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Ethical Considerations of Telemental Health Practice

Your presenter

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yourceus.com, Inc. a national continuing education company since 2001

Telemental Health Ethics

Goals and Objectives

When the trainee completes this course, he/she will:

- Understand the challenges to confidentiality and privacy posed by electronic modes of communication and the changing landscape of privacy requirements defined by the Hi-Tech Act and the Final Omnibus Rule of March 2013
- Comprehend the full scope of the knowledge base and essential competencies for engaging in Telemental Health practice.
- Grasp the key components for setting up the infrastructure for providing distance counseling services in an ethical and HIPAA compliant manner, including choice of technological providers, the management of relationships with technology providers, and the most common ethical violations to occur within a Telemental Health practice.

Telemental Health Ethics

Goals and Objectives

- Integrate the practice of Telemental Health with the key legal, ethical and clinical knowledge base that must be part of the active vocabulary of any clinician who wishes to operate ethically in the 21st Century, including state and federal laws concerning privacy, harm prevention, rights of minors, and best practices models of ethical decision making
- To create better application of the course material to the real world practice of the trainee, this conference will include interactive scenario analysis and interactive role playing, highlighting and incorporating the key knowledge from each section, utilizing best models of ethical decision making and introducing a template for the ethical decision making process

What This Training is Not

Training to create competency in the application of teleconferencing based counseling.

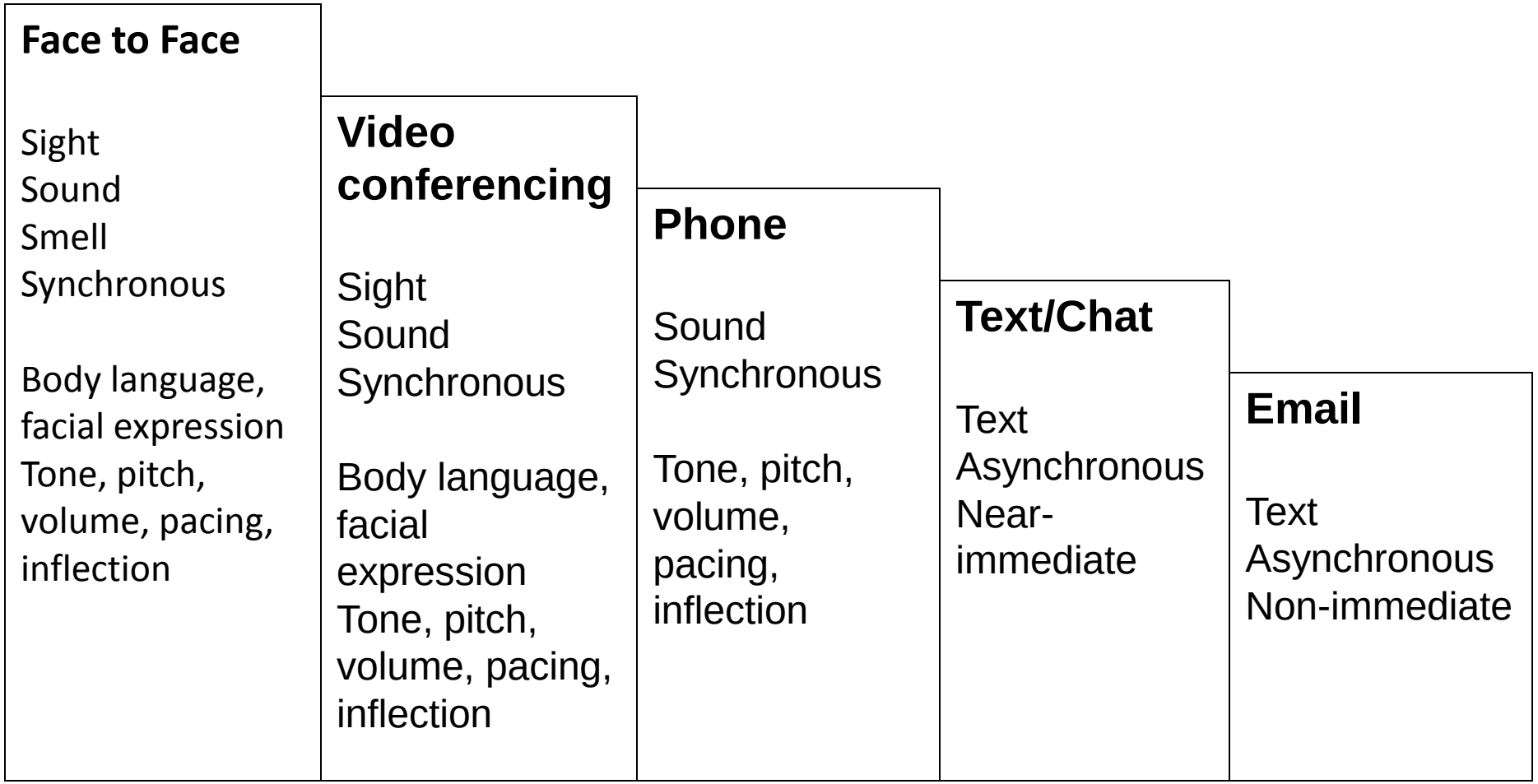
Three Levels of E-communications Use

Level 1 – Clinicians who provide mostly face to face mental health services but who communicate with clients and/or other providers via electronic modes of communication in support of the face to face sessions

Level 2 – Clinicians who provide face to face counseling but who also engage in substantial amount of phone, text, email or chat based interactions with clients, including counseling and assessment

Level 3 – Clinicians who engage in substantial amounts of e-communication with clients, including teleconferencing based modes of therapy

Level of Communication Information



Ethical Decision Making and TMH

What special considerations for the ethical decision making process are relevant for clinicians who currently provide TMH services?

The Stages of Ethical Decision Making

- The Knowledge Stage
- The Identification Stage
- The Evaluation Stage
- The Selection Stage
- The Assessment Stage
- The Adaptation Stage

Expert Knowledge: Ethical Dimension

- The code of ethics and the key principles underlying the code of ethics
- The stages of ethical decision making
- Models of ethical decision making and the ethical decision making process
- The moral, ethical and legal dimensions of ethical decision making
- Applications of ethical decision making cross-culturally

Expert Knowledge

- Legal codes related to privacy and confidentiality, such as Federal Laws 42 CFR part 2; 34 C.F.R. Part 99;and regulations under HIPAA, the Hi-Tech Act and the Final Omnibus Rule of March 2013
- State statutes related to reporting responsibilities for suicidality, homicidality, and child and elder abuse
- Statutes and guidelines related to clinical work with minors and multiple (versus primary) clients
- The stages of ethical decision making

Models and Approaches for Ethical Decision Making

Expert Knowledge

- **Specific expert knowledge related to Telemental health services, including the key competencies of TMH**

The Moral, Ethical, and Legal Realms

The Moral Realm

Pertaining to *personal* behavior measured by prevailing standards of behavior as defined by a specified (usually spiritual) group

Consequences for moral lapses are generally the domain of individual and group conscience

The Ethical Realm

In accordance with accepted principles of right and wrong as defined by a specified (usually professional) group

Consequences for ethical lapses are generally the domain of the profession and keepers of that profession

The Legal Realm

Recognized or enforced by law rather than by equity (fairness, justice, impartiality)

Consequences for legal lapses are generally the domain of the legal system, imposed by the power of the state

Where We Start

What will the learning process entail?

What are the new rules that have created the need for this training?

The New Rule

Rules and Regulations of the State of GA

Chapter 135-11 TELEMENTAL HEALTH

http://rules.sos.state.ga.us/gac/135-11

Where We Start

What is Telemental Health (TMH)?

What is Telemental Health Supervision?

What are the key challenges for supervisors to know and teach?

How do core ethical principles intersect with TMH?

What is Telemental Health?

From Rule 135-11-.01 TeleMental Health

TeleMental Health - means the mode of delivering services via technology-assisted media, such as but not limited to, a telephone, video, internet, a smartphone, tablet, PC desktop system or other electronic means using appropriate encryption technology for electronic health information. TeleMental Health facilitates client self-management and support for clients and includes synchronous interactions and asynchronous store and forward transfers.

What is Telemental Health Supervision?

From Rule 135-11-.01 TeleMental Health

TeleMental Health Supervision - means the delivery of supervision via technology-assisted media by a supervisor at one site while the supervisee is located at a distant site. Telemental health supervision may include, without being limited to, the review of case presentation, audio tapes, video tapes, and observation in order to promote the development of the practitioner's clinical skills.

What are the Rules

Training for TMH Supervisor:

Prior to the delivery of supervision via telemental health, the supervisor shall have obtained a minimum of nine (9) hours of continuing education. The continuing education hours may include the same eight (8) categories identified under "Training for Licensee", rule section (b)(1)(i)(I-VIII) above, plus, must also include three (3) hours in the category of: Supervising TeleMental Health Therapy - understanding the key components necessary to supervise effective, and efficient delivery of telemental health therapy.

What are the Rules

Code of Ethics:

The failure of a licensee to comply with these requirements shall constitute unprofessional conduct under the Code of Ethics as described in Board rule 135-7. A licensee delivering health care services via TeleMental Health shall comply with all Code of Ethics requirements as described in Board rule 135-7.

What are the Rules

Training for Licensee:

(i)Prior to the delivery of clinical TeleMental Health, the licensee shall have obtained a minimum of six (6) continuing education hours.

What are the Rules

Training for Licensee – Areas of Study in TMH:

The continuing education hours may include but are not limited to the following, in the discretion of the Board:

(I) Internet use dependency and psychological problems

(II) Research in Telemental Health

(III) Intake and Assessment

(IV) Delivery Methods

(V) Theory Integration

(VI) Termination

(VII) Risk Management

(VIII) Business of Telemental Health

56 Advanced Issues in TMH Ethics

Areas Covered Under Telemental Health

1. Telephone
2. Video teleconferencing
3. Internet
4. Smartphone
5. Tablet
6. PC desktop system
7. Other electronic means

Complications of Providing Telemental Health

1. Intake and assessment
2. Clinical effectiveness
3. Best practices delivery methods
4. Privacy/Security of information
5. Informed consent
6. Technological considerations
7. Risk management/Legal implications/Ethical practice
8. Business considerations

10 Competencies

1. **TMH Definitions and Provisions**
2. **History & Research**
3. **Legal & Ethical Issues**
   - **Informed Consent/Client & Clinician Identification**
   - **Technology, Security & Confidentiality**
   - **Codes of Ethics**
4. **Client Selection**
   - **Screening**
   - **Intake and Assessment/Indications and Contraindications**
   - **Technology Dependency**
5. **Delivery Methods**
   - **Telephone, Written, Video**

Source: Scroggs, 2013

10 Competencies

6. **Theory Integration**
   - **Online Culture/"Between Sessions"/"Disinhibition" Effect**
7. **Risk Management**
   - **Effective Termination & Referral Procedures**
   - **Local Resources (Contact Person), Emergency Plan & Crisis Intervention**
8. **Business Acumen**
   - **Platform selection, Insurance & Reimbursement**
   - **Ethical Advertising**
9. **Supervision**
10. **Specialization for Soc. Workers, Counselors, CEAPs, etc.**

Source: Scroggs, 2013

What are the Rules

Informed Consent (Therapy):

Prior to the delivery of TeleMental Health services by a licensee via technology-assisted media, the licensee at the distant site shall inform the client that TeleMental Health services via technology-assisted media will be used, and the licensee shall obtain verbal and written consent from the client for this use. The verbal and written consent shall be documented in the client's record. Consent must include disclosure of the use of any third party vendor such as a record keeping, billing service or legal counsel.

What are the Rules

Informed Consent (Supervision):

Prior to the delivery of supervision via TeleMental Health, the supervisor at the distant site shall inform the supervisee that TeleMental Health will be used and obtain verbal and written consent from the supervisee for this use.

What are the Rules

Client Assessment:

Careful assessment using assessment instruments referenced in Rule 135.-7-.05 as appropriate is required in order to determine whether an individual may be properly assessed and/or treated via TeleMental Health services through technology-assisted media. Clients who cannot be treated properly via TeleMental Health services should be treated in person, or else they should not be accepted as clients or, if already accepted, properly terminated with appropriate referrals.

Informed Consent Clarified

Informed Consent:

- You must have the capacity (or ability) to make the decision.
- The medical provider must disclose information on the treatment, test, or procedure in question, including the expected benefits and risks, and the likelihood (or probability) that the benefits and risks will occur.
- You must comprehend the relevant information.
- You must voluntarily grant consent, without coercion or duress.

What the Code of Ethics Says

Clinicians must operate within their area of competence.

Where We Start

Why Telemental Health, including teleconferencing based services?

Why teleconferencing based supervision?

The Ethical Decision Making Process

"Ethical decision making is concerned with the resolution of conflicts of professional obligation."

Frederick Reamer

Telemental Health

Risk

Versus

Reward

Convenience

Versus

Conscientiousness

Who-What-Why Factor

Clinicians should be constantly asking:

What treatment, by whom, is the most effective for ***this individual*** with ***this specific problem,*** and under ***what set of circumstances.***

What groups of clients are potentially going to have more useful treatment options because of Telemental Health?

What groups of clients should be considered in terms of offering TMH preferentially?

The Reality Factor

The Internet Revolution

and

The Market Based Ethos
Versus
The Service Based Ethos

Driving Forces for Evolution

- Technology drives change
- Open communication creates increased access, cost-saving efficiencies, more powerful information gathering, storing and sharing
- Data sharing allows for better targeting of consumer needs and wants
- Convenience and expanded functionality of cell / smart phones has resulted in diminishment of more secure land line options
- Widespread adoption of e-communication has resulted in profound cultural change

Guiding Considerations: Cautions

The internet, social media and e-communications create a paradoxical blend of ***increased anonymity, increased self-disclosure*** and ***decreased communication security.*** This combination can create complications for any clinician who seeks to follow HIPAA guidelines.

Strengths and Opportunities

- Potential for wider availability of expert knowledge and clinical support, especially to more rural communities and to clients who may not be able or willing to come in for F2F services
- Reduces obstacles to more between session contact
- Potential expansion of social and support system
- More convenient sharing of clinically relevant information among multiple service providers, potentially improving coordination of care
- Better use of metrics to improve service outcomes
- Potential for decreasing cost of services

Threats and Weaknesses

- Trade-off between access and privacy
- Decrease in control of personal information
- Reduction in intimate contact person to person
- Commoditization of self with corresponding decrease in autonomy
- Threats to the maintenance of the professional relationship and potential decreases in professional authority based on that relationship

Practical Ethical Concerns for Clinicians

- Maintaining legally and ethically appropriate levels of privacy – for clients and self - in social media/e-communication era
- Protecting the professional relationship and professional authority
- Operating a service based practice in a market based culture, with clear and appropriate boundaries, and resolving the inherent tensions in this conflict of professional obligations
- Remaining compliant with HIPAA when working for an organization that may not understand or follow HIPAA guidelines
- Utilizing the strength and opportunities of enhanced communication capabilities while avoiding the legal and ethical pitfalls

Operating at Level 1

Considerations at Level 1

- Primary clinical services will be conducted almost exclusively through face to face sessions

- Contact via e-communications will be limited to scheduling sessions and other interactions with limited therapeutic orientation

- Interactions with other clinicians around client care issues may be conducted via e-communications approaches, provided such actions are HIPAA compliant and/or client consent has been secured

- Limited amounts of between session, supportive interactions may occur on an occasional basis

Introduction to E-communication Complications and the Hi-Tech Act

Clinicians at all levels are held to certain standards of practice in terms of protecting the privacy of the client when utilizing e-communication with clients and other professionals, or when entering into, storing, receiving, or retrieving electronic client records, particularly when Protected Healthcare Information (PHI) is involved

Introduction to E-communication Complications and the Hi-Tech Act

The Hi-Tech Act (passed 2009, implemented 2010)

- New guidelines for addressing breaches of confidential information
- Extensions to guidelines for providers covered under Business Associate Agreements
- Modifications to definitions of electronic media to address advances in technology (cell phones, texting, IM, and other new forms of electronic communication)

http://www.hhs.gov/ocr/privacy/hipaa/administrative/enforcementrule/enfifr.pdf

Introduction to E-communication Complications and the HIPAA/Hi-Tech Omnibus Final Rule of March 2013

The HIPAA/Hi-Tech Omnibus Final Rule of March 2013

- Make Business Associates of Covered Entities directly liable for compliance with certain of the HIPAA Privacy and Security Rules' requirements
- Strengthen the limitations on the use and disclosure of protected health information for marketing and fundraising purposes, and prohibit the sale of protected health information without individual authorization.
- Expand individuals' rights to receive electronic copies of their health information and to restrict disclosures to a health plan concerning treatment for which the individual has paid out of pocket in full.

Introduction to E-communication Complications and the HIPAA/Hi-Tech Omnibus Final Rule of March 2013

The HIPAA/Hi-Tech Omnibus Final Rule of March 2013

- Require modifications to, and redistribution of, a Covered Entity's notice of privacy practices.
- Modify the individual authorization and other requirements to facilitate research and disclosure of child immunization proof to schools, and to enable access to decedent information by family members or others.
- Adopt the additional HITECH Act enhancements to the Enforcement Rule not previously adopted in the October 30, 2009, interim final rule, such as the provisions addressing enforcement of noncompliance with the HIPAA Rules due to willful neglect.

Introduction to E-communication Complications and the HIPAA/Hi-Tech Omnibus Final Rule of March 2013

The HIPAA/Hi-Tech Omnibus Final Rule of March 2013

• Covered Entities are required to obtain "satisfactory assurances" (i.e. that their Protected Health Information will be protected as required by the rules) from their Business Associates, and Business Associates are required to get the same from their sub-contractors (now Business Associates). Comment: this "chain of assurances" (and liability) follow the Protected Health Information wherever it leads and has widespread ramifications including those related to breach notification.
• Exceptions: in general, a person or entity is a Business Associate only in cases where the person or entity is conducting a function or activity regulated by the HIPAA Rules on behalf of a Covered Entity, such as payment or healthcare operations; therefore a researcher is NOT automatically a Business Associate of a Covered Entity despite the fact that it may be using the Covered Entity's Protected Health Information.

Introduction to E-communication Complications and the HIPAA/Hi-Tech Omnibus Final Rule of March 2013

The HIPAA/Hi-Tech Omnibus Final Rule of March 2013

• HHS decided to change the definition of Protected Health Information because the Privacy and Security Rules do not now protect the individually identifiable health information of persons who have been deceased for fifty (50) years.
• The Notice of Privacy Practices must contain a statement indicating that an Authorization is required for: (1) most uses and disclosures of psychotherapy notes (where appropriate); (2) uses and disclosures of Protected Health Information for marketing purposes; and (3) disclosures that constitute a sale of Protected Health Information; as well as a statement that other uses and disclosures not described in the Notice of Privacy Practices will be made only with authorization from the individual.

Introduction to E-communication Complications and the HIPAA/Hi-Tech Omnibus Final Rule of March 2013

The HIPAA/Hi-Tech Omnibus Final Rule of March 2013

The full text of this rule may be found at the following link:

http://www.hhs.gov/ohrp/sachrp/mtgings/2013%20March%20Mtg/hipaa/hitechomnibus_finalrule.pdf

A good summary of this rule may be found at:

http://www.hipaasurvivalguide.com/hipaa-omnibus-rule.php

Secure and Non-secure Modes of Communication

Secure:

Snail mail
Wire to wire phone
Wire to wire fax
Tablet on secure, encrypted server
Encrypted email systems w/ BAA
Secure e-fax W/ BAA
Secure web based portal w/ BAA
Secure videoconferencing platform w/ BAA

Non-secure:

Cell / Smart phone
Tablet or computer on public wi-fi
Unencrypted email
Standard e-fax w/o BAA
Standard videoconferencing platform (FaceTime, Skype) w/o BAA
Any communication (phone, email, text, videoconferencing) in a public place
Internet communication on a public blog or web site

Ethical Issues, Privacy & Confidentiality, HIPAA

Guidance from the Office of Civil Rights (OCR) on the Hi-Tech Act

Does the HIPAA Privacy Rule permit health care providers to use e-mail to discuss health issues and treatment with their patients?

Ethical Issues, Privacy & Confidentiality, HIPAA

Answer:

Yes. The Privacy Rule allows covered health care providers to communicate electronically, such as through e-mail, with their patients, provided they apply reasonable safeguards when doing so. See 45 C.F.R. § 164.530(c). For example, certain precautions may need to be taken when using e-mail to avoid unintentional disclosures, such as checking the e-mail address for accuracy before sending, or sending an e-mail alert to the patient for address confirmation prior to sending the message. Further, while the Privacy Rule does not prohibit the use of unencrypted e-mail for treatment-related communications between health care providers and patients, other safeguards should be applied to reasonably protect privacy, such as limiting the amount or type of information disclosed through the unencrypted e-mail. In addition, covered entities will want to ensure that any transmission of electronic protected health information is in compliance with the HIPAA Security Rule requirements at 45 C.F.R. Part 164, Subpart C.

Ethical Issues, Privacy & Confidentiality, HIPAA

Guidance from the Office of Civil Rights (OCR) on the Hi-Tech Act

Note that an individual has the right under the Privacy Rule to request and have a covered health care provider communicate with him or her by alternative means or at alternative locations, if reasonable. See 45 C.F.R. § 164.522(b). For example, a health care provider should accommodate an individual's request to receive appointment reminders via e-mail, rather than on a postcard, if e-mail is a reasonable, alternative means for that provider to communicate with the patient. By the same token, however, if the use of unencrypted e-mail is unacceptable to a patient who requests confidential communications, other means of communicating with the patient, such as by more secure electronic methods, or by mail or telephone, should be offered and accommodated.

Ethical Issues, Privacy & Confidentiality, HIPAA

Guidance from the Office of Civil Rights (OCR) on the Hi-Tech Act

Patients may initiate communications with a provider using e-mail. If this situation occurs, the health care provider can assume (unless the patient has explicitly stated otherwise) that e-mail communications are acceptable to the individual. If the provider feels the patient may not be aware of the possible risks of using unencrypted e-mail, or has concerns about potential liability, the provider can alert the patient of those risks, and let the patient decide whether to continue e-mail communications.

From: US Department of Health and Human Services www.HHS.gov

Ethical Issues, Privacy & Confidentiality, HIPAA

Guidance from the FMA on the Hi-Tech Act

1) A physician may be held responsible for a delay when responding to a patient's e-mail. Solution: A physician who wishes to accept e-mail from patients should use an auto response feature that informs the patient that a) the physician typically responds to e-mail within a specified number of hours/days, and b) if the patient requires immediate attention, he or she should telephone the physician's office or contact an emergency health care provider.
2) If a patient initiates an e-mail with a physician, Rachel Seeger of HHS Office for Civil Rights says that it is assumed that the patient consents to unencrypted communication. "If this situation occurs, the health care provider can assume (unless the patient has explicitly stated otherwise) that e-mail communications are acceptable to the individual."6

Ethical Issues, Privacy & Confidentiality, HIPAA

Guidance from the FMA on the Hi-Tech Act

3) If a physician does end up sending a patient an e-mail, he or she should double check the recipient's e-mail address before clicking "send." This is to prevent the e-mail from being sent to the wrong person, therefore sharing private information to an unintended party. That's good advice outside the health care world, too.
4) Add any e-mail a patient sends (and any response) to the patient's charts.
5) In the HITECH Act, code 170.210 section B, states that the date, time, patient identification and user identification, must be recorded when electronic health information is created, modified, deleted or printed, and an indication of which actions occurred also must be recorded. This means if you send an e-mail to a patient with protected health information and then delete it, you will need a record of what was deleted and when. This is not dissimilar to crossing out a line in a paper medical record (updating the record) with a date of the update.

Ethical Issues, Privacy & Confidentiality, HIPAA

Guidance from the FMA on the Hi-Tech Act

6) Since the guidelines for communicating with patients via e-mail are becoming stricter, more physician offices and hospitals are using portals as a means of communication. This allows the patient to sign in with a secure username and password to view his or her records and communicate with physicians. The security rule allows for Electronic Protected Heath Information (e-PHI) to be sent over an electronics open network, as long as it is adequately protected.7 Of course, this is more complicated than using Outlook or Gmail.

http://www.flmedical.org/HITECH_Act_Decrypted.aspx

Ethical Issues, Privacy & Confidentiality, HIPAA

Department of Health and Human Services

Under these provisions, a health care provider may disclose patient information, including information from mental health records, if necessary, to law enforcement, family members of the patient, or any other persons who may reasonably be able to prevent or lessen the risk of harm.

January 15, 2013

http://www.hhs.gov/ocr/office/lettertonationhcp.pdf

Ethical Issues, Privacy & Confidentiality, HIPAA

In addition to professional ethical standards, most states have laws and/or court decisions which address, and in many instances require, disclosure of patient information to prevent or lessen the risk of harm. Providers should consult the laws applicable to their profession in the states where they practice, as well as 42 CFR Part 2 under federal law (governing the disclosure of substance abuse treatment records) to understand their duties and authority in situations where they have information indicating a threat to public safety.

http://www.hhs.gov/ocr/office/lettertonationhcp.pdf

Ethical Issues, Privacy & Confidentiality, HIPAA

Garner v. Stone

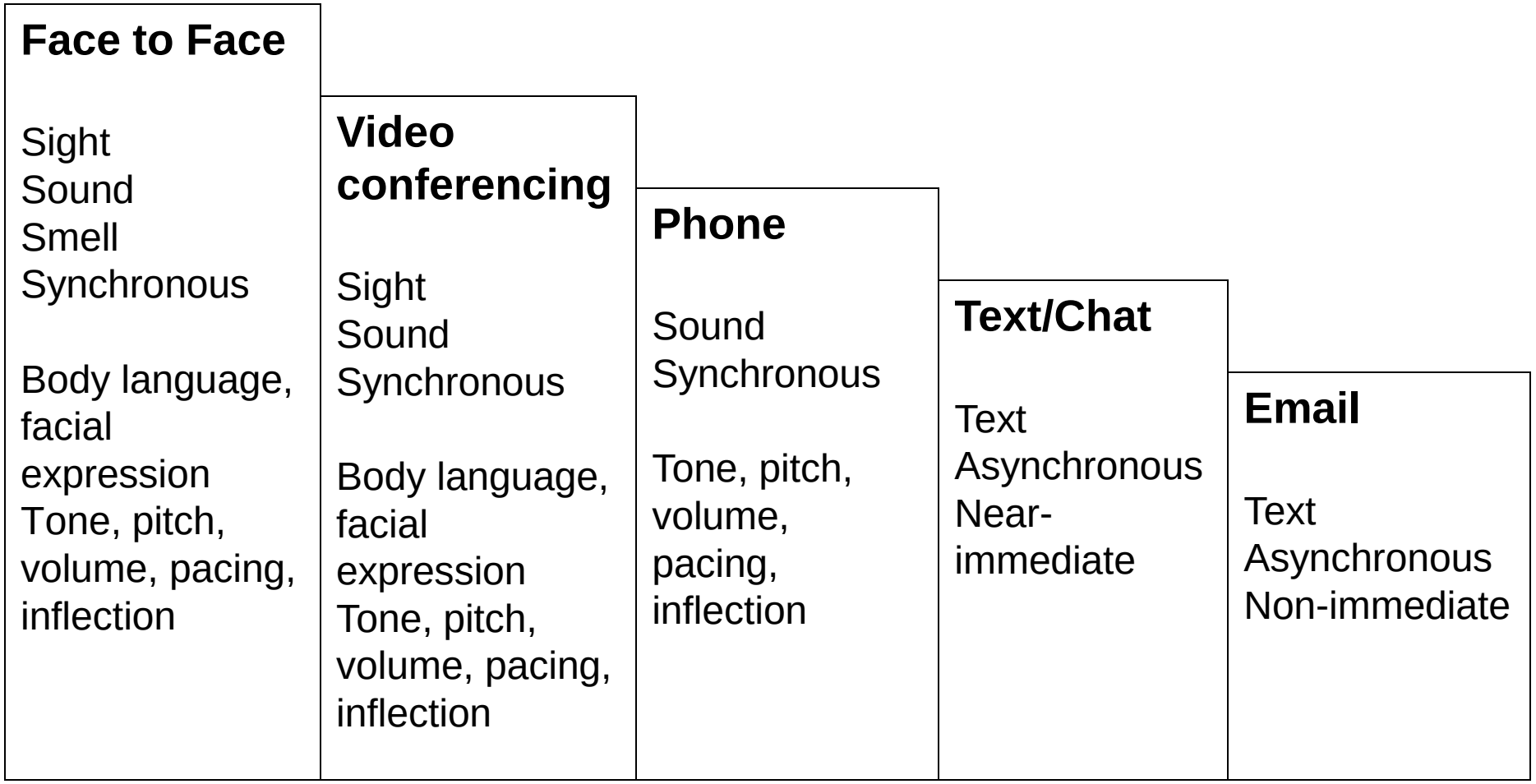
Although Georgia case law has established a legal precedent for a duty to protect, there is no statutory duty to warn, nor is there any statutory immunity for a psychologist making such a warning to a third party. In other words, although there is a legally established duty to protect a readily identifiable intended victim from imminent and foreseeable danger, there is no statutory duty to warn the victim nor is there any statutory protection from legal liability for mental health professionals who make such warnings. The absence of statutory immunity means that there is no immunity from professional liability for a psychotherapist making an unauthorized disclosure of confidential information.

. . . the discretionary allowance of disclosures permitted under the Georgia licensing board *administrative rules* is superseded by *statutory laws*, such as the psychotherapist-patient privilege.

http://www.gapsychology.org/?188

Operating at Level 2

Level of Communication Information



Considerations at Level 2

- Primary clinical services may be conducted through face to face sessions or may be conducted via phone and email contact

- Contact via e-communications may include phone intake and assessment, regular between session supportive contact, direct phone support and/or counseling, and other kinds of therapeutic actions via phone

- Interactions with other clinicians around client care issues may be conducted via e-communications approaches, provided such actions are HIPAA compliant and/or client consent has been secured

Considerations at Level 2

- Operations at this level require significantly more knowledge and preparation than at level 1

- Specialized knowledge and training on assessment and counseling via phone based models of service may be indicated

- More careful consideration of privacy and informed consent issues must be undertaken when non-secure modes of communication are being utilized by the client and/or the clinician

- Greater preparations for urgent and crisis situations must be undertaken, as well as greater care to identify clients who are contraindicated for these kinds of services

Considerations at Level 2

- Special care must be taken to verify client identity – and other parties attending the session - with each interaction in order to protect the client from privacy intrusions and record session attendees

- Knowledge of online culture and language is very important if e-communication includes text or email based interactions

- Greater consideration must be given to technological issues when this is a prominent modality for providing services:

Other HIPAA covered items:

Extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media.

Level 2 Key Competencies

- Legal & Ethical Issues
- Informed Consent
- Client & Clinician Identification
- Indications and Contraindications
- Local Resources (Contact Person)
- Assessments
- Emergency Plan & Crisis Intervention
- Modulating Client Emotions (“Disinhibition” Effect)
- Effective Termination & Referral Procedures
- Insurance & Reimbursement
- Technology, Security & Confidentiality Strategies

Level 2 Key Complexities

Legal & Ethical Issues

- What services fall under restrictions based upon licensing, i.e., what is considered counseling versus other kinds of contact?
- What are laws and statutes concerning practice across state and country lines?
- What specific kinds of e-communication in practice are allowed under state laws?

Level 2 Key Complexities

Informed Consent

- What special items need to be contained in the informed consent agreement to address use of phone, email, text, or chat based counseling?
- How can the client review the informed consent agreement, sign the inform consent agreement and receive a signed copy of the informed consent agreement over the phone?

Level 2 Key Complexities

Client & Clinician Identification

- How can you identify the client over phone, text, email or chat based platforms at the first and each subsequent session?
- What procedures must be in place to keep verification of client identity in the case records?

Level 2 Key Complexities

Indications and Contraindications

- Which groups of potential clients would benefit from the availability of phone, text, email or chat based services?
- Which groups of potential clients are poor candidates for phone, text, email or chat based services?

Level 2 Key Complexities

Local Resources (Contact Person)

- What local resources are needed when using phone, text, email or chat based services?
- What implementation procedures should be in place to assure that local resources development occurs when utilizing e-communications as a primary mode of providing services?

Level 2 Key Complexities

Assessments

- What are the potential limitations associated with performing phone, text, email or chat based assessments?
- What policies and procedures should be in place to address potential limitations in performing phone, text, email or chat based assessments?

Level 2 Key Complexities

Emergency Plan & Crisis Intervention

- What sort of emergency plan will be necessary to have available when using phone, text, email or chat based services?
- What implementation procedures should be in place to assure that the development of an appropriate emergency plan occurs when utilizing e-communications as a primary mode of providing services?

Level 2 Key Complexities

Modulating Client Emotions ("Disinhibition" Effect)

- What special knowledge and skills are needed to address the disinhibition effect and to modulate client emotions effectively?

Level 2 Key Complexities

Effective Termination & Referral Procedures

- What special knowledge and skills are needed to address the termination and referral process effectively when using phone, text, email or chat based treatment approaches?

Level 2 Key Complexities

Insurance and Reimbursement

- What CPT codes are used for phone, text, email and chat based services?
- What office code is used for phone, text, email and chat based services?
- Which insurers are currently reimbursing for phone, text, email and chat based services and under which conditions?

Level 2 Key Complexities

Technology, Security & Confidentiality Strategies

- What special considerations must be made to ensure the privacy of PHI when using phone, text, email and chat based modes of services?
- What encryption, technological and practice safeguards are necessary to meet HIPAA standards when using phone, text, email and chat based modes of services?
- If secure modes of communication cannot be assured, what procedures must be implemented to secure permission from the client to utilized non-secure modes of communication?

Operating at Level 3

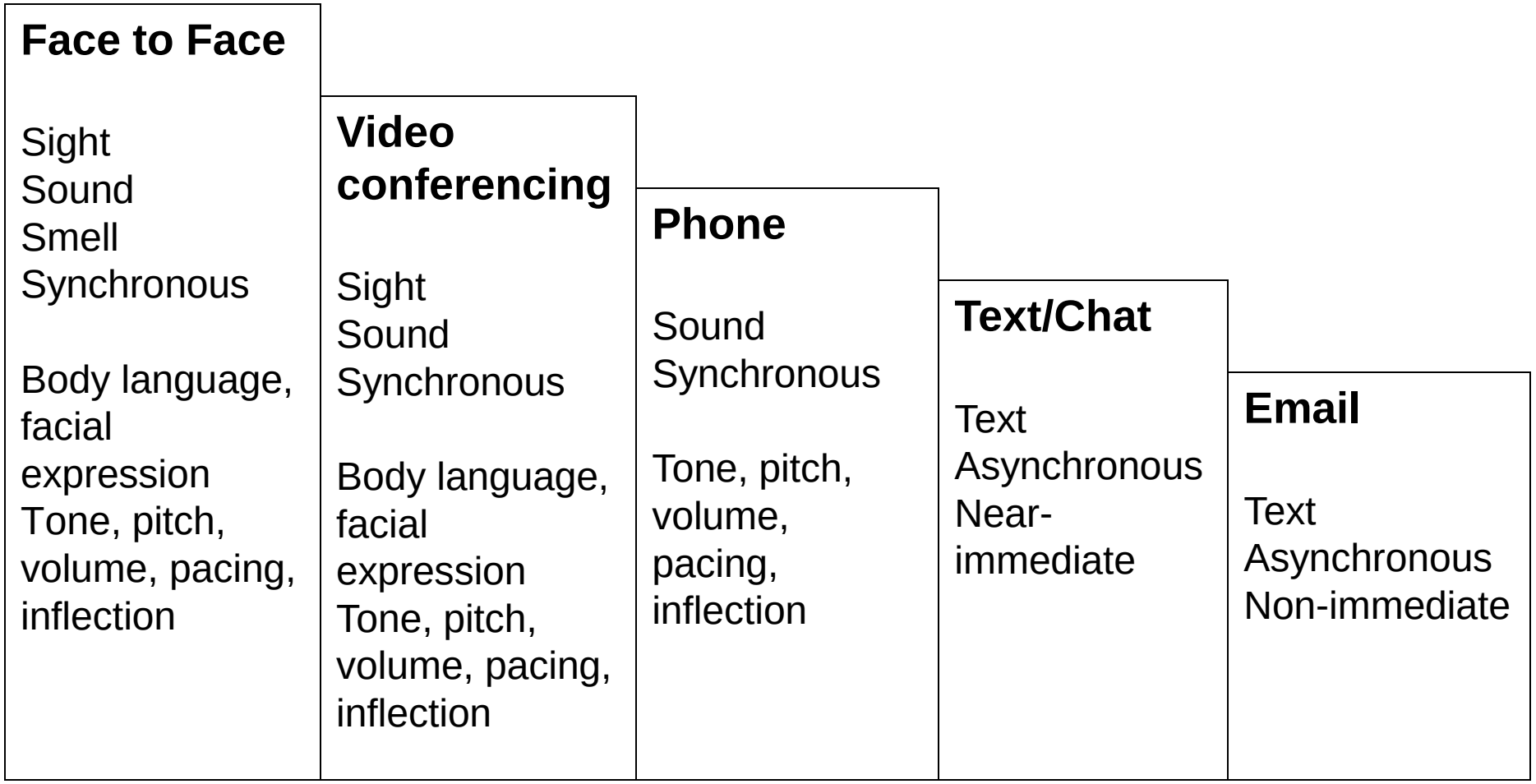
Considerations at Level 3

- In addition to face to face, primary clinical services may be conducted through teleconferencing in addition to via phone and email contact, including back-up modes of interaction if video feed is lost during session

- Contact via e-communications may include teleconferencing based intake and assessment, regular between session supportive contact via a variety of communications approaches

- Interactions with other clinicians around client care issues may be conducted via e-communications approaches, provided such actions are HIPAA compliant and/or client consent has been secured

Level of Communication Information



Considerations at Level 3

- While level of communication information is higher with video teleconferencing, level of complexity is higher, and difficulties in managing technology issues and security risks are both higher

- Client identification is more easily established when video conferencing technology is utilized, as a picture ID can be utilized at the beginning of any session, however additional attendees at session must be identified if they are out of view

- Operations at this level require significantly more knowledge and preparation than at levels 1 and 2, since the technological requirements for the clinician and the client are more complicated

Considerations at Level 3

- Specialized knowledge and training on assessment and counseling via teleconferencing based models of service are indicated, including addressing issues of the modulation of emotion due to the disinhibition effect

- Greater preparations for urgent and crisis situations must be undertaken, as well as greater care to identify clients who are contraindicated for these kinds of services

- More careful consideration of privacy and informed consent issues must be undertaken when using teleconferencing, and secure and HIPAA compliant teleconferencing platforms must be utilized in accordance with established Telehealth guidelines

Level 3 Key Competencies

- Legal & Ethical Issues of using e-communication approaches including teleconferencing
- Informed Consent in e-communication practice
- Client & Clinician Identification via e-communication platforms
- Indications and Contraindications on e-communication platforms, including teleconferencing
- Local Resources (Contact Person)
- Assessments via e-communication platforms
- Emergency Plan & Crisis Intervention
- Modulating Client Emotions (“Disinhibition” Effect)
- Effective Termination & Referral Procedures via e-communication platforms
- Insurance & Reimbursement
- Technology, Security & Confidentiality Strategies

Level 3 Key Complexities

Legal & Ethical Issues

- What services fall under restrictions based upon licensing, i.e., what is considered counseling versus other kinds of contact?
- What are laws and statutes concerning practice across state and country lines?
- What specific kinds of e-communication in practice are allowed under state laws?

Level 3 Key Complexities

Informed Consent

- What special items need to be contained in the informed consent agreement to address use of teleconferencing based counseling?
- How can the client review the informed consent agreement, sign the inform consent agreement and receive a signed copy of the informed consent agreement when using teleconferencing based counseling?

Level 3 Key Complexities

Client & Clinician Identification

- How can you identify the client when using teleconferencing based counseling during the first and each subsequent session?
- What procedures must be in place to keep verification of client identity in the case records?

Level 3 Key Complexities

Indications and Contraindications

- Which groups of potential clients would benefit from the availability of teleconferencing based services?
- Which groups of potential clients are poor candidates for teleconferencing based services?

Level 3 Key Complexities

Local Resources (Contact Person)

- What local resources are needed when using phone, text, email or chat based services?
- What implementation procedures should be in place to assure that local resources development occurs when utilizing e-communications as a primary mode of providing services?

Level 3 Key Complexities

Assessments

- What are the potential limitations associated with performing phone, text, email or chat based assessments?
- What policies and procedures should be in place to address potential limitations in performing phone, text, email or chat based assessments?

Level 3 Key Complexities

Emergency Plan & Crisis Intervention

- What sort of emergency plan will be necessary to have available when using teleconferencing based services?
- What implementation procedures should be in place to assure that the development of an appropriate emergency plan occurs when utilizing e-communications as a primary mode of providing services?

Level 3 Key Complexities

Modulating Client Emotions ("Disinhibition" Effect)

- What special knowledge and skills are needed to address the disinhibition effect and to modulate client emotions effectively?
- What may be different with regard to the disinhibition effect when using teleconferencing based counseling versus phone, text, email, or chat based modalitites?

Level 3 Key Complexities

Effective Termination & Referral Procedures

- What special knowledge and skills are needed to address the termination and referral process effectively when using teleconferencing based treatment approaches?

Level 3 Key Complexities

Insurance and Reimbursement

- What CPT codes are used for teleconferencing based services?
- What office code is used for teleconferencing based services?
- Which insurers are currently reimbursing for teleconferencing based services and under which conditions?

Level 3 Key Complexities

Technology, Security & Confidentiality Strategies

- What special considerations must be made to ensure the privacy of PHI when using teleconferencing based services?
- What encryption, technological and practice safeguards are necessary to meet HIPAA standards when using teleconferencing services?
- If secure modes of communication cannot be assured, what procedures must be implemented to secure permission from the client to utilized non-secure modes of communication?

Informed Consent Process for TMH

What elements need to be contained in a well-constructed informed consent agreement to educate the client concerning what is involved in the use of TMH services?

Ethical Issues: Informed Consent

Elements of a Statement of Informed Consent

- The length and cost of sessions
- The clinician's policies concerning acceptance of insurance payments
- Costs for secondary services, such as copying records, phone calls, or document creation
- Payment policies
- Cancellation policy
- Rights to privacy and confidentiality
- Privacy and confidentiality rights and other rights covered under HIPAA
- Policies concerning the review of case records by the client
- The risks and benefits of therapy and client responsibilities within treatment

Ethical Issues: Informed Consent

Policy for Communication via Social Media

It is the policy of Charles D. Safford not to initiate any connections with clients via social media and to decline any invitations to connect with clients via Facebook, LinkedIn or any other form of social media, or otherwise engage in internet based communication in ways that might reveal the existence of a therapeutic relationship. This policy is designed to protect the rights of each client to privacy and confidentiality. This policy will be followed both during the time a client is in treatment and after a client has discontinued treatment.

Informed Consent

Informed consent:

a. Process
    i. Possible misunderstandings
    ii. Turnaround time
    iii. Privacy of the counselor
b. Counselor
    i. Name
    ii. Qualifications
    iii. How to confirm the above
c. Potential benefits
d. Potential risks
e. Safeguards
f. Alternatives
g. Proxies

ISMHO, Suggested Principles, http://ismho.org/suggestions.asp

Standard Operating Procedures

Standard operating procedure:

a. Boundaries of competence
b. Requirements to practice
c. Structure of the online services
d. Evaluation
e. Confidentiality of the client
f. Records
g. Established guidelines

ISMHO, Suggested Principles, http://ismho.org/suggestions.asp

Emergency Plan and Procedures

Emergency plans and procedures:

a. Procedures
b. Local backup

ISMHO, Suggested Principles, http://ismho.org/suggestions.asp