

Online Therapy - Disclosure

written by Richard Leslie | May 24, 2016

Avoiding Liability Bulletin - March 2006

... Whether or not required by state law or regulation, therapists who practice online therapy (e.g., intrastate) would be wise to make certain disclosures to the patient prior to the commencement of online therapy, and to obtain the patient's written and informed consent prior to such treatment. Of course, if there is an applicable state law or regulation, therapists must follow the law or regulation in all of its detail. Since it can be reasonably argued that online psychotherapy can be considered new, innovative or experimental, it would be wise and prudent to obtain written informed consent, even in the absence of a state requirement.

One of the disclosures that is often required or, at a minimum, advisable, is a description of the potential risks, consequences and benefits of online therapy. In one state, the telemedicine statute leaves it to the practitioner to determine what those risks, consequences and benefits actually are. Consequently, disclosures in that state and in other states will vary (where not specifically mandated) depending upon the technology used, the level of sophistication of the therapist and the patient/client, and the nature of the services being sought and rendered. Certainly a disclosure about how confidentiality will or may be affected by services being provided over the Internet, and what steps the therapist will take or has taken to make sure that the communications between patient and therapist remain confidential, would be important.

The patient should also be informed about how session records will be kept and how they may be retrieved or copied, to the extent that it differs from traditional record keeping practices. If therapy does not involve synchronous audio and video communication, but rather, written communication only, additional disclosures about the nature and process of the written communication should be considered. A therapist might also disclose the possible lack of certain clinical information about the patient because of the inability to see what might otherwise be seen in face-to-face therapy, and the possible consequences thereof.