

## The “Distance Counseling” Cyberfrontier, Part II

*[This month’s Practice Pointer completes part II of our discussion on “distance counseling.”]*

While the technology of “distance counseling” promises to deliver mental health services to persons unable or unwilling to pursue conventional office-based therapy, it also raises serious issues, says Donna DeAngelis, executive director of the Association of Social Work Boards. Social workers interested in testing the waters, she says, should give serious thought to the following technology-related scenarios and issues:

- Misdirected e-mail accidentally read by third parties
- Family members eavesdropping on telephone calls
- Family members (or network administrators) gaining access to clinical e-mail
- Snoopers (or neighbors) intercepting mobile (cell) or cordless phone conversations
- Hackers uploading e-mail or “listening in” on PC-based videoconferences
- Misrepresentation by e-clients
- E-mail communication generating extensive clinical records.

“For every technology,” DeAngelis says, “there are pitfalls involving matters of confidentiality and privacy. Without appropriate safeguards, unwanted third parties can gain illegal access to confidential records.” Experts even warn of the possibility of electromagnetic “leakage” in telecommunication signals—and of off-the-shelf descramblers rendering supposedly secure communications all too transparent.

Asks DeAngelis, “What happens if an e-therapist reads his or her confidential e-mail from a computer at their full-time office job—and then another employee or network administrator gains access to it?” Before embracing any new medium or

technology, she says, social workers should consider the possible downside. Sound risk management entails being prudent, on not ignoring warning signs and straying into deep water.

“If you set yourself up on a website without face-to-face interviews,” she says, “I don’t think the clinical interview is complete, which points to this key question: ‘Is it really therapy if you’re just doing it through the written word?’” Pausing to consider videoconferencing through computer videocams, she adds, “How do [videocams] change the equation? The answer is: We don’t know that yet.”

In the 1997 NASW Press publication, “Prudent Practice: A Guide for Managing Malpractice Risk,”<sup>1</sup> the authors cite Hiratsuka’s 1993 study that addresses the more prominent pitfalls of distance counseling. In it, Hiratsuka highlights the difficulty of obtaining (or confirming) informed consent from telephone clients, counselor expertise, and fee schedules. The authors add that distance counselors are also limited in their ability “to ensure continuity of care, successful referral procedures, and follow-up.”

In his risk-management workshops across the nation, ethics expert Frederic Reamer offers these starting points for consideration by aspiring distance counselors:

- 1) Full disclosure. Clinicians should develop a clear, comprehensive statement that fully discloses the possible benefits and risks of distance counseling. There is no room for misrepresentation of services. “This is consistent,” Reamer says, “with the longstanding principle in social work of informed consent. We have an ethical duty to ensure that potential clients understand there are some things they will get out of [distance counseling] that are good and some things that may not work out so well. Long-distance

clinicians should make clear that this is a cutting-edge medium with no long-term track record, that we don't know the potential benefits and risks, and that s/he cannot guarantee good results."

- 2) Comprehensive assessment. Clinicians should provide e-clients with detailed and complete assessment tools, along with a statement of how important it is for the client to be forthright in completing these tools.
- 3) Confidentiality & disclosure of safeguards. Clinicians should be aware of all security precautions needed to prevent hacking, misdirecting e-mails, eavesdropping on telephone conversations, and more. The idea, Reamer says, is essentially, "Here are the steps I've taken, along with the attendant risks."
- 4) Emergency Contact. Reamer says the clinician should obtain from the client the name of a contact person and should also outline a clear emergency plan—"especially if the client is taking psychotropic meds," he says.
- 5) Consult NASW Code of Ethics. To ensure compliance with issues pertaining to confidentiality, privacy, informed consent, conflict of interest, misrepresentation of credentials, and more, Reamer suggests consulting the NASW Code of Ethics. Reamer says, "The Code provides a very good outline of potentially relevant issues."
- 6) Consult state licensing provisions. Check for applicable statutory regulations with your board of social work examiners—and with the board in the client's state.
- 7) Consult a malpractice/risk management attorney. A legal

specialist may be asked to assess website materials regarding existing standards of care, malpractice issues, and more.

- 8) Provide communications tips. If communicating by text-based message alone, the clinician should provide communication tips to facilitate clearer understanding with the client.

Addressing the serious implications of this emerging medium, Reamer offers this parting thought, "Social workers must be diligent about the attendant risk management issues. Distance counseling is cutting-edge and the answers just aren't in yet."

Two invaluable resources to consult are the NASW's practice updates, "Online Therapy and the Clinical Social Worker" and "Medicare Telehealth Provisions for the Clinical Social Worker." Additionally, no discussion of distance counseling should ignore the implications of regulations promulgated by the Health Insurance Portability and Accountability Act (HIPAA). For the latest information on HIPAA and its impact on clinical social workers, consult the NASW's website, <http://www.socialworkers.org/hipaa/>. Online training courses for the HIPAA privacy regulations are now available through NASW's website at [www.hipaaprof.com/nasw](http://www.hipaaprof.com/nasw).

For those social workers who wonder if the malpractice insurance would cover an allegation of professional negligence in distance therapeutic counseling, the NASW Insurance Trust office advises that the answer is a much generalized "yes" with significant qualifications. For example, one of them is that the social worker must be properly licensed per state laws not only in the social worker's location, but the client's location as well.

This is an emerging and evolving social work risk management topic.

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Source:

- 1 “Prudent Practice: A Guide for Managing Malpractice Risk” (1997) by Mary Kay Houston-Vega, Elane M. Nuehring, and Elisabeth R. Daguio.

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