Traversing the World of Distance Therapy

Just as the late 1960s came to be known as The Age of Aquarius, it seems likely that our current era is likely to be known as The Age of The Internet. Technology has touched every aspect of our lives, from the way we communicate with our family to the way we order pizza. It comes as no surprise that healthcare has been affected by these changes as well. In fact, the dawning of the Internet Age has brought with it a variety of tools that will affect our profession. And, as with all emerging trends, there are, and will continue to be, legal issues to work through.

One area of particular interest to the marriage and family therapy (MFT) community is online therapy. For purposes of this article, we will broadly define online therapy as the practice of therapy when client(s) and therapist are in separate or remote locations and utilize electronic means to communicate. This can include online chats, e-mail, phone therapy (tele-therapy), Skype, or any other form of non-face-to-face therapeutic services.

Online therapy can be an effective mechanism to interact with your clients, particularly those in rural areas, but before you dive into the field, it is important to get up to speed on the legal issues that you are sure to face. Here are some of the major issues that you will need to make yourself aware of: licensure; confidentiality and informed consent; and the duties to report and warn.

Perhaps unsurprisingly, the state licensure boards have been a bit slow in regulating the practice of online therapy. As a result, there is no uniformity on this question, increasing the need for MFTs to be careful when doing their homework. MFTs who want to integrate online therapy into their practice should first contact the licensure boards in question.

As anyone who has ever been the victim of a computer virus can tell you, the Internet is not always completely secure. There are countless ways to breach a user’s security and access everything on their computer. These never-ending threats demand a vigilant response. It is important to remember that if you practice in this area you will be held to the same legal and ethical standards as those who practice face-to-face (as with licensure issues, if you are conducting online therapy across borders, be sure to check the specific regulations in both the sending and receiving jurisdictions).

Another issue that is likely to arise during the course of practice is the duty to report child and elder abuse, and the duty to warn, also known as the Tarasoff duty. The duty to report is the simpler of the two duties because every jurisdiction has adopted some form of the law. Even so, each state has its own statute and whether the state in question has adopted the duty to warn (in addition to the licensure requirements, if any). And again, the question arises of where the therapy is taking place, in the sending or receiving state. As with licensure, there is no clear answer, further exposing the therapist to risk.

While risk is inherent in our profession, those practicing face-to-face therapy are aware of the legal traps laid out in front of them and can avoid those traps accordingly. There is a body of law that has developed to regulate the profession. On the other hand, online therapy represents an emerging trend, and the law is likely to follow behind, not lead ahead.

One thing seems certain; as our lives increasingly coexist with technology, the demand for online therapeutic services will surely increase. MFTs who practice online therapy are embarking on legal ground that is fraught with ambiguity. Until the questions surrounding this delivery method are clearer, MFTs will be well served to tread carefully. If an MFT is interested in practicing online, he or she needs to be sure to do research before beginning. As always, prudence makes perfect.

As with face-to-face therapy, MFTs have a legal and ethical obligation to explain the details of informed consent to online clients. This includes a thorough explanation of the limitations of confidentiality, billing policies, policies regarding the treatment of minors, and anything else you would disclose in a face-to-face setting (as with licensure issues). MFTs who practice online will continue to be, legal issues to work through.

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