

Distance Counseling Supervision

A Guide for Mental Health Clinicians



WILEY

Table of Contents

Cover
<u>Title Page</u>
<u>Copyright Page</u>
<u>Dedication Page</u>
<u>Preface</u>
About the Editors
About the Contributors
<u>Appendix Authors</u>
Chapter 1: Ethical, Legal, and Risk Management Considerations: Understanding the Landscape of Telebehavioral Health and Supervision
<u>Competency</u>
<u>Residency</u>
Assessing Appropriateness for Technology-Assisted
<u>Services</u>
Anonymity and Confidentiality
<u>Security</u>
<u>Liability Insurance and State Licensure Regulations</u>
Synchronous Videoconferencing
<u>Texting</u>
Social Media
<u>Voice-Assisted Technology, Bluetooth, and Gaming</u> <u>Communication on Devices</u>
<u>Informed Consent</u>
Additional Recommendations to Be Included in the Informed Consent

<u>Distance Supervision</u>
Scenarios for Discussion
Questions to Explore
Conclusion
References
Chapter 2: Certification and Regulation of Distance
Counseling and Supervision
The Promise and Peril of Behavioral Telehealth
<u>Services</u>
What Is Regulation and Why Is It Important?
<u>The Case for Licensure</u>
<u>State Licensing Boards</u>
<u>Limitations of State Licensing Boards</u>
The Role of Regulation in Telehealth
Questions to Explore
Best Practices for Practitioners
Scenario for Discussion
Conclusion
References
<u>Chapter 3: Bridging the Generational Technology Divide</u>
in Counseling Training, Practice, and Supervision
<u>Definition of Terms</u>
Technology in the Counseling Profession
Scenarios for Discussion
Questions to Explore
Conclusion
References
Chapter 4: Navigating the Regulatory Gauntlet
The Current Landscape of Regulation and Oversight

<u>Important Terminology</u>
The Role of Regulatory Bodies
Professional Associations' Codes of Ethics and
Standards of Practice
<u>HIPAA</u>
<u>HITECH</u>
<u>FERPA</u>
<u>Licensing Boards</u>
Scenarios for Discussion
Questions to Explore
<u>Conclusion</u>
References
<u>Chapter 5: Distance Supervision</u>
Challenges to Finding Good Supervision
The History of Clinical Supervision
Questions to Ask a Potential Clinical Supervisor
Scenarios for Discussion
Conclusion
References
<u>Chapter 6: The Tools of Telebehavioral Health: How to Identify, Vet, and Deploy the Right Technology in Practice</u>
Federal Rules and Regulations: HIPAA and HITECH
<u>Family Educational Rights and Privacy Act of 1974</u> (<u>FERPA</u>)
Security Standards

Identifying, Vetting, and Deploying the Right

<u>Types of Telehealth (Synchronous Video) Vendor</u>

<u>Technology</u>

Solutions

Questions to Explore When Choosing Telehealth Tools
What to Look for in a Vendor
Conclusion
References
Chapter 7: Counseling Training, Practice, and
<u>Supervision Using Avatars</u>
<u>History</u>
<u>Virtual Presence</u>
<u>Avatar Platforms</u>
<u>Qualities of Avatars</u>
Qualities of the Environment
Application to Counseling and Counseling
<u>Preparation</u>
Ethical Practice Concerns
<u>Guidelines for Establishing Avatar-Based Practice</u>
<u>Legal Limitations of Practice</u>
<u>Conclusion</u>
<u>References</u>
<u>Chapter 8: Incorporating Online Therapy Into a Private</u>
<u>Practice</u>
<u>Clinical Considerations</u>
<u>Getting Started</u>
<u>Clinical Strategies</u>
Scenarios for Discussion
Conclusion
<u>References</u>
<u>Appendix A: Readiness for Online Counseling: Client</u> Checklist
Appendix B: Video Call EtiquetteVideo Call Etiquette

<u>Appendix C: Clinical Supervision AgreementClinical Supervision Agreement</u>

<u>Appendix D: Information, Authorization, and Consent to Technology-Assisted ServicesInformation, Authorization, and Consent to Technology-Assisted Services</u>

Faxing Medical Records

Index

Technical Support

End User License Agreement

List of Illustrations

Chapter 6

Figure 6.1 Sample Telehealth Workflow

edited by

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DISTANCE COUNSELING AND SUPERVISION

A Guide for Mental Health Clinicians



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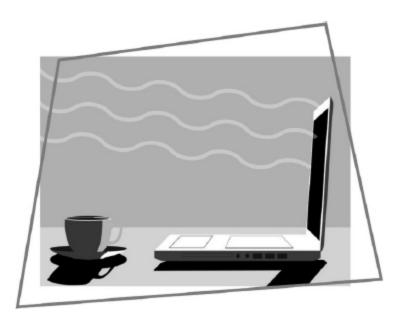
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DEDICATION

The book is dedicated to our families, parents, mentors, students, and communities. You are the foundation and the future.



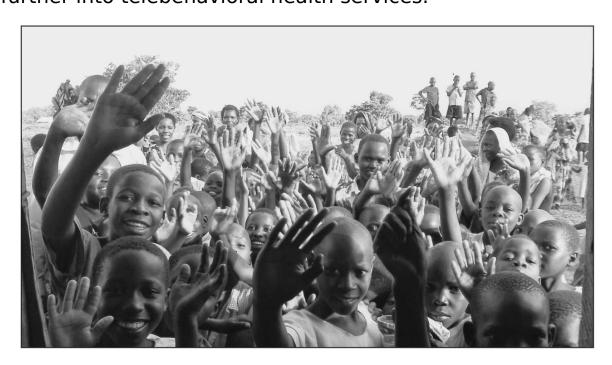
PREFACE

This book has been an exploration that began in 2016 when we were in an American Counseling Association (ACA) Ethics Committee town hall meeting. The conversation was rich with guestions about telehealth, and there were more questions than answers. In an effort to better understand the complexities of this topic, we invited the leaders and many stakeholders from governing and advising bodies to contribute to a panel discussion. At that time, we included the cochair of the ACA Ethics Committee, the cochair of the ACA Policies and ByLaws Committee, the chair of the Council for Accreditation of Counseling and Related Educational Programs, the president of the American Association of State Counseling Boards, the founder of Motivo, the founder of WeCounsel, counselor educator and marriage and family leaders, and experts in the use of avatar and virtual platforms in counselor education. This conversation was so rich that this book was born.

As we were editing the final chapters in February and March 2020, we began to experience something completely

unexpected because of Coronavirus (COVID-19). Most communities in the United States and many communities across the globe were ordered to shelter in place. Counselors and other mental health workers were attempting to balance the necessity of limiting exposure to themselves and their clients while still maintaining services for clients in need during an incredibly stressful time. Even the most conservative and technology-cautious professionals were attempting to offer virtual services. For the first time in our memory, the Health Insurance Portability and Accountability Act of 1996 and other privacy laws were temporarily relaxed because of the emergency. Governors, federal offices, and licensure boards eased restrictions on definitions around residency and restrictions on the use of technology in counseling and supervision. Although the relaxation of these standards might have been temporary, it ushered in a new era of technology-based counseling and supervision. During this time, most counselors, counselor educators, and supervisors used various platforms to continue providing services for clients. Synchronous videoconferencing platforms such as Zoom, Doxy.me, and Webex became common venues for counseling and supervision. Clinical spaces were created in parked cars, spare bathrooms, or makeshift home offices. Professional organizations, including ACA and its state and regional affiliates, rose to the occasion and organized trainings via videoconferencing in an effort to help counselors across the globe prepare for the task before them. During an emergency, such as the COVID-19 pandemic, it is important for professionals to attend to licensing authorities' websites for their state, their state's governor's office, the U.S. Department of Health and Human Services, state and local professional organizations, and national organizations (including ACA). ACA has a web presence dedicated to telebehavioral health in its Knowledge Center (https://www.counseling.org/knowledge<u>center/mental-health-resources/trauma-disaster/telehealth-information-and-counselors-in-health-care/telebehavioral-health-licensure-and-liability-insurance</u>).

This book is a tool for continuing the conversation among our colleagues to encourage the use of technology in productive, safe, and confidential ways so that we may better serve our clients, supervisees, and the profession. Although this resource offers suggestions for professional practice, it is our hope that it will provide insights and valuable questions for greater exploration as you venture further into telebehavioral health services.



All author proceeds from this book will go to Uganda Counseling and Support Services (ugandacss.org) in support of their efforts to bring counseling, education, and medical care to underserved communities throughout Uganda.



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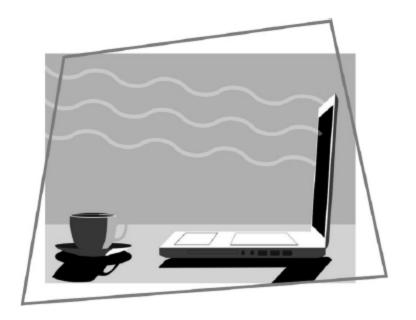
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CHAPTER 1 ETHICAL, LEGAL, AND RISK MANAGEMENT CONSIDERATIONS: UNDERSTANDING THE LANDSCAPE OF TELEBEHAVIORAL HEALTH AND SUPERVISION

Jennifer Nivin Williamson and Daniel G. Williamson

The *ACA Code of Ethics* (American Counseling Association [ACA], 2014) declares the following in the introduction to Section H:

Counselors understand that the profession of counseling may no longer be limited to in-person, face-to-face interactions. Counselors actively attempt to understand the evolving nature of the profession with regard to distance counseling, technology, and social media and how such resources may be used to better serve their clients. (p. 17)

This section on distance counseling, technology, and social media was among major revisions to the ethical standards and identifies technology as a part of the profession. Counselors have an ethical obligation to understand how new technologies might be used to serve clients and to use them responsibly. The introduction to Section H goes on to caution counselors to recognize the concerns with using these technologies, especially in terms of protecting confidentiality, and to recognize the ethical and legal requirements needed to implement these resources appropriately (ACA, 2014). The primary goal of integrating technology into counseling practice is to enhance human interaction (Association for Counselor Education and Supervision Technology Interest Network, 2007). As counselors engage in technology-assisted mental health services, it is imperative that they consider ethical, legal,

and risk management standards in an effort to provide competent care to clients. In instances when the process is not clearly outlined, an ethical decision-making model should be used, the law should be explored, and the appropriate stakeholders should be consulted.

Providing some form of mental health services at a distance is not a new concept. Suicide hotlines have been in existence since the 1950s (Centore & Milacci, 2008), and poet Sylvia Plath continued to connect with her Boston-based psychiatrist after she moved to England by exchanging letters in the 1960s. Although Plath's life ultimately ended in suicide, she described the letters as a lifeline (Alexander, 2018). This illustrates both the risk and benefit of distance counseling.

In 2014, ACA recognized "the evolving nature of the profession with regard to distance counseling, technology, and social media" (p. 17). In 2016, the National Board for Certified Counselors (NBCC) recognized the impact that computers and technology have had on the counseling profession, drafted a policy regarding the provision of distance services, and developed a distance counseling credential. Multiple terms are used to describe counseling activities that partly or completely use the internet, including "online counseling/therapy, technology-assisted counseling, e-therapy, psychotechnology, behavioral telehealth, distance professional services, internet counseling, cybertherapy, and distance counseling" (Wheeler & Bertram, 2019, p. 172). Harris and Birnbaum (2015) touted the possibility of technological advances to reach tens of millions of individuals who are currently underserved.

Legal and regulatory bodies struggle to keep up with the integration of technology into the profession, as do practitioners. VandenBos and Williams (2000) reported that

in a survey of American Psychological Association members, 98% affirmed that they had provided counseling services over the phone. Although the use of technology in counseling and supervision has been present for decades, the use of modern technologies remains hotly debated.

During the 2020 Coronavirus (COVID-19) crisis, technology proved to be an opportunity for maintaining continuity of care, providing emergency services, and coping with the global pandemic. Many governing bodies, including state licensure boards and the U.S. Department of Health and Human Services, temporarily relaxed Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulations in an effort to allow counselors and other mental health professionals to provide mental health services during this emergency (U.S. Department of Health and Human Services, 2020). It is possible that these experiences with online counseling will further expand the use of distance counseling. In addition, counseling supervision was provided via synchronous videoconferencing platforms in universities that traditionally only used face-to-face formats.

Competency

In many situations, counselors are responsible for identifying and demonstrating competency when determining their scope of practice. There are, however, specific laws or regulations for determining minimum standards. Some state licensure boards have identified minimum training standards through continuing education credits or university training, whereas other boards have not clearly articulated expectations. It has been a challenge for regulatory entities to stay current with the rapid evolution of technology and technological practices. It is clear in all situations that counselors must always function

within their areas of competence and be able to provide evidence regarding their competence and adequate training. This is especially challenging as technology is constantly changing, and best practices in technology-assisted mental health services are in their infancy. ACA (2014) notes that "counselors who engage in the use of distance counseling, technology, and/or social media develop knowledge and skills regarding related technical, ethical, and legal considerations (e.g., special certifications, additional course work)" (Standard H.1.a.).

In addition, counselors must make clients and supervisees aware of the training, limitations, and protections offered by the counselor or supervisor (American Association for Marriage and Family Therapy, 2015). The Association of Marital and Family Therapy Regulatory Boards (AMFTRB; 2016) identified a minimum of 15 hours of initial training, including the appropriateness of teletherapy, teletherapy theory and practice, modes of delivery, legal/ethical issues, handling online emergencies, best practices, and informed consent. In addition, it requires five continuing education hours every 5 years. NBCC offers a nationally recognized credential, the board certified-telemental health provider (BC-TMH), who might be useful in training and the demonstration of skills. This provides counselors an opportunity to demonstrate formal training or skill attainment as a telemental health provider (Center for Credentialing and Education, 2020).

Residency

When counselors engage in technology-assisted counseling, they should be aware of the laws and regulations in their state of practice as well as the client's state of residence. In most situations, counselors must adhere to the laws and regulations of both states (ACA, 2014; AMFTRB, 2016;

NBCC, 2016b). When clients or counselors travel out of their state of residency (physically or virtually), counselors should be aware of the state's definition of residency, as each state defines residency differently. Some states allow a client's residency to be defined by the client's home address, whereas others define residency as the physical locations of the counselor and/or client at the time of service delivery (AMFTRB, 2016). Some states allow for travel, but they may define the number of days outside of the home state. In this situation, an attorney and the licensure boards for the states in question should be consulted to fully understand the legal definition of residency. Once counselors have identified the legal regulations for their region, they should document their findings as well as their activities in their counseling records (NBCC, 2016b).

When counseling clients who are outside of the United States, it is important to identify the counseling regulations for the counselor's home state as well as the country and/or region in which the client is living (ACA, 2014). It might be important to identify how mental health services are defined and regulated in the region, as the terms *counselor* or therapist might have different meanings in different regions. When counselors or clients reside on a military base, the regulations may also be very different. Many U.S. military bases are considered sovereign territory and possess their own regulations regarding licensure. Another factor to consider is where the counseling services are offered, either through a mental health office or through a chaplain's office. Chaplain or faith-oriented services are sometimes subject to different rules, laws, and regulations, which has implications for confidentiality.

Several resources are available to assist counselors providing telebehavioral health services. ACA provides resources regarding client/counselor residency on their website (https://www.counseling.org) and specifically in the Government Resources section (https://www.counseling.org/government--affairs/government-resources-for-counselors).

Assessing Appropriateness for Technology-Assisted Services

Counselors must recognize that not all clients will be well served through telebehavioral health services; therefore, it is imperative for them to assess a client's appropriateness for technology-assisted services prior to beginning distance counseling. The ACA Code of Ethics states that "counselors make reasonable efforts to determine that clients are intellectually, emotionally, physically, linguistically, and functionally capable of using the application and that the application is appropriate for the needs of the client" (ACA, 2014, Standard H.4.c.). Counselors must recognize that distance counseling services are not appropriate for every client; in those situations, they should consider offering face-to-face services or providing appropriate referrals for those clients. This assessment of client appropriateness should be an ongoing process to ensure the client is using technology in an appropriate manner (ACA, 2014; Stolsmark, 2015). It is important for counselors to assess several categories of appropriateness, including access to and knowledge about technology, counseling space and netiquette, emotional stability, and safety and emergency risk management. It is recommended that counselors meet with clients in person when possible to conduct this assessment, to verify their identity, and to conduct an initial informed consent interview. When an in-person session is not possible, a synchronous videoconferencing session might be appropriate (AMFTRB, 2016). It is important for clients to understand the risks and limits to confidentiality

prior to engaging in an initial session using technology. Clinicians should consider the following areas of appropriateness prior to engaging in virtual clinical services with clients.

Access to and Knowledge About Technology

Technology-assisted counseling sessions are most effectively conducted with clients who are very comfortable using similar technologies. It can be risky or stressful to use technology in the counseling session when the client has not used it in the past or when appropriate supports are not in place. In some cases, rural agencies have opted to send out technologists or case managers to assist clients in their homes during initial sessions when they are new to using virtual technology. Other providers have constructed telehealth rooms in their agencies that are monitored by administrative staff to support connections with counselors who are off-site. It is helpful to provide clients with a list of the required technologies prior to the first session. This list might include a computer with the capacity necessary to handle a teleconferencing program, a webcam with microphone, headphones with an integrated microphone, and an Ethernet-accessed internet connection. It is recommended that clients and counselors use Ethernet cables to connect to the internet, as wireless internet may not be secure and risk confidentiality breaches. It is also helpful when both clients and counselors use a virtual private network as a means to secure and protect confidentiality. HIPAA-compliant encrypted software should this time of crisis; however, it also recognized the need to continue to safeguard privacy:

If telehealth cannot be provided in a private setting, covered health care providers should continue to implement reasonable HIPAA safeguards to limit incidental uses or disclosures of protected health information (PHI). Such reasonable precautions could include using lowered voices, not using speakerphone, or recommending that the patient move to a reasonable distance from others when discussing PHI. (Office for Civil Rights, 2020, p. 3)

Emotional Stability, Safety, and Emergency Risk Management

It is important to assess the emotional and psychological stability of the client to ensure that virtual counseling services are appropriate. In situations in which involuntary commitment might become a necessity, technology-assisted therapy might not be the best choice. It might be important to assess for suicidal or homicidal ideation, hallucinations, or delusions prior to engaging in virtual services. This assessment for appropriateness of services should be ongoing and continue throughout treatment. For safety purposes, it is important to verify the client's location at the beginning of each session and maintain a safety plan (AMFTRB, 2016). A safety plan should be proactive in considering the potential risks and potential needs of each individual client. It is recommended that an emergency contact (an adult older than age 18 who is able to respond) be identified who resides within 10 minutes of the client during scheduled sessions. Informed consent should provide permission for the counselor to speak with emergency contacts in case of an emergency. Local law enforcement, medical personnel/emergency medical services, and fire services in the client's location should be identified as well. This safety plan should be kept current and up-to-date as the client moves or travels or as