in the child, do NOT disclose information to parent (e.g., abuse, neglect, etc.)
- Noncustodial parent can access information on their child if have joint custody and/or they obtain a subpoena for records that custodial parent agrees to uphold.
- Ask separated/divorced parents about custodial rights of each parent.
- If one parent wants counseling and another does not, the court can order counseling if in the best interest of the child.
- Pros/cons of “court order” when child NOT with the parent that desires counseling.

MS Mandated Reporting Rules & Regs

According to the MS Dept of Child Protection Services (CPS)

Health care practitioners (including mental health) are required to report reasonable suspicion of child abuse or neglect, vulnerable adult abuse and human trafficking of minors to the department of human services

Child Abuse Hotline: [1-800-222-8000](tel:1-800-222-8000)

Report child abuse or neglect to Mississippi Child Protection Services [1-800-222-8000](tel:1-800-222-8000)

Report abuse of a vulnerable person: [1-844-437-6282](tel:1-844-437-6282)

Report human trafficking: [1-888-373-7888](tel:1-888-373-7888)

If in immediate danger, call **911**

TN Mandated Reporter Rules & Regs

Tennessee law requires health care providers to report child abuse or vulnerable adult abuse to the Department of Children's Services or the Department of Human Services.

Reporting Child Abuse: [1-877-237-0004](tel:1-877-237-0004)

Reporting Adult Abuse or Neglect: [1-866-836-6678](tel:1-866-836-6678)

Mental health professionals are also required to report if a person is a danger to others.



Subpoenas

Subpoena Duces Tecum = request for records or documentation.

This type of subpoena cannot be used to require oral testimony or affirm the truth of the documents.

Subpoena = request for you to appear as a witness in person.

Subpoenas can be delivered:

- In person
- Email
- Certified mail
- Read aloud in court

A Subpoena is a lawyer's assertion that he/she is entitled to the requested information.

A subpoena issued by a judge, or a clerk magistrate is a COURT ORDER

If you are in a court hearing and the judge verbally orders you to divulge information this also equates a COURT ORDER.

COURT ORDER = the court has determined that the request for client documents/information is valid and the party requesting the information is entitled to it.

A court order trumps HIPPA!

If you receive a subpoena it could mean..

- You are about to be sued.
- You are going to be deposed.
- Your state Professional Regulation board(s) will investigate you.
- Your client is involved in litigation that they have not revealed to you (e.g., workman's compensation, divorce, child custody, criminal charges, etc.)
- You are being called to testify at trial.



Types of Subpoenas you May Received



- Subpoena that requires the production of records or documents (Subpoena duces tecum)
- Subpoena for testimony at a deposition.
 - State court = discovery deposition and evidence deposition
 - Discovery = gathering information
 - Evidence = for trial testimony.
 - Federal Court = ALL depositions are evidence depositions.
- Subpoena for trial testimony – command to appear in court to give testimony.

What should you do if you receive a subpoena?

1. READ IT vs. immediately comply.
 - DO NOT IGNORE a subpoena!!
 2. HIGHLY ENCOURAGED to contact an attorney and/or your liability insurance carrier for consultation if you receive a subpoena!
 - If you release patient information without proper consent, you will violate HIPPA and receive fines for breach of information.
 - You can clarify if the document you have received is in fact a subpoena by contacting the clerk of the court and the client with whom the subpoena is regarding.
 3. Contact your client and indicate you have received the subpoena for their information/records.
 - Obtain consent from the client to release the information requested.
 - =Be specific about the information requested and ONLY provide what is asked of you.*
 4. If you object and want the court to acknowledge your reluctant, you can fil a “motion to quash”
 - Quash = Void
 - Request the court modify or terminate the subpoena based on your objections (e.g., the information would harm your client in some way)
- ***Note: DO NOT bring files/documentation with you to a deposition or court!! (unless suggested by your counsel)
- The court can immediately access/copy the record for future review.

If the subpoena is valid...

- Provide all that is requested unless an exception applies, or another compelling reason exists.
- Notify the sender of the subpoena that the records exist and allow the sender to obtain a court order to have the records redisclosed.
- When in doubt about information in the record, consider redaction (blacking out information in the record) (e.g., social security number, non-parties names, etc.).
- Provide the reason for redacting information to the sender.



If you DON'T Comply with a Valid Subpoena

- Follow up letters and calls from the sender.
- Motion for Rule to Show Cause that you did not comply.
- Issuance of Rule to Show Cause and personal service.
- Can be found in contempt of court and arrested.

Receiving Gifts

(ACA A.10.f/NASW 1.05.a; 1.06.a)

Understand the nature and intent in which a gift is provided to you.

- Cultural token of respect or gratitude.
- Monetary value of the gift.
- Motivation/intent of the gift.
- Clinician's motivation for accepting/declining the gift.



Nonpayment for Fees

(ACA A.10.d/NASW 1.13; 1.16.c)

Clinicians must include intention to use a collection agency, or take legal measures, in the case of nonpayment for services within their informed consent documents.

Collection agencies for services **MUST** be HIPPA compliant services.

Inform clients in a timely fashion of intended actions and offer clients the opportunity to make payments on their balance.

Clinicians can terminate services based on nonpayment for services as well.



Transfer/Termination of Services

(ACA A.11/NASW 1.16; 2.06; 3.06)

Clinicians can terminate for:

- The client is no longer in need of assistance/services.
- The client no longer benefits from the services provided.
- The client is being harmed by continued counsel/services.
- The clinician is in jeopardy of harm by the client or by another person the client has a relationship.
- Nonpayment for services.

Guard against abandonment and client neglect by ensuring appropriate referrals are made for the client's continued care

- Complete any necessary clinical and administrative processes to ensure the transition is smooth.
- Maintain open communication with the client and the new treatment provider/team.

Keeping & Disposing of Records

(ACA B.6/NASW 1.08; 3.04)

Clinicians are to take reasonable steps to ensure that documentation in records is accurate and reflects the services provided.

Complete documentation of services in a timely manner to ensure continuity of services provided to clients.

Documentation should protect clients' privacy to the extent it is possible and include only information that is directly relevant to the delivery of services.

Records are to be stored in a locked cabinet/file room.

After termination, records are to be stored for seven (7) years in the state of MS after the final day of services. (or seven (7) years after the client turns eighteen (18) years of age).

Files are to be destroyed in a manner that protects the client's confidentiality.

Records containing notes on child abuse, suicide, sexual harassment or violence may need to be kept longer in case they are needed by a court of law.

Clinicians are to take reasonable precautions to protect client confidentiality in the event of their incapacity or death.

Appoint a custodian to oversee the records.

Professional Responsibilities

(ACA Section C; NASW 3.02; 3.08; 3.09; 4.01; 5.01)

Improve the integrity of the profession

Promote and maintain the values, ethic, knowledge, and mission of the profession via research, active discussion, advocacy, legislative testimony, presentations in the community and professional development programming, and participation in professional organizations.

Skill development

Remain proficient in professional practice and the performance of professional functions.

Keep current with relevant knowledge in the field (e.g., continuing education, review of professional literature)

Self-care

Engage in activities that maintain and promote one's own emotional, physical, mental, and spiritual well-being.

Incapacitation/Death

Prepare a plan for the transition of clients and the dissemination of records to an identified colleague or records custodian in the case of incapacitation, death, retirement, or termination of practice.

Reporting Unethical Conduct of a Colleague

(ACA 1.2; 1.3/NASW 2.09; 2.10; 2.11/CCMC, Sec C)

Obtain consultation with another counselor who may be knowledgeable about your profession's ethical code, with colleagues, or with appropriate authorization (e.g., liability insurance carrier's provided counsel)

Attempt to resolve the issue informally with your colleague (provided such action does not violate confidentiality rights that may be involved).

Reveal the ethical concern to upper management/supervisor.





Refer to state or national committees on professional ethics, state licensing boards, or appropriate institutional authorities.

Refrain from retaliatory complaints.

The goal is to heal the professional and bring them back into a useful, productive space.

If YOU are brought before the ethics committee/licensing board cooperate with the investigation at the discretion of your ethical guideline AND the advisement of your legal counsel.

Remember!!! The Board is designed to protect the public – NOT the professional! Seek legal counsel before responding to, or reaching out to, your professional licensure board.

If you are notified of an investigation by your professional board....

1. Contact your malpractice insurance carrier as soon as you are notified of the complaint and investigation –this is often required by your policy.
2. Contact a knowledgeable attorney immediately who is knowledgeable about the Board.
3. Help your attorney identify top experts in the addiction's profession about the issues at hand.
4. Be active in your defense. Help your attorney understand what happened and what you were thinking at the time.
5. Prepare for the long run focus on self-care. Investigations are highly stressful and take a long time to resolve. Be strategic and active in managing your stress and pulling together your support system.



Risk Management in Practice

Establishing Risk Management Policy

What is Risk Management?

- **Risk management** = the systematic effort to avoid harm to patients and the subsequent threat of financial loss (*Psychiatric Services, Vol 46; Issue 5; May 1995; Pages 473-76*)
- Developing a culture, processes and set of structures that are directed towards creating potential opportunities while strategically managing possible adverse effects.
- A framework for achieving high standards in clinical care through the implementation of an integrated quality and risk management system (HSE, 2007).

What is the purpose of Risk Management?

- Protecting patients and others from harm
- Provide a common set of requirements that will apply across all service providers to ensure that health and social services are both safe and of an acceptable quality.
- Balance individual risk, needs and autonomy with the demands of personal, professional and public safety and accountability.
- Integrated risk management = everyone is responsible for mitigating risk.

Areas Identified for Risk Management

- Risks of injury (to patients, staff and the public)
- Risks to the service user experience
- Risks to the compliance with standards
- Risks to objectives and projects
- Risks to business continuity
- Risks to reputation
- Risk to finances
- Risk to the environment



Assessing Risk in your Practice/Agency

Risks are to be analyzed in order to:

- Assess the extent of actual or potential impact
- Assess the likelihood of occurrence

Potential sources of determining risks to your agency/practice can come from:

- Incident reports
- Audit reports
- Staff report
- Complaints
- Investigations (internal or external)

Measuring Risk

Risk is measured in terms of two dimensions:

Impact (consequence)

Based on the controls that are in place what is the level of impact of the risk if it occurs?

Likelihood (probability)

Based on the controls that are in place what is the likelihood that this risk will occur?

The process for “rating a risk” = ascribing a single score to each of these dimensions.
The product of these two scores provides the risk rating.

Likelihood x Impact = **Risk Rating**

Likelihood	Rating	Impact	Rating
Almost Certain	5	Extreme	5
Likely	4	Major	4
Possible	3	Moderate	3
Unlikely	2	Minor	2
Rare	1	Neglibable	1

If Likelihood is a 2 and the Impact is a 1 = Risk Rating of 2 (2x1=2)

ICC Approach to Risk Management

The 'ICC approach' to risk description =

- Impact

- Cause

- Context

- What is the impact of the risk?

For example, risk to service user safety, of fraud, to failure to comply with regulatory requirements

- What is the cause of the risk?

For example, a 'due to' statement such as due to the inconsistent implementation of falls prevention practices, due to poor financial control systems, due to infrastructural deficits

- What is the context of the risk?

For example, within XX Hospital, within the accounts payable department, within XX CNU Taking the above examples the following are the risk descriptions:

Other examples:

➤ Risk to service user safety due to the inconsistent implementation of falls prevention practices in XX Hospital.

➤ Risk of fraud due to poor financial control systems in the accounts payable department.

➤ Risk of failing to comply with regulatory requirements due to infrastructural deficits within XX CNU.

Plan Development to Reduce Risk

What would we need to have in place to reduce the likelihood of _____ occurring or minimizing its impact if it was to occur?

Such things may include:

1. Things that govern the risk.
For example, legislation, standards, Policy Procedure Protocol Guidelines, committee oversight, etc.
2. Education and training relating to the skills and knowledge required by staff to manage the risk.
3. Equipment and resources.
4. Physical environment.
5. Processes and systems such as tools and checklists, communication
For example formal handovers, use of ISBAR (Identify, Situation, Background, Assessment and Recommendation), documentation, etc.
6. Performance monitoring.
For example auditing files, performance review process for employees/contractors, etc.

Treating the Risk

Treatment may take the form of:

- Avoiding the risk.
EG, stopping the activity associated with the risk.
- Transferring the risk.
EG, outsourcing the activity to another agency that will be responsible for the activity and the attending risks.
- Controlling the risk.
EG, putting in place actions to mitigate or minimize the risk.

When considering additional controls the following hierarchy should apply:

- If practicable, eliminate the risks altogether, or combat the risks at the source, (for example, use a safe substance instead of a dangerous one; limit the practice to specific specialty areas).
- If elimination of the risk is not practicable, try to reduce the risk at source by substituting the material or process with a less hazardous one or installing or using additional equipment, (for example, reducing the use of electronic correspondence and using more “snail mail”; improving software programming)
- Reduce the risk via administrative controls and safe systems of work. (for example, policies, procedures and guidelines)

Documentation & Review of Risk

Risks assessed at an individual or agency/practice level should be maintained in a folder for reference by staff/management using that place of work.

Document and review your risk assessment regularly

-This will be determined by the size of your practice/agency, level of risk(s) assessed (e.g., if a severe risk with high impact, review monthly; if mild risk with low impact, perhaps quarterly or semi-annually).

Risk assessments should be reviewed if there is a change in the services provided or overall organization

-for example, when new equipment or procedures that would impact on the risk (as part of the process for monitoring and maintaining the risk register).

Case Illustrations/Discussion on Implementation



Vignette: A new referral

A behavioral health professional has an intake appointment with a new client. As soon as they looked at the intake form, they realized that the client is the ex-wife of their former client. The therapy with the ex-husband was brief, and he focused on how he wanted to leave the marriage. The prospective client was using her maiden name and gave no indication that she had known about her ex-husband's treatment with the behavioral health professional.

When asked about the reason for the referral, she said that her physician had referred her for anxiety. During the session, she states that she is still in communication with her ex-husband because they share three children and co-parent.

How do you proceed and what are the ethical issues pertaining to this scenario?

Vignette: Noncustodial parent

You have a 15 y/o female client that is the oldest three children. Her parents were in a domestic violence relationships for years. Her mother left her father a few years ago, divorced him and obtained sole custody of the client and her siblings.

The client recently entered individual counseling services to cope with her symptoms of trauma, anxiety, and angst regarding “reunification counseling” with her estranged father.

The client’s father reaches out to you, after having discovered you are seeing the client for individual counseling and asks if you will meet with him to discuss why his daughter is not interested in reconciling their relationship.

What ethical concerns are present and how do you proceed?

Vignette: Discussing Client Information Amongst Other Practice Providers

You have a 36 y/o male counseling client in your private practice/agency. Your colleague sees his wife for counsel. Within the confines of your private session, your client indicates that he is having an extra marital affair, and his wife is unaware of the matter.

How do you proceed and what ethical implications are present?

Are you able to....

- Define the purpose of professional ethical guidelines for mental health professionals.
- Discuss guideposts for ethical decision making in practice.
- Speak more confidentially about the ACA, NASW and State licensing board codes and regulations regarding ethical practice and professional orientation.
- Understand more clearly requirements for documentation in you home state for mental health professionals.
- Know how to respond to legal requests for client records and subpoenas.
- Know more about how to employ highest standard of ethical and HIPPA compliance in your practice or agency.
- Manage the ethical risks and benefits of using new and emerging communication technologies in clinical practice.

THANK
YOU

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"Responding to a Subpoena" by Erin Stolsmark, LPMHC, NCC

(https://www.counseling.org/docs/defaultsource/ethics/ethicscolumns/ethics_october_2015_subpoena.pdf?sfvrsn=ea22522c_4)

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"Should you Respond o that Subpoena?" Health Professional Services Operations Article

(<http://www.hpsso.com/risk-education/individuals/articles/Should-You-Respond-to-that-Subpoena>)

"Social Media Ethics in Social Work Practice" by Julie De Azevdo Hanks, PhD, MSW, LCSW, BCD

(<http://www.drjuliehanks.com/2013/11/12/social-media-ethics-what-private-practice-therapists-need-to-know/>)

"Social Media and Health Care Professionals: Benefits, Risks, and Best Practices" by C. Lee Ventola in *Pharmacy and Therapeutics*, Vol 39, No. 7, July 2014, pgs 491-497.

(<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4103576/>)

Resources

American Counseling Association (ACA) Code of Ethics.

Commission for Case Manager Certification (CCMC) ccmcertification.org

Counselor Liability Claim Report, 2nd Edition, CNA/HPSO

<https://www.hpsso.com/Documents/Risk%20Education/individuals/Claim-Reports/Counselor/HPSO-CNA-Counselor-Claim-Report-2019.pdf>

Cultural Competence Self-Assessment Checklist

<https://www.unitedwaydm.org/hubfs/Cultural-competence-self%20assessment-checklist-1.pdf>

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Ethics Case Study examples came from:

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Mississippi State Code of Ethics for Mental Health Professionals.

National Association for Addiction Professionals Code of Ethics (NAADAC.org)

National Association of Social Workers (NASW) Code of Ethics.

Northwestern University – The Family Institute Blog, June 10, 2022 “Counseling vs. Social Work” article <https://counseling.northwestern.edu/blog/counseling-vs-social-work/#:~:text=People%20may%20choose%20counseling%20or,people%2C%20families%2C%20and%20communities.>

Tennessee State Code of Ethics for Professional Counselors

<https://irpcdn.multiscreensite.com/ee7d847b/files/uploaded/TN%20CODE%20OF%20PROFESSIONAL%20ETHICS%20July2020.pdf>

TN Telehealth Guidelines <https://www.tn.gov/behavioral-health/need-help/providers/telehealth.html>

US Department of Health and Human Services Office for Civil Rights.

HIPPA and HITECH codes