Social Work in a Digital World: Ethical and Risk-Management Challenges
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The Good(?) Old Days: The Way It Used to Be
More Nostalgia
A Little More Nostalgia
Just A Little More Nostalgia
And Now We Have . . .

Cybertherapy
Key Stages

- Morality period (late 19^{th} to early 20^{th} century)
- Values Period (up through 1970s)
- Ethical dilemmas and decision making (late 1970s to present)
- Ethics risk management (early 1990s to present)
- Digital era (mid 2000’s to present)
Digital Trends in Clinical Practice: The Changing Nature of Mental Health Services

• What do we mean by relationship?
• Who do we aim to serve?
• What do we mean by privacy?
• What are the boundaries of professional-client relationships?
• What do we mean by informed consent?
• How do we manage and access clinically relevant information?
Terminology

- Internet-supported Intervention
- web-based therapy
- e-interventions
- computer-mediated interventions
- online therapy
- online counseling
- technology assisted distance counseling (TADC)
- e-therapy/e-counseling
- cybertherapy/cybercounseling
- e-health
- psycho-technology
- Tele-Health
- Internet counseling
- Therap-E-Mail
Forms of Electronic Services and Interventions

• E-therapy chat (live)
• Moderated forum
• Web-based psychoeducation
• Self-guided Web-based interventions with automated feedback (e.g., anxiety, phobia, self-esteem, anger, weight loss)
  – Human support
  – No human support
• Video conferencing
• Social networking
• Telephone therapy
• Avatar therapy
• Expert systems
• Email exchanges
• Text messages
• Client Blogs
• Client Twitter
Examples of e-Therapy Websites

- http://www.asktheinternettherapist.com/
- https://www.breakthrough.com/
- https://virtualtherapyconnect.com/
- http://www.talkspace.com/
- https://www.buddyapp.co.uk/
- http://www.onlinecounseling.org/
- https://pfh.org/virtual-world/
- http://www.youtube.com/watch?v=bYYc9Dk2NQk
- http://t2health.dcoe.mil/video
- http://www.veterantraining.va.gov/movingforward/#
- http://www.usctelehealth.com/
- http://www.vyzit.com/
Examples of Electronic Services and Interventions

- Computerized expert systems: [http://easydiagnosis.com/cgi-bin/expert/start.cgi?mod=Depression](http://easydiagnosis.com/cgi-bin/expert/start.cgi?mod=Depression)
- Beating the Blues: [http://www.beatingtheblues.co.uk/patients/](http://www.beatingtheblues.co.uk/patients/)
- PTSD intervention: [https://www.youtube.com/watch?v=PbWQfyW3Vqc](https://www.youtube.com/watch?v=PbWQfyW3Vqc)
- Unsuicide: [http://unsuicide.wikispaces.com/Online+Suicide+Help#UdHC2py8NEM](http://unsuicide.wikispaces.com/Online+Suicide+Help#UdHC2py8NEM)
- Facebook and SAMHSA: [http://www.samhsa.gov/newsroom/advisories/1112125820.aspx](http://www.samhsa.gov/newsroom/advisories/1112125820.aspx)
- Personal Investigator: [http://aplayspace.com/mm/pi](http://aplayspace.com/mm/pi)
Key Ethical Issues

• Informed consent
• Privacy and confidentiality
• Boundaries, dual relationships and conflicts of interest
• Practitioner competence
• Records and documentation
• Collegial relationships
Informed Consent

• Verification of client identity
• Capacity to consent (e.g., age, competence)
• Potential risks (e.g. confidentiality breach, emergency services, interruption of services, language, literacy)
Privacy and Confidentiality

• Privacy protection and encryption
• Adherence to relevant laws and regulations
• Conducting Google search
• Confidentiality agreements when conducting group treatment
• Exceptions to clients’ confidentiality rights (e.g., disclosures to protect clients from self harm, third parties, mandatory reporting, court orders)
Boundaries, Dual Relationships and Conflicts of Interest

- Social networking (Facebook, LinkedIn)
  - Current clients
  - Former clients
  - Former Facebook friend becomes client
- Social worker self-disclosure
- Social worker-client access
  - Time of day/night
  - Form of access, e.g., text message, email
- Relationships with former clients
- Conflicts of interest, e.g., commercially sponsored video conferencing software with ads
Practitioner Competence

• Training (screening potential clients, assessment, interventions, encryption, documentation, termination of services)
• License (jurisdictional issues)
• Consultation and supervision
• Keeping up with research developments and evolving practice standards
Records and Documentation

• Encryption
• Access
• What and how to document (email, text, cybertherapy communications)
• Retention
• Disposal and destruction
• Relevant laws and regulations
Collegial Relationships

• Treating with respect
• Avoiding derogatory and defamatory postings
• Respecting colleagues’ privacy (e.g., Google searches)
• Respecting colleagues’ work products (plagiarism, unauthorized uploads)
• Responding to colleagues’ unethical conduct (e.g., inappropriate postings, cyberbullying)
• Avoiding cyberbullying, collegial harassment
Research on Effectiveness: Digital Technology as a Treatment Tool

• http://www.jmir.org/2012/1/e13/
• http://clinicaltrials.gov/ct2/show/NCT01180829?term=text+message&rank=3
• http://clinicaltrials.gov/ct2/show/NCT00184340?term=etherapy&rank=1
• http://clinicaltrials.gov/ct2/show/NCT01476891?term=etherapy&rank=2
Potential Advantages

• Emotionally safe (e.g., shy, anxious client)
• Semi-anonymity regarding self-disclosure
• Increased chance of candor
• Convenience
• Absence of geographical barrier
  – Rural areas
  – Clients with disabilities
• Immediacy
• Flexible scheduling
• Cost effective
Potential Risks and Challenges

• Loss of human factor, nonverbal cues
• Misunderstandings
• Compromised privacy and confidentiality
• Boundary issues (ambiguous access, self-disclosure)
• Difficulty addressing long-term, complex problems
• Delayed response
• Feeling rushed to respond to emails, texts
• Emergencies
• Identity fraud
• Interstate practice without a license
• Technological failure
High-risk Clients

• suffering from psychiatric disorders needing immediate attention
• significantly depressed
• a danger to themselves or others
• struggling with serious substance abuse issues
• presenting psychotic or actively suicidal concerns
• struggling with psychological disorders characterized by distortion of reality
• highly reactive and potentially dangerous
• struggling with certain personality disorders such as those with borderline personality disorder, paranoia or dissociative disorders
Online Services: Resources and Ethics Guidelines

- International Society for Mental Health Online: [http://ismho.org/](http://ismho.org/)
- American Distance Counseling Association: [http://www.adca-online.org/](http://www.adca-online.org/)
Developing a *Social Media Policy*

- “Friending” on Facebook
  - Boundaries issues
  - Rejection issues
  - Privacy issues (e.g., acquaintances in common)
- Electronic interactions (Facebook, email)
  - Privacy issues
  - Documentation issues
- To Google or not to Google
  - “Curiosity” searches
  - Crisis searches
- Business review sites (e.g., Yelp, Healthgrades)
- Location-based services (e.g., Foursquare, Gowalla, Loopt)
- Example of a social media policy: http://www.drkkolmes.com/docs/socmed.pdf
An Example of a Health System’s Social Networking Policy

Inova Health System: Social Networking and Communications Policy:

“Uh oh, I better be careful!”

http://www.communitycare.co.uk/2014/09/10/social-worker-given-conditions-practice-order-disrespectful-facebook-posts/
“Friending” Clients on Facebook: Questions to Consider

- What is on the Facebook profile?
  - Facebook Page: professional use, one-way
  - Facebook Profile: personal content, photos, etc.
- Are privacy controls set?
  - Digital “natives”
  - Digital “immigrants”
- What is the context of therapy? (e.g., client age, culture, clinical setting, therapeutic approach, size of community)
- Who is the client? (e.g., clinical issues, boundary instincts)
- Why did the client post the request?
- Will this set a challenging precedent for other clients?
- What are the HIPAA and documentation implications?
- Will “Friending” a client create complex boundary issues?

(see Zur)
Email Considerations

• Is the email communication for administrative or therapeutic purposes?
• How often must I check my email messages? (provide clients with written and verbal information about your policy)
• Does email communication fall under HIPAA?
• What are the confidentiality and privacy issues?
• Do I need to document emails in the clinical record?

(see Zur)
“Risks inherent in sharing information. Although we allow you to set privacy options that limit access to your information, please be aware that no security measures are perfect or impenetrable. We cannot control the actions of other users with whom you share your information. We cannot guarantee that only authorized persons will view your information. We cannot ensure that information you share on Facebook will not become publicly available. We are not responsible for third party circumvention of any privacy settings or security measures on Facebook. You can reduce these risks by using common sense security practices such as choosing a strong password, using different passwords for different services, and using up to date antivirus software.”
Core Ethics Knowledge: Electronic Services and Interventions

• Ethical dilemmas
• Ethical decision-making
• Ethics risk management
Potential Ethics Risks: Electronic Services and Interventions

• Ethical mistakes
• Deliberate ethical decisions
• Ethical misconduct
Key Ethics Risk Areas: Electronic Services and Interventions

- Client rights
- Confidentiality and privacy
- Informed consent
- Service delivery
- Boundary issues
- Documentation
- Defamation of character

- Client records
- Supervision
- Consultation
- Client referral
- Fraud
- Termination of services and client abandonment
Relevant Laws:
Electronic Services and Interventions

• Statutory law
• Regulatory law
• Case law
Examples of Ethical Standards: Digital Services and Interventions

• http://www.apa.org/ethics/education/telephonestatement.aspx
• http://www.nbcc.org/assetmanagerfiles/ethics/internetcounseling.pdf
• https://ismhoh.org/suggestions.asp
• http://www.acto-uk.org/professionalconduct.htm
Standard of Care

“What an ordinary, reasonable, and prudent professional, with the same or similar training, would have done under the same or similar circumstances.”
Standards of Care

• Substantive standard of care
• Procedural standard of care
  – Consult colleagues and supervisors
  – Review relevant ethical standards
  – Review relevant laws, policies, and regulations
  – Review relevant literature
  – Obtain legal consultation, when necessary
  – Consult ethics committee, if available
  – Document decision-making steps
Professional Negligence

• A duty exists
• Dereliction or breach of the duty
• Damage or injury
• Causal connection between the breach of the duty and the damage or injury (proximate cause or “cause in fact.”)
Forms of Negligence

• **Misfeasance**: Commission of a proper act in a wrongful or injurious manner or the improper performance of an act that might have been performed lawfully.

• **Malfeasance**: Commission of a wrongful or unlawful act.

• **Nonfeasance**: The failure to perform an act that is part of one’s responsibility.
Confidentiality Issues

- Duty to protect/warn
- Mandatory reporting
- 42 CFR Part II
- FERPA: Family Education Rights & Privacy Act
- HIPAA: Health Insurance Portability and Accountability Act
- Disclosure: Other agencies
- Disclosure: Within agencies
- Peer Consultation

- Group counseling
- Self-help groups
- Minors
- Bill collection
- Deceased clients
- Sexual misconduct by professionals
- News media
- Law enforcement
- Interns
- Personal notes
Duty to Protect

- Threat of violence
- Foreseeable threat
- Imminent threat
- Identifiable potential victim
Informed Consent

• Voluntary and informed
• Content of Form
• Process
Informed Consent: Content of Form

- Detailed statement of purpose
- Right to refuse and withdraw
- Reasonable alternatives
- Costs/Benefits
- Jargon

- Blank forms
- Exceptions: Emergency, therapeutic privilege, client waiver
- Expiration date
- Acknowledgment statement
Informed Consent: Process

• Competence
• Verbal explanation
• Opportunity for Q&A
• Language barriers
Consent to Intervention: Key Elements

• Provider’s credentials and qualifications
• Client’s needs and goals
• Description and purpose of intervention
• Potential benefits and risks of electronic intervention and nonintervention
• Alternative interventions
• Overview of confidentiality rights and exceptions
• Overview of supervision, consultation, disclosures
• Overview of relevant boundary issues
• Intervention details: timeframe, schedule, fees
• Overview of documentation and access
• Disclosures to insurers and managed care organizations
• Emergency procedures and protocol
• Overview of client’s rights (e.g., treatment planning, grievance)
Defamation of Character: Risks in Electronic Communications

• Libel (written) and Slander (verbal)

• Key elements
  – Untrue statements
  – Knowingly untrue or should have known to be untrue
  – Damage or injury
Subpoenas

• Subpoena *duces tecum*; Subpoena *ad testificandum*
• Possible responses:
  – Motion to quash
  – Motion for protective order
  – Request for finding of relevance (“in camera” review)
  – Request to modify subpoena
  – Object to subpoena
Negligent Electronic Services Intervention

• High-risk techniques
• Inadequate training or expertise
Boundary Issues

• Boundary *crossings* v. boundary *violations*

• Types of dual or multiple relationships
  – Intimate relationships
  – Personal benefit
  – Emotional and dependency needs
  – Altruism
  – Unavoidable and unanticipated circumstances
Supervision

• Key concepts: *Respondeat Superior* & vicarious liability

• Key elements:
  – Content of supervision
  – Frequency of supervision
  – Duration of supervision
  – Boundaries between supervisor and supervisee

• Documentation
Termination of Electronic Services and Interventions

• The concept of abandonment
• Guidelines to protect clients and minimize risk
Termination Guidelines to Protect Clients and Minimize Risk

• Provide clients with names, addresses, and telephone numbers of at least 3 appropriate referrals when it is necessary to terminate.

• Follow up with a client who has been terminated. If the client does not go to the referral, write a letter to him or her about relevant risks.

• Provide as much advance warning as possible

• When clients announce their decision to terminate prematurely, explain risks involved and suggestions for alternative care. Include this information in a follow-up letter.

(cont’d.)
Termination Guidelines to Protect Clients and Minimize Risk (cont’d.)

• Carefully document in the case record all decisions and actions related to termination.

• In cases involving discharge from residential facilities, prepare a comprehensive discharge plan and notify significant others (inform clients of this.)

• Provide clients with clear instructions to follow in the event of an emergency. Ask clients to sign a copy acknowledging receipt and that the instructions were explained to them.
Termination Guidelines to Protect Clients and Minimize Risk (cont’d.)

• When leaving an employment setting, inform clients of appropriate options for continuation of services (e.g., transfer or continuation) and related benefits and risks.

• Consult with colleagues and supervisors about termination strategy and decisions.

• Consult relevant Code of Ethics standards.
Documentation of Electronic Services and Interventions: Key Issues

• The role of documentation and case recording in professional practice
  – Assessment
  – Planning and delivering services
  – Accountability: Clients, insurers, agencies, other providers, courts, utilization review
  – Continuity and coordination of services
  – Supervision
  – Evaluation of services
This presentation draws on material from the following resources:


This presentation draws on material from the following resources (continued):

- Zur Institute, *Digital Ethics—Internet and Therapy*: http://www.zurinstitute.com/articles.html#boundariesemail