

**Wisconsin Association for Marriage and Family Therapy
Presents an Ethics and Boundaries Workshop
Friday, October 30, 2009
Holiday Inn, 1001 Amber Lane
Stevens Point, Wisconsin**

**Legal and Ethical Implications of Technology in Psychotherapy*
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<u>Technologies</u>	<u>Legal and Ethical Issues</u>
1. Physical Office	Boundaries
	Professional
	Competence
2. Automated Office	Jurisdictional
	Confidentiality
	Client and Public Endangerment
3. E-mail and Text (asynchronous communication)	HIPAA
	Informed Consent
	State Regulatory Rules
4. Chats, Chat Rooms, Audio, Video and Telephone (synchronous communication)	Organizational Codes of Ethics and Support
	Health Insurance Reimbursement
5. Web Pages	Liability Insurance
Relationship-Therapy-Milwaukee	Misleading Advertising
http://www.relationship-therapy-milwaukee.com	Payment for Referrals
6. Online Clinics	Internet Abuse
My Therapy Net	
http://www.mytherapynet.com	

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6. Potential Risks of E-mail over Alternative Therapy Methods

7. Safeguards for the Potential Risks of E-mail Therapy
Duty to Report and Handling Dangerous Situations

8. Billing and Payment of Fees for E-mail Therapy

9. Reasons for Terminating E-mail Therapy

10. To Whom May a Client Submit a Grievance

International Society for Mental Health Online
Suggested Principles for the Online Provision of Mental Health Services

ISMHO has endorsed these principles, as per January 9, 2000. This is the only officially endorsed version.

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Suggested Principles for the Online Provision of Mental Health Services

Online mental health services often accompany traditional mental health services provided in person, but sometimes they are the only means of treatment. These suggestions are meant to address only those practice issues relating directly to the online provision of mental health services. Questions of therapeutic technique are beyond the scope of this work.

The terms "services", "client", and "counselor" are used for the sake of inclusiveness and simplicity. No disrespect for the traditions or the unique aspects of any therapeutic discipline is intended.

1. Informed consent

The client should be informed before he or she consents to receive online mental health services. In particular, the client should be informed about the process, the counselor, the potential risks and benefits of those services, safeguards against those risks, and alternatives to those services.

a. Process

1. Possible misunderstandings

The client should be aware that misunderstandings are possible with text-based modalities such as email (since nonverbal cues are relatively lacking) and even with videoconferencing (since bandwidth is always limited).

2. Turnaround time

One issue specific to the provision of mental health services using asynchronous (not in "real time") communication is that of turnaround time. The client should be informed of how soon after sending an email, for example, he or she may expect a response.

3. Privacy of the counselor

Privacy is more of an issue online than in person. The counselor has a right to his or her privacy and may wish to restrict the use of any copies or recordings the client makes of their communications. See also the below on the [confidentiality of the client](#).

b. Counselor

When the client and the counselor do not meet in person, the client may be less able to assess the counselor and to decide whether or not to enter into a treatment relationship with him or her.

1. Name

The client should be informed of the name of the counselor. The use of pseudonyms is common online, but the client should know the name of his or her counselor.

2. Qualifications

The client should be informed of the qualifications of the counselor. Examples of basic qualifications are degree, license, and certification. The counselor may also wish to provide supplemental information such as areas of special training or experience.

3. How to confirm the above

So that the client can confirm the counselor's qualifications, the counselor should provide the telephone numbers or web page URLs of the relevant institutions.

c. Potential benefits

The client should be informed of the potential benefits of receiving mental health services online. This includes both the circumstances in which the counselor considers online mental health services appropriate and the possible advantages of providing those services online. For example, the potential benefits of email may include: (1) being able to send and receive messages at any time of day or night; (2) never having to leave messages with intermediaries; (3) avoiding not only intermediaries, but also voice mail and "telephone tag"; (4) being able to take as long as one wants to compose, and having the opportunity to reflect upon, one's messages; (5) automatically having a record of communications to refer to later; and (6) feeling less inhibited than in person.

d. Potential risks

The client should be informed of the potential risks of receiving mental health services online. For example, the potential risks of email may include (1) messages not being received and (2) confidentiality being breached. Emails could fail to be received if they are sent to the wrong address (which might also breach of confidentiality) or if they just are not noticed by the counselor. Confidentiality could be breached in transit by hackers or Internet service providers or at either end by others with access to the email account or the computer. Extra safeguards should be considered when the computer is shared by family members, students, library patrons, etc.

e. Safeguards

The client should be informed of safeguards that are taken by the counselor and could be taken by himself or herself against the potential risks. For example, (1) a "return receipt" can be requested whenever an email is sent and (2) a password can be required for access to the computer or, more secure, but also more difficult to set up, encryption can be used.

f. Alternatives

The client should be informed of the alternatives to receiving mental health services online. For example, other options might include (1) receiving mental health services in person, (2) talking to a friend or family member, (3) exercising or meditating, or (4) not doing anything at all.

g. Proxies

Some clients are not in a position to consent themselves to receive mental health services. In those cases, consent should be obtained from a parent, legal guardian, or other authorized party -- and the identity of that party should be verified.

2. Standard operating procedure

In general, the counselor should follow the same procedures when providing mental health services online as he or she would when providing them in person. In particular:

a. Boundaries of competence

The counselor should remain within his or her boundaries of competence and not attempt to address a problem online if he or she would not attempt to address the same problem in person.

b. Requirements to practice

The counselor should meet any necessary requirements (for example, be licensed) to provide mental health services where he or she is located. In fact, requirements where the client is located may also need to be met to make it legal to provide mental health services to that client. See also the above on [qualifications](#).

c. Structure of the online services

The counselor and the client should agree on the frequency and mode of communication, the method for determining the fee, the estimated cost to the client, the method of payment, etc.

d. Evaluation

The counselor should adequately evaluate the client before providing any mental health services online. The client should understand that that evaluation could potentially be [helped](#) or [hindered](#) by communicating online.

e. Confidentiality of the client

The confidentiality of the client should be protected. Information about the client should be released only with his or her permission. The client should be informed of any exceptions to this general rule.

f. Records

The counselor should maintain records of the online mental health services. If those records include copies or recordings of communications with the client, the client should be informed.

g. Established guidelines

The counselor should of course follow the laws and other established guidelines (such as those of [professional organizations](#)) that apply to him or her.

3. Emergencies

a. Procedures

The procedures to follow in an emergency should be discussed. These procedures should address the possibility that the counselor [might not immediately](#) receive an online communication and might involve a [local backup](#).

b. Local backup

Another issue specific to online mental health services is that the counselor can be a great distance from the client. This may limit the counselor's ability to respond to an emergency. The counselor should therefore in these cases obtain the name and telephone number of a qualified local (mental) health care provider (who preferably already knows the client, such as his or her primary care physician).

Retrieved October 19, 2009 from <http://www.ismho.org/suggestions.asp>

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Books and Articles

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- Kazal, L. A. (2009). A brief history and components of telehealth in the United States. *Family Therapy Magazine*, 8(3), 18-22.

References

Web-based Materials

AAMFT “Online Therapy and Life Coaching: Enhance Your Practice”

www.aamft.org/institutes/online_therapy.asp

American Counseling Association – Additional Ethical Standards for WebCounseling

www.counseling.org/Content/NavigationMenu/RESOURCES/ETHICS/EthicalStandardsforInternetOnlineCounseling/Ethical_Stand_Online.htm

American Medical Informatics Association – Guidelines for Using E-mails with Patients

www.amia.org/pubs/other/email_guidelines.html

Department of Health and Human Services: Health Privacy Information

www.hhs.gov/ocr/privacy/hipaa/faq/index.html

HIPAA Rules

www.hhs.gov/ocr/hippa

International Society for Mental Health Online - Suggestions

www.ismho.org/suggestions.asp

Internet Guided Learning: “Navigating the Mental Health Internet”

www.internetguidelines.com/nmhi/navhome.html

Legislative Reference Bureau, Wisconsin State Legislature

<http://www.legis.state.wi.us/rsb/code.htm>

Ofer Zur “Telehealth: Clinical, Ethical and Legal Issues”

www.drzur.com/homeonline.html

MyTherapyNet “Online Therapy Workshop”

www.mytherapynet.com

“Summary of the HIPAA Privacy Rule” (2003)

www.hhs.gov/ocr/privacy/hipaa/understanding/summary/privacysummary.pdf

U.S. Dept. of Homeland Security, US-Cert, Cyber Security Tips

<http://www.us-cert.gov/cas/tips/>

Working to Halt Online Abuse (WHOA)

www.haltabuse.org