

Risk Management in the Digital Age

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The Trust

1 CE Credit, Instructional Level: Intermediate

1 Contact Hour (New York Board of Psychology)

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Eric A. Harris, Ed.D., J.D., is a licensed psychologist and recently retired member of the Massachusetts Bar. In 1994 he cofounded the risk management program at the American Psychological Association Insurance Trust (now the American Insurance Trust) where he has provided risk management consultations and created and presented CE training programs across the U.S. He received his law degree from Harvard Law School in 1969 and his Doctorate in Clinical Psychology and Public Practice from the Harvard University in 1978. In addition, Dr. Harris served as legal counsel to the Massachusetts Psychological Association where he was the Director of Professional Affairs for 10 years. He was a member of the APA/ASPPB/APAIT Telepsychology Task Force that drafted the APA Telepsychology Guidelines. He previously served as a faculty member at the Massachusetts School of Professional Psychology and had a part time clinical practice for more than 15 years. He has served on APA's Committee on Legal Issues and the Committee for the Advancement of Professional Practice. Dr. Harris was the first recipient of the Eric Harris career contribution award from the Massachusetts Psychological Association.

Disclosures/Conflicts of Interest

Dr. Eric Harris is a risk management consultant with The Trust, who is partnering on this webinar.

Learning Objectives

1. Discuss standard elements of risk management, such as competence, informed consent, and good recordkeeping practices
2. Discuss digital-age situations, such as online reviews and social media, that pose risk to psychologists
3. Describe risk management strategies for psychologists to protect themselves from digital-age risks of telepsychology and interjurisdictional practice

What is Risk Management

Risk management is the prospective assessment of retrospective evaluation.

What is Risk Management

- Risk management for psychologists is primarily designed to avoid adverse disciplinary results as a result of licensing board complaints.
 - Chance of licensing board complaint 50%
 - Chance of malpractice suit 1-2%
 - Long-range negative consequences of disciplinary sanction usually more serious than settled malpractice settlement

Elements of Risk Management

- Know the legal and ethical standards governing practice
- Identify high-risk patients and high-risk situations
- Conduct a conservative evaluation of your competence to perform
 - Intellectual competence
 - Technical competence
 - Emotional competence

Elements of Risk Management

- Provide comprehensive informed consent
- Develop good recordkeeping practices and strategies
- Seek appropriate consultation
- Pay attention to client relationships
- Understand that you are in a business and will need efficient practices and procedures which interface well with your revenue sources
- Participate in your professional community

Digital World Issues

- Digital World Risks
 - HIPAA breaches
 - Telepsychological service delivery
 - Online negative reviews
 - The internet is forever
 - EHR
 - Social media participation and blurring of private and professional roles
 - Interjurisdictional practice

HIPAA, No Surprises Act, EHRS

- HIPAA
 - Preemption issues
 - Protecting patient confidentiality
 - Record access
 - breaches and breach notification
- No Surprises Act
 - Good faith estimate
- EHRS

Telepsychology Issues

- Service delivery
- APA standards
 - State and federal laws
 - Need for in-person sessions

Telepsychology Issues

- Internet issues
 - The internet is forever
 - Bad patient reviews
 - Social media participation

Interjurisdictional Practice

- Where internet transaction takes place
- Interjurisdictional practice
 - State temporary practice laws
 - Providing services where provider is located elsewhere
 - Necessary extension of services
 - International practice
 - PSYPACT

Q&A With Dr. Eric Harris



- We will discuss select questions that were submitted via the Q&A feature throughout the presentation.
- Due to time constraints, we will not be able to address every question asked.

References

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- Childress, C. A. (2000). Ethical issues in providing online psychotherapeutic interventions. *Journal of Medical Internet Research, 2*(1), e5. <https://doi.org/10.2196/jmir.2.1.e5>
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