

Major Ethical Considerations and Technological Challenges Related to Distance Professional Services

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Received: November 25, 2014

Accepted: December 15, 2014

Available online: December 24, 2014

doi:10.11114/ijsss.v3i1.620

URL: <http://dx.doi.org/10.11114/ijsss.v3i1.620>

Abstract

Counseling with the assistance of technology is becoming more widespread. The use of the internet in counseling and psychotherapy will likely increase in prevalence because of advanced technology and more internet users. Virtual counseling will be a reality and in the future, professional counseling sessions about personal and professional concerns may be accomplished as virtual counseling instead of during the traditional face-to-face meeting. Some counselors may see this trend as positive while, others may be concerned with ethical issues and quality. Counselors should present a professional identity on the Internet that is in line with our values, practices, and ethical standards. The authors describe the major ethical considerations and technological challenges related to distance professional services with a special focus on the area of video-based professional counseling.

Keywords: distance counseling, online counseling, video counseling, cyber-counseling

1. Major Ethical Considerations and Technological Challenges Related to Distance Professional Services

The use of the Internet for delivering counseling has been considered by Fenichel et al. (2002) as a service delivery method with a higher potential for ethical and legal violations. Counselors who resist implementing available technologies, however, may experience disadvantages in an increasingly competitive field, while counselors who are early adopters of this new service delivery method may be more successful than clinicians who start later (Elleven & Allen, 2004). The authors of this paper describe distance professional services such as video-based professional services and intend to help counselors understand the major ethical considerations and technological challenges of this innovative approach to service delivery.

2. Distance Professional Services

The National Board for Certified Counselors (NBCC) submitted new standards for the provision of distance professional services in 2012. The new standards represented major policy modifications to the earlier 1997 and 2005 versions. Chief among these modifications is the introduction of the term “distance professional services” replacing the term “Internet counseling.” In addition, NBCC broadened its definitions to include a greater variety of distance professional services (NBCC, 2012).

2.1 Terminology

2.1.1 Methods of Counseling Practice

Face-to-face counseling can be delivered as individual counseling, couple counseling, family counseling, and group counseling. The interaction between individuals who are able to see and hear each other is defined as a synchronous interaction. *Technology-assisted distance counseling* includes counseling via telephone or the Internet, which can be either typed-, audio-, or video-based messages (National Board for Certified Counselors, Inc. and Center for Credentialing and Education, Inc., 2005). (Nam et al., 2010a).

2.1.2 Methods of Delivering Distance Professional Services

All distance professional services can be provided to individuals, couples, families, or group members. *Telephone-based* professional services define a synchronous distance interaction in which information is received only through audio

methods. *E-mail-based* professional services describe an asynchronous distance interaction in which information is received via written electronic messages. *Chat-based* professional services define a synchronous distance interaction in which information is received through written messages in real time. *Social network-based* professional services describe an interaction that is synchronous or asynchronous in which information is exchanged through social networking mechanisms. When information is received synchronously via video and audio mechanisms, a *video-based* professional service occurs (NBCC, 2012). The following parts of the paper concentrate on the provision of *video-based* professional services by counselors.

2.2 Video-Based Professional Services

The rapid move into the digital world has led most occupations toward the use of computers and the Internet. Enhanced technology offers counselors the opportunity to perform video-based supervision or counseling sessions through the computer. The counseling profession should consider carefully, however, whether the use of video-based communication with clients can replace real life interactions (Forte, 2005). In an age where most individuals are forced to use new technology and life becomes increasingly digital, it is crucial for some vestige of real life to endure. Since person-to-person contact plays such a vital role in counseling, counselors may wish to consider if all these technological advancements are actually adding anything to the counseling field (Forte, 2005).

2.3 Major Ethical Concerns of Video-Based Professional Services

Video-based professional services may be the major application of online counseling in the future (Forte, 2005). The provision of counseling services through the use of the Internet has raised legal and ethical concerns in the field. The American Counseling Association (ACA, 2014) *Code of Ethics* and some state licensing boards provide guidelines for video-based professional services for counselors. The U.S. Department of Health and Human Services (USDHHS, n.d.) offers federal information about using telecommunications technologies to provide long-distance clinical health care. These technologies are combined under the term *Telehealth* and include videoconferencing and wireless communications to improve access to healthcare for underserved populations. Importantly, counselors should adhere to the requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (USDHHS, 2008b), because counselors maintain identifiable health information on their clients. Distance service records must be held for at least five years unless a state requires additional time. This does not preclude, however, maintaining records for longer periods for research purposes (NBCC, 2012). Distance professional service providers must notify clients about rights and responsibilities suitable to the counseling setting. The counselor has to obtain and document a legal guardian's consent prior to delivering distance services if the client is a minor or is unable to provide legal consent. Importantly, the legal guardian's identity has to be verified and documented with copies in the client's file (NBCC, 2012).

In addition, aspects such as *professional relationship, practice authority, licensure and the complaint process, informed consent, and confidentiality* should be addressed. Haberstroh (2009) stated sensitive data obtained through video-based counseling should be protected through the use of encrypted channels. Professional counselors have to inform their clients about security protections and possible risks of distance communications (NBCC, 2012). The first step before offering distance professional service is to clarify whether video-based counseling enables the client and the counselor to establish a positive working relationship. Once this relationship is developed, the client has many legal rights and the counselor many legal and ethical obligations as detailed below.

2.4 Professional Relationship

According to Welfel (2003), counselors who offer video-based professional services may advertise their practice as consisting of procedures and services that do not constitute the practice of professional counseling. Some video-based professional service providers protect themselves with a disclaimer and ask clients to agree not to hold the service provider liable in case harm occurs related to the distance professional service provided (Rosik, 2001; Welfel, 2003). These strategies are used by individuals who wish to protect themselves from liability by claiming no professional client-counselor relationship exists. These policies are not adequate and do not represent a reasonable claim in case of a malpractice lawsuit. The courts make a judgment about a malpractice lawsuit on the basis of the expectations of the client and the ethical standards of care and not on the advertisement of the provider (Riemersma & Leslie, 1999). The delivery of video-based professional services and the client's reliance on the counselor's appraisal, the signed agreement, and the payment of a fee for the services are strong evidence for the court that a client-counselor relationship was developed (Rosik, 2001).

2.5 Practice Authority, Licensure, and the Complaint Process

The provision of video-based professional services offers the remarkable advantage of overcoming geographical boundaries. Counselors and clients from various states, countries, or even continents are able to engage in counseling relationships based on video-conferencing. Menon and Rubin (2011b) investigated professionals in the fields of

counseling, social work, and psychology who offered counseling via the Internet. They found that most of them served clients from the same state in which they were located, fewer delivered distance professional services to clients from all 50 states, and some provided their services internationally.

Counselors have to ensure that clients contact them in a secure way and, therefore, they should provide a written description of these security provisions. In addition, specific procedures in response to emergency situations should be described in written form for the clients of video-based professional services (NBCC, 2012). For instance, emergency responders such as the National Suicide Prevention Lifeline (n.d.), which is available 24-hours per day and offers options for the Deaf and Hard of Hearing as well as non-English speakers, should be listed on the webpage of the counselor who offers video-based professional counseling. Because of the enhanced risk associated with the provision of specific distance professional services the counselor should take practical steps to secure reasonable referrals for recipients when needed (NBCC, 2012).

Since laws overrule ethical standards, professional counselors should acquire the permission of their state licensing boards and review the legal regulations of the state before offering video-based professional services. National Certified Counselors (NCCs) have to adhere to standards for distance professional services and be sure to deliver only those services for which they are qualified by education and expertise. Importantly, the counselor has to study and verify the legal regulations of the state in which the professional is located and of the state in which the client is located (NBCC, 2012). Haberstroh (2009) found that online counseling was clearly endorsed by only 8 percent of all state licensure boards and that only 31 percent of all states adopted the ACA *Code of Ethics* (2014), which provides standards for distance professional services.

2.6 Informed Consent for Distance Professional Services

The ACA provides a set of informed consent forms for online counseling. Trepal, Haberstroh, Duffey, and Evans (2007) developed an outline of particular criteria, based on ACA principles, for the provision of video-based counseling. Clients have the right to know about the benefits and limitations of technological equipment used for counseling. This includes informing clients about their right to confidentiality and its risks when using video-based professional counseling (Trepal et al., 2007).

The NBCC recommends that counselors provide a warning to clients about entering private information when using a public computer. Counselors must inform their clients about the risk of using “auto-remember” user names and passwords as well as the obligation to follow their employers’ policies about using work computers for personal communications (NBCC, 2012). The counselor should ensure that clients understand and provide their consent if the distance service is to be provided under supervision or other professionals will be involved in providing services (Trepal et al., 2007).

2.7 Confidentiality for the Problem of Video-Based Professional Services

The counselor should offer video-based counseling only from private and confidential environments to ensure confidentiality to clients. Importantly, wireless channels should be password protected and encrypted, thus making public computers inappropriate for providing confidentiality to recipients. Recommending clients use secure and distraction-free environments during video-based professional services is essential (Trepal et al., 2007). In addition, stated limitations of confidentiality and the probability of technological problems should assist the clients in deciding about the appropriateness of video-based professional services (NBCC, 2012).

Both the counselor and client have to state their identities clearly before they start a therapeutic process. Ideally, counselors should employ practices that verify the identity of the individuals representing themselves as clients. Counselors should request from their clients a downloaded copy of their official identity such as a driver’s license or other photo ID (Haberstroh, 2009). The counselor has to communicate clearly to the recipient about the protection of client information. Clinical assessments in electronic form, progress notes, and treatment plans resulted from video-based professional counseling have to be kept confidential as they do in face-to-face sessions. Thus, access to computerized information must be protected through a password and written material must be put into encrypted form (Haberstroh, 2009).

3. Technological Challenges of Video-Based Professional Services

Counseling via the Internet describes services provided by a licensed counselor who is using technology to provide mental and behavioral health services to a recipient who is in a separate location (Maples & Han, 2008). In addition to ethical and legal considerations, technological questions may be another challenge to the counselor who plans to offer video-based professional services. Effective communication skills and technical proficiencies are crucial for success in the provision of services using the Internet (Santilli & Beck, 2005). In addition, security, hardware, and software are important components for effective use of advanced technology in providing video-based professional services.

3.1 Security

The counselor is obligated to use electronic resources for the distance professional service that are suited to the current regulatory requirements. All communications of a counseling nature that involve technology require encryption security (NBCC, 2012). Encryption services are offered by vendors such as CryptoHeaven, Hush Communications, and Swissdisk (Haberstroh, 2009). The website OnGuardOnline.gov (2011) provides security information linked to encryption as well. Both counselors and clients have to confirm that they regularly use firewall, antivirus, and spyware protection programs on their computers (Haberstroh, 2009).

3.2 Hardware and Software

Demand for high quality video conferencing technology over the last two decades has increased significantly. High speed broadband networks built the infrastructure for the development of software-based multipoint control unit (MCU) video systems. For example, Cisco WebEx, Adobe Connect, Microsoft Lync, Skype, and Qnext offer a series of software based multiparty video conferencing solutions. The architectural design with video combining video encoding and decoding, transmission, and signaling is the core element in an ecological real-time software MCU video (Baskaran, Chang, Loo, & Wong, 2013). Skype and Adobe Acrobat Connect are models for facilitating web conferences (Salb, Friedman, & Friedman, 2011), but may not provide adequate security for communicating confidential information. It will be up to the counselor to insure that any system used meets legal and ethical requirements for confidentiality and security.

Voice Over Internet Protocol (VOIP) is the generic name and has the benefit of a secure method of communication because it does not connect before it reaches the destination and it sends information in fragmented packets. If VOIP is selected, the user needs a high quality broadband service. However, it does not offer complete encryption and is less secure than the using a more costly Video Technology Company (VTC). VTC is also not as practical when used for private practice (Scharff, 2012). Most counselors believe that Skype from computer to computer is secure and use it (Churcher, 2012). Unfortunately, Skype is not yet sufficiently encoded to meet HIPAA standards, however, Apple's Facetime is reputed to meet these security standards when using a wireless connection with WPA2 Enterprise security (ZDNet, 2011). The World's Largest Video Telemedicine Platform VSee (n.d.) fulfills both the sufficient encoding and the HIPAA standards (VSee, n.d.).

Virtual conferencing can be accomplished with tools such as Second Life (Frauenheim, 2006). Employing video game technology and three-dimensional environments has mainly training advantages. The use of programs like Second Life can help new employees from other countries use "avatars" or representations of themselves to expedite orientation as well as to improve mentoring relationships. The use of this technology could help counselors who are separated by thousands of miles unite, interact, and share ideas in a virtual world before meeting clients in person and implementing their skills in the real world. The use of Second Life could enable counselors to build global teams and to enhance their intercultural competencies.

Some helping disciplines and educational institutions have been able to provide high quality online courses to their students with the assistance of the latest technologies. For instance, Web 2.0 refers to a platform designed to facilitate collective intelligence, collective contribution, and collaboration (Rockinson-Szapkiw & Walker, 2009). Counselors providing distance professional services may wish consider using such platforms for collaboration to enhance multicultural competencies in courses such as supervision, practicum, internship, etc.

3.3 Research about Video-Based Professional Services

There is lack of research about the advantages and disadvantages of video-based professional services. Dausch, Miklowitz, Nagamoto, Adler, and Shore (2009) reported that a client diagnosed with schizophrenia was treated successfully with family-focused therapy via video conferencing. Taylor, Hester, and Wilson (2011) examined the perceived differences between emotionally-based interactions via video and face-to-face interactions. The participants reported some problems with eye contact, non-verbal signs, and reduced perception of shared space created through the two-dimensional nature of video-conferencing. The authors concluded that new advanced three-dimensional technologies may help overcome these perceptions and that the use of video conferencing in health care is valuable.

3.4 Recommendations to Interested Counselors

To prevent lawsuits, the counselor should implement carefully all standards and recommendations of (a) the American Counseling Association (ACA), (b) the International Society of Mental Health Online (ISMHO), and (c) the National Board for Certified Counselors (NBCC) as guidance for ethical behavior with clients who desire or who would benefit from video-based professional services (Elleven, & Allen, 2004). Counselors should consider additional training to provide accurate video-based distance professional services. To give an example, Renewed Vision Counseling Services (n.d.) offers a Distance Credentialed Counselor (DCC) Training to learn effective distance techniques related to

particular clinical counseling specialties. The curriculum consists of 23 hours online education, including four hours of ethics, and has been approved by the Center for Credentialing and Education and the National Board for Certified Counselors. The training includes components such as technology needed, ethical and legal standards, advice how to build strong relationships with clients using video-based distance professional services, and best practices for distance counseling and supervision. The completion of the training leads to the Distance Credentialed Counselor National Certification. Importantly, counselors can receive 16.5 NBCC approved CEUs and a certificate for this training (personal communication, October, 16, 2014). The delivery of video-based professional service requires certain technological equipment and knowledge. Elleven and Allen (2004) stated a high speed connection to the Internet is required for video conferencing. Many Internet users may already have integrated cameras, speakers, and microphones on their computers to make use of video conferencing. Rockinson-Szapkiw and Walker (2009) stated that counselors should employ video conferencing systems that are HIPAA compliant and fulfill the following three criteria: (a) encryption of In-Transit or stored information, (b) responsibility for business associate role and signed agreement status, and (c) vendor implementation of policy and procedures addressing requirements of the HITECH Act of 2011 and the Finale Rule of 2013 (TeleMD, 2014).

The authors recommend finding a partner who is knowledgeable in technology. The training provided by Renewed Vision Counseling Services (n.d.) offers also technological support. Elleven and Allen (2004) claim that a team consisting of a computer specialist who knows the technological requirements and a counselor who is aware of the ethical issues can develop an effective counseling practice that integrates video-based communication with distance professional services. Providers of distance professional services must use secure backup systems at encryption-levels that prevent the loss of digital communications or records and must present this information to clients (NBCC, 2012).

4. Conclusion

Using technological resources over the Internet creates challenges and advantages for counselors and clients. Distance professional services are not appropriate for every person, however, neither are they entirely inappropriate. Screenings to ensure the appropriateness of the recipients, documentation, and ethical considerations are crucial for the success of this service (NBCC, 2012). A video-based professional service that meets all ethical and legal considerations requires many resources such as technological knowledge, selection of appropriate hardware and software, and costs for maintenance and should regularly update its computer technology. Video-based professional services could be an additional method to reach more clients who are in need of professional counseling.

One solution for counselors would be the creation of a certification agency (similar to the Council on Accreditation of Counseling and Related Educational Programs [CACREP]) that would certify sites that provide ethically correct distance professional services. Such a program could be developed using grant funding from the U.S. Department of Health and Human Services who offer money for the provision of clinical care for underserved individuals who live in rural areas.

One of the immense advantages of video-based professional services is that individuals can communicate over long distances with enhanced flexibility. Access to multiple professionals and to multicultural counselors may be an advantage for clients (Guanipa, Nolte, & Lizarraga, 2002). Importantly, the appropriate use of video-based professional services can provide counseling for individuals who are geographically distanced, not mobile or who have a disability. It also would enhance opportunities for counselors who want to adjust their working time because of family or personal preferences. The increased use of video-based professional counseling could reduce commutes and limit risks and costs for employees. In addition, there is an immense opportunity to reduce energy use and thus environment pollution through the use of Information and Communication Technologies. The provision of ethically correct distance professional services could contribute to reduce greenhouse gas emissions that would benefit future generations of our world. All in all, the authors believe that video-based professional counseling will be a successful move in the future.

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