Keeping Confidences

“Keeping confidences” of our clients/patients is necessary for the therapeutic alliance to work, and it’s also a major ethical responsibility for all therapists. At the same time, there are strong pressures to open up and tell the secrets we’ve been entrusted with: some of our cases are just so fascinating, and certain case details may be sought by interested third parties. The law about confidentiality follows the ethics: it is a legal duty for professionals to keep confidences inviolate, and a legal right of our patients/clients regarding the privacy of their communications with us. Regardless of what kind of therapy we practice, or what kind of professional license and identity we have, confidentiality is a major concern that applies to all of us. We must not gossip.

Our patients/clients expect and need us to keep to ourselves all the messy details of their lives that they disclose to us. They need to feel safe in sharing with us their secrets. They can rest assured that we, as professionals, will not communicate with their family members, partners, their school or business, or even the police, anything that they tell us.

There are a few exceptions, of course. If our patient/client is planning on killing him/herself or someone else, or is engaged in ongoing abuse or neglect of someone else (especially a child or an elder), or is planning on destroying or robbing the property of another – then we usually must take preventative action. Different states have different laws about such breaches of therapist confidentiality, so a consultation with your own profession’s legal department in your state is usually recommended before you decide what to do.

Adolescents in treatment, usually paid for by their parents, present another dilemma. If they are under 18, it is possible sometimes that they may qualify as a “mature minor” or an “emancipated minor,” and we are not obliged to report the contents of their sessions to their parents, if requested. But state laws vary, especially if a young woman is thinking of getting an abortion.

The internal emotional reactions of the therapist when making such disclosures are not considered by state laws, but they are very real. Deciding to betray the confidences of a client/patient is a serious matter, even when the consequences of *not* acting are clear and compelling. Consultation with a supervisor, mentor, or colleague is generally a very good idea. The burden of guilt, the conflict between two competing obligations, can disrupt one’s professional equilibrium.

If we send patient information electronically, the federal HIPAA law governs how we must do this. Safeguards against unauthorized disclosures must be in place and followed, when communicating electronically with health insurance companies. Furthermore, if we do research or publish about our practice, patient details must be disguised or omitted, to preserve the privacy and confidence of the client.

The basic rule about confidentiality is that the client/patient needs to give to us therapists a signed consent before we can share details of their private lives with anybody – except, of course, if the

destruction of person or property is being contemplated. This rule sounds clear and simple, but every situation has its complicating elements, and getting advice from senior colleagues and in-house legal counsel is highly recommended – for the actions you may need to take, as well as for the emotional turmoil you may be experiencing.

Confidentiality can be tricky, and most therapists can benefit from a review of the subject. See, for example, CPH's "Avoiding Liability Bulletin" on it, which involves several years of legal advices and prints out to over 20 pages. It covers privacy concerns in group and couple therapies, the famous Tarasoff decision, the unexpected caller who wants to impart information about your client/patient and requests that it be kept secret, requests from law enforcement, the sexual partners of HIV/AIDS carriers, and many other issues. Our own professional organizations also provide legal counsel that specializes in such issues and is there to help us. We may never need this counsel but it's reassuring to know that it's there if we do.

Here is one of the great advantages of ongoing, extended supervision for most of us, either with a respected senior clinician, or with a small group of our peers, where there is a clear understanding that all discussion of persons in our practices is "privileged" and to be kept strictly confidential by the rest of us when we hear those (embarrassing-?) details that are bothering a colleague. If we face a confidentiality crisis, we can feel supported by colleagues whom we know will understand the unusual stress we are under.

Confidentiality is written into formal codes of ethics for all of us in the helping professions. In its legal and also its personal workings, confidentiality is a strong support both to our patients/clients and to ourselves, if we know how to make good use of its rules and its exceptions.

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