

## **ALWAYS CONSULT LEGAL ADVICE**

### **E-THERAPY**

One of the newest challenges for mental health practitioners is the issue of informed consent in e-therapy.

- 1) Anonymity on the Internet makes it more difficult to determine the clients mental capacity and/or legal age
- 2) Potential conditions such as suicidal behaviors and eating disorders may not be suitable for on-line therapy
- 3) There is limited empirical research available through limiting both the practitioner and clients understanding of the either the efficacy and/or the risks associated with e-therapy
- 4) And Internet identity issues place more burden on the practitioner to determine whether the client is legally and ethically able to consent

### **Virtual or E-therapy**

Depending on their mental health focus and where they practice many mental health practitioners offer online therapy services through real-time chats, email, videoconferencing, telephone conferencing, and instant messaging.

The benefits touted by supporters of on-line therapy include as benefits the ability to:

- Serve millions of people who would otherwise not participate (e.g., people with certain conditions such as agoraphobia, persons living in remote locations, or those concerned about the stigma of counseling)
- Decrease inhibitions clients may have about fully disclosing relevant information
- Increase the thoughtfulness and clarity of communication as an unintended by-product of written communication
- Produce a permanent record that can be easily referred to, forwarded to clients or colleagues for review and consultation purposes
- Substantially reduce overhead costs, thus reducing costs for the consumer. As discussed earlier in this training, one of the major areas still under debate as a result of this new technology is that of jurisdiction. Here are some thought provoking considerations
  - When the client lives in a different state, it is difficult to avoid violating licensure laws and it is still unclear as to what state's laws would be applicable
  - Is the origin or location of counseling in the client's community or the therapist's? Or is it somewhere in cyberspace?
  - And what defines location if a busy executive is involved in an online session while flying from Tucson to Bangkok?

This is clearly an ambiguous area that will undoubtedly continue to be discussed.

Some of the other concerns raised regarding the use of e-therapy:

- E-therapy does not allow practitioners to observe and interpret facial expressions and body language
- The Internet poses serious risk to security and thus to confidentiality
- Inappropriate counseling may occur due to therapist ignorance about location-specific factors related to the client (e.g., living conditions, culture)
- Clients cannot be sure as to the credentials, experience, or even identity of the person they are trusting to provide services
- Clients may not have any legal recourse formal practice, given unresolved questions about jurisdiction and standards of care

**Limiting Risk in the Practice of E-therapy**

For those practicing E-therapy as follows:

- 1) Full disclosure - This relates to informed consent and the need to fully disclose the possible benefits and risks of distance counseling, including informing the client that this is a new area of practice, which has not had the benefit of longterm study.
- 2) Comprehensive assessment - Provide clients with detailed and complete assessment tools and encourage full disclosure by client.
- 3) Confidentiality and disclosure of safeguards - Take all precautions to safeguard the confidentiality of information and avoid misdirected emails, eavesdropping, hacking, etc. Alert the client to these potential risks as well.
- 4) Emergency contact - Obtain information for an emergency contact and together develop a clear emergency plan.
- 5) Consult Your Association's Code of Ethics - Review standards regarding informed consent, confidentiality, conflict of interest, misrepresentation, etc.
- 6) Consult state licensing provisions - Research both the statutory regulations of your board as well as those in the client's home state.
- 7) Consult a malpractice/risk management attorney - Consider asking a legal specialist to review website materials to determine compliance with standards Of care and potential malpractice issues.
- 8) Provide communication tips - If communicating solely by textbased messaging, provide client with clear tips regarding communication.