Treatment Outside of Your Office and Home

written by Richard Leslie | May 26, 2016

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… I wrote about home visits and some of the legal issues that might arise when performing such services in the September 2009 issue of the Avoiding Liability Bulletin. A reader asked that I write about rendering treatment in places other than in the practitioner's office or the client's home – such as, rendering treatment in a public place. One example given by the reader was the situation where a practitioner helps a patient or client suffering from a phobia to ride an elevator or to engage in some other kind of joint activity. While this kind of activity is in my view somewhat common and well accepted, there are issues that need to be considered by practitioners when working away from home or office.

The examples of such treatment away from office or home are limitless. I remember a case where the licensing board was debating whether or not to allow hours of experience gained by an intern while doing therapy with children on horseback. Consider the situation where a therapist performs therapy in a van, with advertisements on the van, about his or her mobile therapy service. Many are familiar with other kinds or styles of therapy or counseling that involve some form of outdoor physical activity or presence. I am also aware of a case where a therapist took a cruise, as well as engaged in other activities, with a patient, claiming that this was all a necessary part of the therapy, but later faced disciplinary action by the licensing board. Each case is different, and the laws or regulations of a particular state may have relevance.

I start with a few basic principles when thinking about this subject. First, I ask if there is a law or regulation that prohibits the particular conduct or manner of practice in question. I often state that the practice of psychotherapy is both an art and a science, and I believe that innovation and individuality should be encouraged and embraced. If there is no such prohibition for a particular activity, then the next question I usually ask is whether or not there are any ethical code provisions that impact such practice – either favorably or unfavorably. I want to know if there is acceptance of the practice in the clinical literature, or whether the practice engaged in is new and/or experimental. If new and/or experimental, then I am interested in seeing whether or not the practitioner uses a written and signed informed consent form, and particularly interested in the content of such a form.

Anytime one practices in a public place, issues of privacy and confidentiality are necessarily involved. The practitioner must take care to prepare the patient for this reality and discuss how and when communications are to take place. With respect to the mobile therapy service mentioned above, for example, members of the public may learn of the fact of a therapist-patient relationship if they see someone getting in or out of the van. Of course, the same thing happens when patients go to a busy counselor or therapist's office. Issues around confidentiality might best be addressed in the

practitioner’s disclosure statement, given to the client at the outset of treatment. Possible compromises of the client’s confidentiality can be managed better when addressed in advance. Additionally, issues surrounding fee must be addressed, preferably in the disclosure statement. How will the practitioner bill the patient? Is travel to and from the building where the elevator is located (or shopping at a grocery store etc.) going to be billed at the usual and customary rate? What if the activity takes more than the usual length of time for a therapy session?

With respect to taking a cruise with a patient, ponder this! Since the therapist or counselor would presumably be doing this for the benefit of the patient’s treatment (if not, one should readily see the problems for the practitioner), not only might the patient be expected to pay for the practitioner’s cruise, but as well, the practitioner will have to decide how much to charge the patient each day of the cruise. I trust that I need not go any further with this particular example. The problems and dilemmas are self- evident. Accompanying a phobic patient or client to a grocery store or riding in an elevator with a patient is typically not problematic for the practitioner, assuming that the practitioner’s judgment is clinically sound. Consultation with other clinicians, if necessary, can be very helpful if the practitioner’s conduct is later in question.

If insurance is billed, it is best to include the appropriate procedure code number that indicates that services were not provided in the office or a home, or that otherwise informs the insurance company of the facts about where services were rendered or the nature of the services. A written explanation to the insurer, showing how this was a necessary part of the treatment, would hopefully be helpful when seeking reimbursement and should certainly avert a claim by the insurer around the issue of fraudulent billing (were there to be no disclosure by the practitioner). And finally, as I recall, the hours of experience gained by the intern while on horseback and while working with children also on horseback were ultimately allowed by the licensing board. It took a bit (pun intended) of explaining!