

23 Ways to Protect Your License

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 2 CE Credits

Standard of Care

- ❖ The qualities and conditions which **prevail, or should prevail**, in a **particular** mental health service, and that a reasonable and **prudent** practitioner follows
- ❖ **Beyond** 'no sex' with current clients and 'do not exploit' or 'intentionally harm clients' there is **no one textbook** or set of rules that define the standard of care

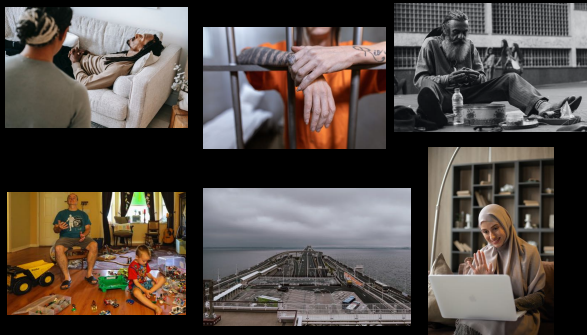
Standard of Care is NOT!

- ❖ A standard of perfection
- ❖ An A- standard - It is a C+ standard
- ❖ Free of mistakes – Mistakes are human
- ❖ Rigid risk management principles of "Don'ts"
- ❖ Following psychoanalytic principles
- ❖ Ruled by majority
- ❖ Permanent or fixed
- ❖ Determined by outcome
- ❖ Determined by cost

Standard of Care is Based on:

- ❖ State and Federal Laws & Case Law
- ❖ Licensing Boards' Regulations
- ❖ Ethics codes (NASW, APA, CAMFT, ACA, Etc.)
- ❖ Consensus among professionals
- ❖ Professional literature
- ❖ Consensus in the community/setting/context
- ❖ The "respected minority" doctrine (new approaches)
- ❖ Department/Agency Regulations (when applied)

Standard of Care Is Context based



5 Types of Consultations

1. **'Hall-Way Consultation'** or quick phone consultation with a colleague
2. **Posting** (unanimously) on List-Serve, chatrooms, WhatsApp, Signal, Social Networking
3. **Peer-consultation** group (In person or Online)
4. **Risk Management expert** (often free from your insurance company)
5. **Expert: Ethicist - Clinical Expert - Attorney**

Document - Document - Document

23 Ways to Keep Your License

What NOT to do...

1. **Don't drink & Drive**
2. **Don't make any custody recommendations!**
3. **Don't** have sex with current or recently terminated clients
4. **Don't** breach confidentiality (online & offline)
5. **Don't** engage in business dual relationships
6. **Don't** turn clients' debt over to a collection agency

23 Ways to Keep Your License

What NOT to do...

7. **Don't** get carried away with Social Media.

No Texting... into the night!

- ❖ Texting may be the only way to reach young clients
- ❖ Long trails of texting have become prominent evidence of substandard care in board complaints and civil lawsuits
- ❖ Is texting part of treatment plan or just for administrative purposes?
- ❖ Discuss text content & response-time w/clients
- ❖ Inform clients that texts are part of the clinical records
- ❖ Add a section in Office Policies regarding texts
- ❖ Some licensing boards require that you retain every text or other digital communications regardless of content

23 Ways to Keep Your License

What NOT to do...

8. Clients as Facebook Friends?



- ❖ Legal/Ethical: Clients' Privacy & Confidentiality
- ❖ Concern with digital social dual relationships
- ❖ Therapists' privacy
- ❖ It depends on what is on the therapists' FB profile
- ❖ Consider creating a professional page, separate from your personal profile
- ❖ It also depends on Client, Therapist & Type of Setting, Therapy, Relationships
- ❖ ACA & NASW codes of ethics specifically forbid (discourage) accepting clients as FB friends

23 Ways to Keep Your License

What NOT to do...

9. The YELP Trap



Modern-day consumers post reviews of and evaluations of their therapist on YELP, Angie's List, Better Business Bureau, Consumer Affairs or other reviews sites.

- ❖ Do **NOT** impulsively post a protest!!!
- ❖ Consult with experts
- ❖ Ask for favorable recommendations from colleagues (**not** clients)
- ❖ Use the opportunity to establish a Web Presence
- ❖ **Surprise!** 1 negative + 4 positive is better than 5 positive
- ❖ **Rare:**
 - ❖ Don't try to resolve it amicably
 - ❖ Don't evaluate for illegal defamation or liable postings

23 Ways to Keep Your License

What NOT to do...

When the Board Comes Knocking

-> **Once you get a board's complaint**

10. **Don't** ignore the board's letter, if you get one
11. **Don't** meet w/ board's investigator by yourself
12. **Don't** respond to or contact the board without legal rep.
13. **Don't** contact the client who filed the complaint
14. **Don't** alter the records or create new documents

23 Ways to Keep Your License

What to do...

15. **Consult** with experts on cases that are **difficult, complex** & those involve suicidal, violent or psychopathic clients and about **cases that trigger you** — **Document the consultations**
16. Get the best possible **board investigation coverage** from your insurance as well as (new) **Cyber Liability Coverage** [Even if you are employed in an agency]
17. Keep **GOOD records**. Assume: "What is not in the records did not happen"

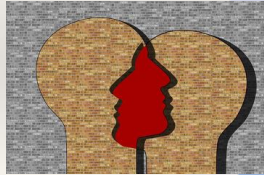
23 Ways to Keep Your License

What to do...

18. Keep only one set of records
19. Be thoughtful and **document** boundary crossings (i.e. Touch, Self Disclosure, Gifts, Bartering, Home Visits, etc.)
20. If you get a letter from the board: Select an **experienced attorney** & experienced **expert**
21. Contact your **insurance** company right after you get the letter from the board
22. Connect with the 'next' therapist, if possible, to remedy the "Subsequent Therapist Syndrome"

23 Ways to Keep Your License

23. You are one **Borderline away from losing your license . . .**



Civil Lawsuit In M.H.



Common allegations:

- ❖ Suicide or suicide attempt by a patient
- ❖ Sex w/ current or recently terminated clients
- ❖ Failed Business dual relationships
- ❖ Confidentiality/Privacy breaches
- ❖ Acting outside scope of expertise
- ❖ Over involved - Inappropriate dual relationships

Ethical Decision Making

- ❖ Define the problem/question
- ❖ Gather the facts
- ❖ Identify the relevant ethics codes, laws, regulations, etc.
- ❖ Identify several different options and courses of actions and likely outcomes for each course of action
- ❖ Implement each course of action
- ❖ Assess the choice (risk/benefit) of your actions & outcome
- ❖ If necessary modify/change course of action
- ❖ Document, Document and . . . Document

The 5 Bins:

Differentiate Between

Clinical: Orientations, Assessment . . .

Ethical: Codes of Ethics, Scope, Avoid harm, DR, Gifts . . .

Legal:Laws/Regulations: Reporting, Confidentiality, HIPAA

Risk Management: Reduce risk & Liability

Socio-Cultural Context: Culturally responsive

Boundaries in Therapy

Boundary Violations

Unethical

vs.

Boundary Crossings

Ethical



Boundary Crossings (are ethical)

- ❖ Appropriate **self-disclosure**
- ❖ Reasonable **gifts**
- ❖ Fair **bartering**
- ❖ Non-sexual, appropriate or comforting **touch**
- ❖ Unavoidable or appropriate **dual relationships**
- ❖ **Out of Office Experiences:**
 - 'Walk & Talk' - Side-by-Side therapy
 - Home visits to a home bound patient
 - Desensitization in treatments of phobia
 - Adventure therapy



Settings where Boundary Crossings are Unavoidable

- ❖ Rural communities
- ❖ Small communities within big cities: LGBTQIA, Faith, AA, etc.
- ❖ Universities and Colleges
- ❖ Home office
- ❖ Training institutions
- ❖ Home visit
- ❖ Adventure Therapy
- ❖ Equine Therapy
- ❖ Police & Law Enforcement
- ❖ Military bases & Aircraft carriers

Digital Boundaries

- ❖ Online self disclosure & Transparency
- ❖ Clients Googling therapists
- ❖ Therapists Googling clients
- ❖ Online Dual Relationships:
 - ❖ Communication via Facebook, LI, 2nd Life, etc.
 - ❖ Social Networking with clients
- ❖ Digital harassment (i.e., On YELP)

Boundary Violations

When therapists:

- ❖ Cross the line of decency
- ❖ Intentionally, carelessly or recklessly, violate, exploit or harm their clients
- ❖ Operate outside/below the standard of care



Boundary Violations
can be initiated by
therapists
or by
clients

Types Of Self-Disclosure

- ❖ Verbal **or** Non-Verbal
- ❖ Deliberate - Intentional **or** Accidental
- ❖ Avoidable **or** Unavoidable
- ❖ In Person **or** Online
- ❖ Initiate by Therapist **or** by Clients
- ❖ Result of Client's Intrusive **or** Accidental Actions

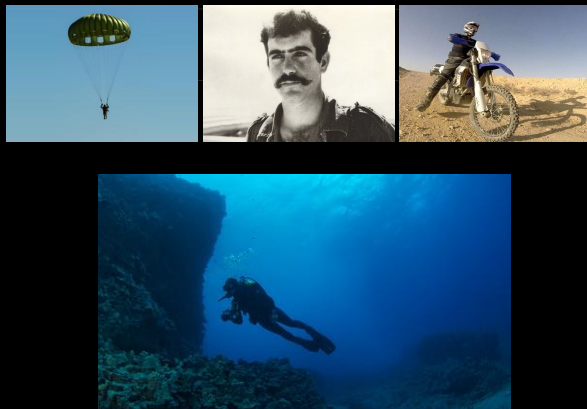
Online Exposure & Transparency

Consider that anything
you post online
as tattooed on your forehead
- Forever!

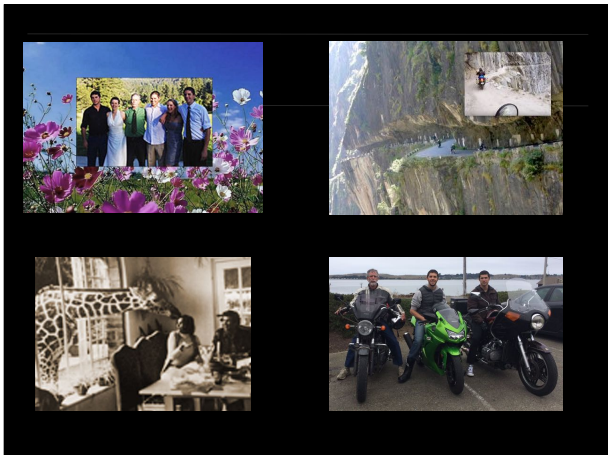




21st century psychotherapists should
expect that modern - informed
consumers will Google them
before, during & after therapy







Poll Question

Do you know of a positive or negative review of you online by a client?

- ❖ Yes
- ❖ No

Stay Informed & Safe



'Google' yourself regularly at:

www.duckduckgo.com

Sign up for Google Alerts at

www.google.com/alerts

Use different combinations:

Dr. Ofer Zur - Ofer Zur - Dr. Zur

Ofer Zur, Ph.D. - O. Zur - O. Zur, Ph.D. - Zur, Ph.D.

Clinically Important Therapists' Self-Disclosure with Special Populations

- ❖ LGBTQIA
- ❖ Veterans
- ❖ Alcohol Parenting and Drug Abuse Recovery
- ❖ Spiritual Communities
- ❖ Small Ethnic Community
- ❖ Abused women
- ❖ Online gamers
- ❖ New: 'Compromised' patients wondering whether the therapist was vaccinated or was tested positively

Unavoidable Extensive Self-Disclosure

- ❖ Online postings by others
- ❖ Home Office or Telemental Health from 'home' Office
- ❖ Rural communities
- ❖ Small ethnic, spiritual, LGBTQIA
- ❖ Military bases & Aircraft carriers
- ❖ Disabled communities
- ❖ Sports Psychology
- ❖ 12 Step & Self Help Programs

Gifts in Psychotherapy



Poll Question

Have you been given a gift by a client?

- ❖ Yes
- ❖ No

Poll Question

Have you given a gift to a client?

- ❖ Yes
- ❖ No

Types of Gifts



Symbolic



Ritualistic / Customary



Meaningful

Refusing appropriate clients' gifts Can be detrimental to treatment



Ethics Codes on "Gifts"

Appropriate gifts are ethical
CAMFT
ACA
NBCC

No Mention of gifts:
APA
NASW

Touch in Psychotherapy



Poll Question: On Touch

Have you ever hugged a client or held a client's hand for more than a few seconds?

- ❖ Yes
- ❖ No

Unspoken Western Culture Taboos

- ❖ "Don't touch the opposite gender!"
- ❖ "Don't touch yourself!"
- ❖ "Don't touch strangers!"
- ❖ "Do not touch the elderly and the sick!"
- ❖ "Don't touch those who are dying!"
- ❖ "Don't touch those who are of higher status!"
- ❖ New World (Covid) Order:
 - ❖ "Don't touch/hug those who are compromised"
 - ❖ "Don't touch/hug those who are not vaccinated"

Touch in Psychotherapy

- ❖ Appropriate **vs.** Inappropriate
- ❖ Ethical **vs.** Unethical
- ❖ Sexual **vs.** Non-Sexual
- ❖ Comforting **or** Unsettling
- ❖ **New Meaning: Touch in the Coronavirus Era**
- ❖ Initiated by the therapist or by the Client:
 - ❖ **Inappropriate - Unethical - Illegal Touch:**
 - Sexual touch - Hostile - Aggressive - Punishing - Violent touch

Dual or Multiple Relationships

When a therapist has an additional relationship with a client besides the therapeutic relationship

Concurrent **vs.** Sequential

Ethical **vs.** Unethical

Types: Social, professional, sexual . . .



Poll Question

Have you had Dual or Multiple relationships with clients?

- ❖ **Never**
- ❖ **Seldom - Rarely**
- ❖ **With some**
- ❖ **With many**

Unavoidable Dual Relationships

&

When clients choose you **because** they know you

- ❖ Small towns & rural communities
 - ❖ Churches, Synagogs, Gyms, funerals
- ❖ 12-Step Groups: AA, NA
- ❖ Small communities: Church, LGBT, Aikido
- ❖ Universities' & Colleges' campuses
- ❖ Military campuses & Aircraft carriers

Online/Digital Dual Relationships

Linked in



- ❖ FB - Instagram - 2nd life - LI- Pinterest

Pinterest



None of the code of ethics, CAMFT included,
view all DR as unethical



Poll Question



Have you ever Googled your clients?

- ❖ Yes
- ❖ No

To Google or not to Google Our Clients That is the question . . .

- ❖ Suicidal client in coma in the hospital
- ❖ Dangerous/litigious client
- ❖ Home office
- ❖ Home visit
- ❖ Is the client delusional or a Fortune-500 executive?
- ❖ Special populations: Forensic (history, records, accusations)
- ❖ (Young therapists: "Forgivable sin")



Sample of an Informed Consent section:

Internet Searches:

At times Xxx may conduct a web search on her/his clients before the beginning of therapy or during therapy. Dr. XXX will inform you if he/she conducted such search. If you have concerns or questions regarding this practice, please discuss it with Dr. xxx

NEW ERA: PANDEMIC WORLD ORDER





Damian Barr

Poll Question

What % of your practice, these days is
Online Therapy/ Telemental Health/
TelePsychology?

- ❖ 100%
- ❖ 50%
- ❖ 25%
- ❖ None

Coronavirus & Beyond: The New World Order:

- ❖ **Traumatized - stressed - quarantined - isolated therapists** are treating **equally stressed - quarantined isolated - traumatized clients**
- ❖ Ready or not: Most psychotherapists **shifted** primarily (or entirely) to **telemental health** during the peak of the pandemic
- ❖ There are more than 380,000 health apps available through Apple and Android operating systems, and around 20,000 of them address mental health,
- ❖ TeleMental Health is the **most common** telehealth (**medical**) procedure
- ❖ Current most popular: Hybrid model: In person **&** Online
- ❖ **Next - Upcoming:** Ready or not: AI & Text-based therapy, Apps like **TalkSpace** or **BetterHelp**

Impact of the Pandemic: Tsunami of Mental Health

- ❖ **Significant Increase in:**
 - ❖ Depression,
 - ❖ Anxiety
 - ❖ Alcohol & Substance abuse
 - ❖ Violent Crimes
 - ❖ Domestic violence: "Pandemic within the pandemic"
- ❖ **Concern: The impact of prolonged stress, exacerbated by isolation, fear, grief & trauma**

Pandemic Impact on Psychotherapy

- ❖ **Telemental health** presents a new **dominant** mode of **delivering Therapy**.
- ❖ Significantly - **temporarily** more flexibility and ease in practicing **across states' lines:**
 - ❖ **Hope:** Finally, seriously re-thinking states' licensure laws
- ❖ Insurance companies, including medicare, increased (**for now**) **reimbursement** for telemental health (phone, video, etc)
- ❖ HIPAA rules were **softened:** **Temporarily** providers may **now** use systems that are not fully **HIPAA compliant** to provide telemedicine

New Ethical Consideration in the Coronavirus Era

- ❖ **If not seeing patients in person:**
 - ❖ Appropriate **disclosure**
 - ❖ Offer **telemental health**
 - ❖ **Referrals**
- ❖ **New Complexities: Vaccine - Masks - Temperature - Sanitation**
 - ❖ **Vaccination:** Discuss with client? Encourage/Discourage
 - ❖ **Self-Disclosure:** Vaccination, Exposure, Contraction?
 - ❖ **Masks & Social Distancing** before and/or after vaccination?
 - ❖ **Taking Temperature?**
 - ❖ **Sanitization:** Office, Waiting Room, Bathrooms
- ❖ **New Office Policies & Informed Consent to Treatment**
 - ❖ Check with professional organization: CAMFT, APA, ACA, NAS
- ❖ **Staying current on rules, regulations and ever-evolving standards** as applied to telemental health: CAMFT - APA - CDC - States' Laws

Pandemic Introduced New Clinical & Ethical Concerns:

Some

Clients - Disorders - Therapists

are not suitable for telemental health

“COVID-19 isn't just an infectious disease. It's a threat to the mental health of millions of Americans. Beating this pandemic will take more than vaccines — it will take sustained access to **mental healthcare, too.”**

[Erin Petersen](#)

TeleMental Health TelePsychiatry TeleCounseling E-Therapy TeleBehavioral Health



The use of communication networks for delivery of health care services and medical education from one geographical location to another

Main Concerns in TeleMental Health

- ❖ **Across State Lines**
- ❖ **Verification** of clients' identity, age, location
- ❖ **Emergencies:**
 - ❖ How to respond to emergencies in an unfamiliar location
 - ❖ 911 is local, not a national system
 - ❖ Duty to warn - Standards are different in different states (when practicing across state lines)
 - ❖ Observe children or older adults with visible bruises
- ❖ **Clients, Therapists & Disorders suitability** for telemental health
- ❖ **Privacy - Confidentiality** - Security: HIPAA & States' Laws
- ❖ **Concerns/Missing:** Disruptions, Privacy, Touch, Gifts, Body language

Advantages Over In-Person

- ❖ **Accessibility:** Rural, Aircraft carrier, Prisons
- ❖ **Availability** of treaters and experts from all over (the world)
- ❖ **Cost:** No need for fancy office, driving/commute & parking
- ❖ **Flexibility:** Duration of session, Time of sessions & # of Participants in sessions (from different locations)
- ❖ Patients and Clinicians can be **anywhere & anytime**
- ❖ **Dis-inhibition effect:** Higher degree of anonymity & privacy can **increase disclosure**

12 Myths & Faulty Beliefs in Psychotherapy

1. Physical Touch in psychotherapy is unethical and leads to sex
2. A 'power differential' is inherent in a therapist-client relationship
3. "Once a client, always a client"-Therapists' power in perpetuity
4. Dual relationships in counseling are unethical and lead to sex
5. Therapists' self-disclosure interfere w/ clinical efficacy
6. "Don't blame the victim" - All victims are 100% innocent
7. Therapists-Clients bartering are inherently exploitative
8. Gift giving by therapists to clients is unacceptable.
9. Boundary crossings inevitably lead to boundary violations.
10. Malpractice lawsuits against psychotherapists are common
11. It is never ethical for therapists to be naked with clients. ([Read](#))
12. The DSM is a scientifically valid and reliable document.

The end
or just
the beginning?



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My passion is to invite people to reflect on their own life choices, cultural assumptions, belief systems and biases on 8 different aspects of life, as I have been doing for decades now, reaping deep rewards and meaningful insights.

I invite you to FREE-ly join this (inner or "in-sights") ride! Take some time to reflect on your own life junctures and choices, and share your significant 'Aha' moments or insights. We all become more conscious, enlightened and aware of our shared human experience by reflecting, discovering, and sharing.

8 Live Topics Contemplate & Contribute

-  CORONAVIRUS SPEAKS
-  BURN AWAY
-  ROLE MODEL
-  RACISM
-  MORAL JUNCTIONS
-  FURRY FRIENDS
-  HOPE
-  NEW YEAR
