

Technology Assisted Professional Services and the AAMFT Code of Ethics

Manitoba Association for Marriage and Family Therapy
Annual General Meeting
2015

The AAMFT Ethics Committee

* What is it and what is its role?

The Ethics Committee Members

- * Roberta Graham (Chair)
- * Mike Bishop
- * Jeff Bryson
- * Shelley Green
- * Jay Levrio (Public Member)
- * Steve Livingston

The Ethics Committee's purpose and function is set forth in the 2012 AAMFT Bylaws (Article 6.04) as follows:

“The Ethics Committee shall review the AAMFT Code of Ethics and interpret it to the membership and to the public, and consider allegations of violations of ethical standards made against members. It shall be the specific responsibility of the committee to conduct investigations of alleged violations of the AAMFT Code of Ethics and to resolve such allegations by mutual agreement with the member, or to make a recommendation for disciplinary action to be taken against the member, and, in any case heard by the Judicial Committee, to prosecute the charges against the member.”

The Ethics Committee is normally comprised of six members who each serve for a period of three years. Five are AAMFT Clinical Fellows, and one is a public member who holds no affiliation with the Association.

Most Common Ethical Complaints Against MFTs

1. Substantiation of Professional Misconduct (Subprinciple 3.15e) –commonly involving breach of confidentiality, multiple relationships/dual roles, sex with client/former client and testifying in divorce or custody proceedings.
2. Multiple Relationships/Dual Roles (Subprinciple 1.3)
3. Confidentiality (Subprinciple 2.2)
4. Treating MFT providing opinion on custody, visitation or residence of minor (Subprinciple 3.14)
5. Public Statements or Testimony (Subprinciple 3.13)
6. Tie between Subprinciples 1.4 (sexual intimacy) and 3.8 (harassment).
7. Tie among Subprinciples 1.5 (sexual intimacy), 1.10 (referrals), 3.2 (Knowledge of Regulatory Standards), 4.1 (exploitation) and 7.4 (truthful representation of services).

From January 1, 2015 through June 30, 2015, AAMFT received approximately 531 legal/ethics inquiries through the consultation service provided as a member benefit.

The top 5 categories of calls were:

1. Records
2. Duty to Report
3. Confidentiality
4. Multiple Relationships/Conflicts of Interest*
Billing and Insurance Issues*
5. Subpoena

*Tied

Inquiries



Technology is the Future?



2015 New Standard

* **STANDARD VI**

TECHNOLOGY-ASSISTED PROFESSIONAL SERVICES.

Therapy, supervision, and other professional services engaged in by marriage and family therapists take place over an increasing number of technological platforms. There are great benefits and responsibilities inherent in both the traditional therapeutic and supervision contexts, as well as in the utilization of technologically-assisted professional services. This standard addresses basic ethical requirements of offering therapy, supervision, and related professional services using electronic means.

Technology Assisted Professional Services

- * **6.1 Technology Assisted Services.** Prior to commencing therapy or supervision services through electronic means (including but not limited to phone and Internet), marriage and family therapists ensure that they are compliant with all relevant laws for the delivery of such services. Additionally, marriage and family therapists must: (a) determine that technologically-assisted services or supervision are appropriate for clients or supervisees, considering professional, intellectual, emotional, and physical needs; (b) inform clients or supervisees of the potential risks and benefits associated with technologically-assisted services; (c) ensure the security of their communication medium; and (d) only commence electronic therapy or supervision after appropriate education, training, or supervised experience using the relevant technology.

Technology Assisted Professional Services

- * **6.2 Consent to Treat or Supervise.** Clients and supervisees, whether contracting for services as individuals, dyads, families, or groups, must be made aware of the risks and responsibilities associated with technology-assisted services. Therapists are to advise clients and supervisees in writing of these risks, and of both the therapist's and clients'/supervisees' responsibilities for minimizing such risks.

Technology Assisted Professional Services

- * **6.3 Confidentiality and Professional Responsibilities.** It is the therapist's or supervisor's responsibility to choose technological platforms that adhere to standards of best practices related to confidentiality and quality of services, and that meet applicable laws. Clients and supervisees are to be made aware in writing of the limitations and protections offered by the therapist's or supervisor's technology.

Technology Assisted Professional Services

- * **6.4 Technology and Documentation.** Therapists and supervisors are to ensure that all documentation containing identifying or otherwise sensitive information which is electronically stored and/or transferred is done using technology that adhere to standards of best practices related to confidentiality and quality of services, and that meet applicable laws. Clients and supervisees are to be made aware in writing of the limitations and protections offered by the therapist's or supervisor's technology.

Technology Assisted Professional Services

- * **6.5 Location of Services and Practice.** Therapists and supervisors follow all applicable laws regarding location of practice and services, and do not use technologically-assisted means for practicing outside of their allowed jurisdictions.

Technology Assisted Professional Services

- * **6.6 Training and Use of Current Technology.** Marriage and family therapists ensure that they are well trained and competent in the use of all chosen technology-assisted professional services. Careful choices of audio, video, and other options are made in order to optimize quality and security of services, and to adhere to standards of best practices for technology-assisted services. Furthermore, such choices of technology are to be suitably advanced and current so as to best serve the professional needs of clients and supervisees.

What does this mean?

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Case Example

- * You have set up a private practice and are doing clinical sessions using application software that allows you to conduct video sessions with clients from separate physical locations. You have recently been seeing a client with a diagnosis of depression and who has gone to Florida for the winter. You conduct sessions with this client via skype from your office, as the client wants to continue therapy while they are away. You receive a notice from your internet provider that your computer has been hacked and that you have malware that allows access to all information on your computer. It seems the hacker is able to view everything on your computer, including any skype transmissions. This has just been discovered; there is no way to know how long this malware has been on the computer you use to conduct your skype therapy sessions. You are worried about how your depressed client will handle the information that your confidential sessions may have been viewed and her confidentiality violated. This client has a history of one suicide attempt in the past.
- * What are the ethical issues presented here in relation to the revised 2015 AAMFT Code of Ethics (including the use of technology)?



What do you mean
there is more to think
about?

Other important changes include...

Additional Changes to the 2015 Code

- * **1.4 Sexual Intimacy with Current Clients and Others.** Sexual intimacy with current clients or with known members of the client's family system is prohibited.
- * **1.5 Sexual Intimacy with Former Clients and Others.** Sexual intimacy with former clients or with known members of the client's family system is prohibited.

Additional Changes

- * **1.7 Abuse of the Therapeutic Relationship.** Marriage and family therapists do not abuse their power in therapeutic relationships.
- * **2.1 Disclosing Limits of Confidentiality.** Marriage and family therapists disclose to clients and other interested parties, *at the outset of services*, the nature of confidentiality and possible limitations of the clients' right to confidentiality. Therapists review with clients the circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. Circumstances may necessitate repeated disclosures.

New Standard to the Code

- * **2.3 Client Access to Records.** Marriage and family therapists provide clients with reasonable access to records concerning the clients. When providing couple, family, or group treatment, the therapist does not provide access to records without a written authorization from each individual competent to execute a waiver. Marriage and family therapists limit client's access to their records only in exceptional circumstances when they are concerned, based on compelling evidence, that such access could cause serious harm to the client. The client's request and the rationale for withholding some or all of the record should be documented in the client's file. Marriage and family therapists take steps to protect the confidentiality of other individuals identified in client records.

Changes to the Code

- * **3.9 Gifts.** Marriage and family therapists attend to cultural norms when considering whether to accept gifts from or give gifts to clients. Marriage and family therapists consider the potential effects that receiving or giving gifts may have on clients and on the integrity and efficacy of the therapeutic relationship.

Changes to the Code

- * **4.3 Sexual Intimacy with Students or Supervisees.** Marriage and family therapists do not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the therapist and student or supervisee.

New Standard

- * **4.8 Payment for Supervision.** Marriage and family therapists providing clinical supervision shall not enter into financial arrangements with supervisees through deceptive or exploitative practices, nor shall marriage and family therapists providing clinical supervision exert undue influence over supervisees when establishing supervision fees. Marriage and family therapists shall also not engage in other exploitative practices of supervisees.

New Standard

- * **STANDARD VII PROFESSIONAL EVALUATIONS.** Marriage and family therapists aspire to the highest of standards in providing testimony in various contexts within the legal system.
- * **7.1 Performance of Forensic Services.** Marriage and family therapists may perform forensic services which may include interviews, consultations, evaluations, reports, and assessments both formal and informal, in keeping with applicable laws and competencies.

New Standard

- * **7.2 Testimony in Legal Proceedings.** Marriage and family therapists who provide expert or fact witness testimony in legal proceedings avoid misleading judgments, base conclusions and opinions on appropriate data, and avoid inaccuracies insofar as possible. When offering testimony, as marriage and family therapy experts, they shall strive to be accurate, objective, fair, and independent.

New Standard

- * **7.3 Competence.** Marriage and family therapists demonstrate competence via education and experience in providing testimony in legal systems.
- * **7.4 Informed Consent.** Marriage and family therapists provide written notice and make reasonable efforts to obtain written consents of persons who are the subject(s) of evaluations and inform clients about the evaluation process, use of information and recommendations, financial arrangements, and the role of the therapist within the legal system.

New Standard

- * **7.5 Avoiding Conflicts.** Clear distinctions are made between therapy and evaluations. Marriage and family therapists avoid conflict in roles in legal proceedings wherever possible and disclose potential conflicts. As therapy begins, marriage and family therapists clarify roles and the extent of confidentiality when legal systems are involved.

New Standard

- * **7.6 Avoiding Dual Roles.** Marriage and family therapists avoid providing therapy to clients for whom the therapist has provided a forensic evaluation and avoid providing evaluations for those who are clients, unless otherwise mandated by legal systems.

New Standard

- * **7.7 Separation of Custody Evaluation from Therapy.** Marriage and family therapists avoid conflicts of interest in treating minors or adults involved in custody or visitation actions by not performing evaluations for custody, residence, or visitation of the minor. Marriage and family therapists who treat minors may provide the court or mental health professional performing the evaluation with information about the minor from the marriage and family therapist's perspective as a treating marriage and family therapist, so long as the marriage and family therapist obtains appropriate consents to release information.

New Standard

- * **7.8 Professional Opinions.** Marriage and family therapists who provide forensic evaluations avoid offering professional opinions about persons they have not directly interviewed. Marriage and family therapists declare the limits of their competencies and information.

New Standard

- * **7.9 Changes in Service.** Clients are informed if changes in the role of provision of services of marriage and family therapy occur and/or are mandated by a legal system.
- * **7.10 Familiarity with Rules.** Marriage and family therapists who provide forensic evaluations are familiar with judicial and/or administrative rules prescribing their roles.