

# Ethical Considerations in a Pandemic

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# Agenda/Objectives

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- 1 Four Principles
- 2 Competing Duties
- 3 Care in a Changing Landscape
- 4 Professionalism and Ethics
- 5 HIPAA
- 6 Additional Considerations
- 7 Learning Check and Conclusion

# Disclaimer

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This training is intended to inform the attendees about legal and ethical principles that are relevant to the mission of Optum Alaska. Nothing presented is intended as legal advice and should not be construed as such.

# Four Principles

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- Respect for autonomy: obligation to respect self-determination
- Beneficence: obligation to benefit
- Non-maleficence: obligation not to cause no harm
- Justice: obligation to act fairly

Lives on the Line- ethics and practicalities of duty of care in pandemics and disasters  
AK Simonds, DK Sokol European Respiratory Journal

# Competing Duties during uncertain times

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## **Duty to Participants**

- Greater obligation to help participants than non-clinicians do
- Decision not to treat must only be for the benefit of future participants

## **Duty to Oneself**

- Protect from undue risk of harm

## **Duty to One's Family**

## **Duty to Colleagues**

- Workloads and risk of harm increase in one's absence
- Challenge for both illness avoidance as well as work avoidance

## **Duty to Society**

- Higher level of responsibility to serve

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# Care in a Changing Landscape

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## Telehealth - Continued Care in a Public Health Emergency

**In some places, telehealth services may be more established than others**

### **Benefits**

- Maintain social distance
- Improve compliance and adherence
- Can even be used for crisis
- Can get a snapshot into the participant's home/life

### **Risks/Challenges**

- Individuals with MH and SUD disorders may be at increased risk of Covid-19 due to lack of risk awareness
  - May also have difficulty recognizing symptoms, seeking services, and receiving services.
- May also be more prone to anxiety triggered by pandemic
- Concern for healthcare inequities

# Telehealth and Potential Ethical Challenges

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## Data, Security, Privacy, Confidentiality

### Safety Issues (suicidal patients)

- Telehealth may not be suitable for all participants
- Know physical location (address, etc.) of participant
- Have a means to contact emergency services if necessary

### Competency of the Provider to Utilize Telehealth Modalities

- Knowledge of technology
- Creating and maintaining rapport
- Anticipate and acknowledge frustrations

The Ethical Use of Telepsychiatry in the Covid-19 Pandemic

# Telehealth and Potential Ethical Challenges

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## Legal, Regulatory, and Financial Concerns

- Be aware and plan for billing (which services are telepsych permitted)
- Are there any malpractice concerns? Is additional coverage required?

## Informed Consent

- Participant should have time to consider advantages and disadvantages of telehealth

## Social Justice Concerns

- Availability of resources (internet, cell phone, tablets, etc)
- Consideration of audio only to broaden access

The Ethical Use of Telepsychiatry in the Covid -19 Pandemic



# APA Ethics Committee Guidance on Telehealth

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## **Ethical responsibility to maintain confidentiality**

- No appointments while participant is in the grocery store

## **Be clear that telehealth sessions will be billed similarly as regular sessions**

## **What to do if they refuse to use telehealth and want to be seen in person**

- Understand their position
- Can in-person care be done safely? What is the current risk level?
- Balance public health needs with participant's needs

## **Have a plan for provider safety for circumstances that demand in person visits (emergencies/urgent care)**

# Professionalism and Ethics

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**Ethics:** the code of behavior that establishes the way we treat and respect individuals.

- It is important that you understand your agency's code of ethics and expectations.

**Professionalism :** providing quality services in a knowledgeable and respectful way

- respect a participant's cultural values
- includes not only the service you provide but how you present yourself
  - dress, speak and interact with others/ behave
    - awareness of different cultural expectations

# Professionalism and Ethics

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## Professional and ethical behavior includes:

- Showing pride in your work
- Being on time
- Good communication and interpersonal relationships with co-workers, supervisors and those you serve
- Following rules and regulations
- Understanding the dress code of your agency and dressing accordingly
- Avoiding complaining about job duties and co-workers
- Ensuring the privacy of the participant by never discussing them in public

## Know your agency's rules around:

- Substance/chemical abuse
- Smoking and eating
- Personal phone calls, texting, email, internet use, and visitors
- Absence from work and notification

# Professional Boundaries-keeping yourself out of trouble

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- Establishing professional boundaries is important for your own protection and well-being.
- You are there to provide services in a professional and friendly manner, but you are not a friend.
- Know your role and what is or is not appropriate.
- Be sure you know your agency's policies and procedures and ALWAYS make use of your supervisor if there is question or concern about boundaries.
- Be aware of cultural values which may or may not be similar to your own.
- Consider challenges of a small community.

# Professional Boundaries

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## Here are a few general tips to consider when setting boundaries:

- Be sure participants know what you will be doing for them. Set limits in advance about what you can and cannot do. Your supervisor can help you identify these things.
- Follow individual treatment plans and agency policies. These provide clear boundaries and expectations for everyone involved.
- Do not exchange gifts, money or personal items with the participants you serve.
- Do not sell or lend items to the participants you serve.
- Remember to respect the participant's religious, political and social beliefs and ask about how they would like these included in the work you do. Keep your personal beliefs private.
- **DO NOT** have sexual or romantic relationships with the participants you serve.
- Avoid inappropriate self-disclosure of details about your personal life or your social and emotional needs.
- Be sure to talk with your supervisor if you have any questions about your professional boundaries with the participants you serve.

# Care with Privacy and Dignity

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- Ensuring the privacy and dignity of participants should be one of your top priorities.
- Treat participants with respect and dignity.
- Safeguard the participant's privacy and ensure confidentiality. Beyond the ethical imperative for confidentiality, it is also a legal requirement.
- Be mindful of unique circumstances of telework.

# Care with Privacy and Dignity

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**The following tips can help you ensure the privacy of those you serve:**

- Seek a private place with closed doors when you are discussing private information with or about the participant.
- Do not talk about health information in public. The participant's information is private and should be treated with respect.
- Do not assume that a youth's protected health information (PHI) can be shared with everyone on the Child/Family Treatment Team (including extended family). Know your agency's policies on this topic.
- Be sure that there is a Release of Information (signed consent form) for anyone that a family wants involved in the care and information sharing of a youth.
- Check for releases before disclosing PHI. If there is not one on file, ask the participant or family to sign a release. If the participant or family refuses to sign a release for an individual, that should be documented in the chart.
- Never leave personal or health information on a person's voice mail.
- Be sure that health records and documentation remain private by storing them in an area not easily accessible. Do not leave written records unattended or where others can see them.

# HIPAA- Health Insurance Portability and Accountability Act of 1996

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- Ensures that health information remains confidential
- All information about participants is considered private and confidential, whether written on paper, saved on a computer, or spoken aloud
- Laws and fines related to HIPAA are serious and hefty
- Permits health care providers to disclose to **other health providers** any protected health information (PHI) contained in the medical record about an individual for treatment, case management, and coordination of care and, with few exceptions, treats mental health information the same as other health information.

<https://www.hhs.gov/sites/default/files/hipaa-privacy-rule-and-sharing-info-related-to-mental-health.pdf>



# How does HIPAA impact care coordination?

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**Does HIPAA permit health care providers to share protected health information (PHI) about an individual who has mental illness with other health care providers who are treating the same individual for care coordination/continuity of care purposes?**

HIPAA permits health care providers to disclose to other health providers any protected health information (PHI) contained in the medical record about an individual for treatment, case management, and coordination of care and, with few exceptions, treats mental health information the same as other health information.

HIPAA generally does not limit disclosures of PHI between health care providers for treatment, case management, and care coordination, **except that covered entities must obtain individuals' authorization to disclose separately maintained psychotherapy session notes for such purposes.** Covered entities should determine whether other rules, such as state law or professional practice standards place additional limitations on disclosures of PHI related to mental health.

# Case Example

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The client is in recovery from opiate addiction. The client disclosed to the social worker that he is struggling with sexual orientation issues. The client told the social worker he would prefer to keep this information private, because he knows several clinic staffers socially; the client asked the social worker not to share these details with his primary health care providers. However, the electronic health record allows the primary health care staffers to access all of the social worker's notes

- Is there a need to know?
- Could not knowing impact health care delivery or treatment?
- Who is accessing the medical record?

Eye on Ethics Ethics and Integrated Behavioral Health  
Frederic G. Reamer, PhD, November 2017

# Case Example

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A 16-year-old patient received medical care for a sexually transmitted infection (STI). The teen also received mental health counseling for anxiety symptoms. The teen told his clinic physician that he was embarrassed about the STI and did not want the social worker to know about it. However, the social worker had full access to the teen's electronic health record.

- Is there a need to know?
- What is the basis of the embarrassment?
- What is your clinic/agency policy?

Eye on Ethics Ethics and Integrated Behavioral Health  
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# Learning Check– Time for Polls!

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1. You are a respite provider for a 7-year-old girl named Erika. She is charming and funny. You always leave with great stories and funny anecdotes. You like sharing these stories with your friends and on social media. Because you change the names, this is ethically ok.

- a) True
- b) False

2. Being professional includes:

- a) What you wear
- b) How you communicate
- c) How knowledgeable you are
- d) All of the above

3. The family you provide services for notices that you enjoy wearing colorful scarves. One day they give you gift of a beautiful multi-colored scarf. You should:

- a) Thank them profusely and put it on immediately.
- b) Let them know that it was such a kind gesture, but that you aren't allowed to take gifts.
- c) Take the gift, but donate to charity.
- d) Take the gift, but later leave it sitting on the counter when you leave.

4. Robert, a teenager in your care, takes a strong interest in politics and enjoys discuss issues and policies with the people around him. His political perspectives are different than yours. Sometimes he really pushes your buttons and asks you to respond to his statements. Your reaction should be:

- a) Engage with him. It could be fun and stimulating for both of you.
- b) Continue to listen to him, but tell him you aren't able to engage in debate.
- c) Talk to your supervisor about strategies for re-directing him.
- d) Both b and c are appropriate.

# Questions??

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# Thank you

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