Couples Therapy:

Billing, Documentation, and Ethical Dilemmas

with Barbara Griswold, LMFT

Author, Navigating the Insurance Maze

8/24

SPEAKER

Barbara Griswold, LMFT

Barbara coaches therapists in private practice, and is the author of *Navigating the Insurance Maze: The Therapist's Complete Guide to Working with Insurance—And Whether You Should*, now in its 9th edition.

She was honored to serve on the Ethics Committee and Board of Directors for the California Association of Marriage and Family Therapists.

After 32 years in practice, she now provides non-judgmental trainings and consultations to therapists and groups nationwide about insurance, notes, and practice-building. Contact her at theinsurancemaze.com/contact.

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DISCLAIMER

BLAH, BLAH, BLAH,

QUESTION

"What is the landing page?"

ANSWER

- Where you will get all the links to resources I'll mention in the webinar, plus
- Slide handouts
- Articles I mention
- Other helpful resources
- It can be found at:

theinsurancemaze.com/CT

TRUE OR FALSE?

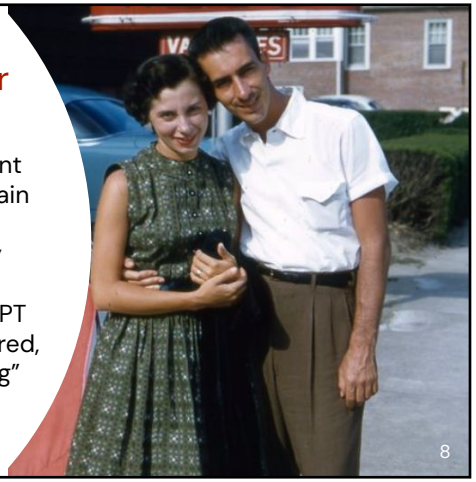
"Couples therapy can be expensive. If your therapy is covered by insurance it can be a big relief…. But that's fairly rare…

In general, couples therapy is not covered under most standard health insurance plans because by definition couples therapy is not a treatment for a mental health issue. Instead, couples therapy is a treatment used to help two individuals improve their communication or relationship."

-- from a therapist website

Will Insurance Cover Couples Therapy?

- Can't make blanket statement
- Most plans cover when certain conditions are met
- **Hoop #1:** Is couples therapy covered by client's plan?
  - TIP: Call the plan, ask if CPT 90847 / 90846 are covered, not if "couples counseling" is covered



When Will Insurance Cover?

Hoop #2: Just like individual therapy, must meet "medical necessity criteria:"

- A plan member has a diagnosis
- Diagnosis usually must be more than DSM-5 Z-code (ex. Z63.0 Problems in Relationship with Spouse/Partner)
  - Doesn't matter presenting issue…
  - Adjustment Disorders usually covered
- Treatment goals: Reduction of symptoms, not JUST personal growth, self-esteem, career issues, communication, or sexual issue
- Client has some level of distress or impairment

Hoop #3: Treatment you are doing can help with that diagnosis

QUESTION

"Must I choose an Identified Patient (IP) for insurance? I don't feel comfortable with this. I see the couple as my client."

ANSWER

- I don't know anyone who feels comfortable with this
- Yes, plans require an IP for claims, treatment plans, but….
- Health plans know one person is not the problem/the sick one
- Talk with clients; say in Couples Treatment Agreement: *"I consider you both my clients. While I will have to designate one of you as the main client on an insurance claim or treatment plan, I do not see any one person as the cause of relationship problems. I know that each person has their part in both positive and negative relationship patterns."* (see my Couples Treatment Agreement in my Practice Forms Packet… link at theinsurancemaze.com/CT)

QUESTION

"How do I choose an IP if both have diagnoses?"

ANSWER

- Not necessarily the person who sought help, or the one identified as the problem by that person
- Clinically you should assess and decide
  - Must choose someone with insurance
  - May choose the person with the most serious diagnosis to allow for more sessions
  - May choose main person on insurance
  - May choose person with better insurance
  - May educate/ask the couple

QUESTION

"What if I determine, after intake, that neither member of the couple has a diagnosis (more than a Z-code)?"

ANSWER

- It is fraud to put down a diagnosis if you don't find one
- Could check to see if plan will pay a Z-code
- Otherwise, unethical to make up diagnosis, so you must give them "Medical Necessity Talk":

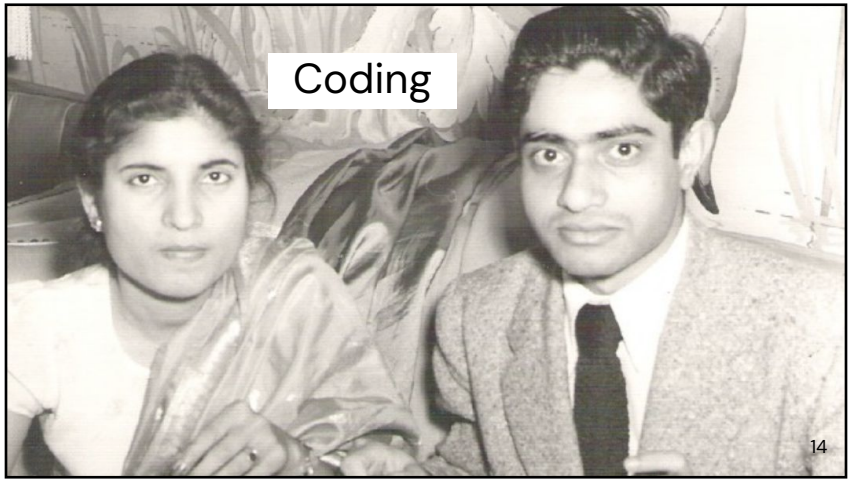
"The good news: I hear great issues here to work on, and I have a lot of experience in these areas. The bad news: When there is no medical diagnosis like anxiety or depression, we can't bill your insurance -- but I'd be happy to work with you." Then discuss fee

QUESTION

"Will insurance cover my client's couples therapy if she is also in individual counseling?"

ANSWER

- Usually, yes!
- It could be a problem if receiving both services from same provider on same day



"What codes do I use for couples? (and what's a CPT code?)"

Let's look at some coding scenarios with your clients, Dimitri and Anya.

What CPT codes should you use for each of the following?

Session 1:
You see them together for a first session

Session 2:
You see Anya, the Identified Patient, alone

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Session 3:
You see Dimitri, the partner of Identified Patient, alone

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Session 4:
You see the couple together

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Answers

Session	Description	CPT Code
1	Couple intake	***90791:*** *diagnostic assessment (no time)*
2	IP alone	***90834:*** *45 min ind. therapy (38–52 mins)* ***90837:*** *60 min ind. therapy (53 min & over)*
3	Partner of Identified Patient alone	***90846:*** *Couples/family therapy w/o client 50 mins (26 min & over)*
4	Couple together	***90847:*** *Couples/family therapy w/client 50 mins (26 min & over)*

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Can you use 90834 and 90837 for couples?

90834: Psychotherapy, 45 min.
90837: Psychotherapy, 60 min.

- No! These are individual codes
- May be used when doing ongoing *individual* therapy and you *occasionally* bring in a family member ("informant"), for some part of session to assist with individual treatment
  - ➢ Identified client must be present all or most of session
- These CANNOT be used for ongoing couples or family therapy

(cont.)

Can 90834 and 90837 be used for couples?

- Some plans pay more for 90837 than for couples code 90847 (why is this?)
- But billing 90837 for couples may be fraud – if used for couples sessions, in an audit, a plan may request money back – *even for out-of-network therapists!*
- See my *Audits & Records Requests* webinar; link is at theinsurancemaze.com/CT

QUESTION

"I am in-network with an insurance plan that pays me $25 less for a 90847 couples session than they pay for an individual session. Can I tell couples I won't bill their insurance for couples therapy?"

ANSWER

- ➢ This would likely be a breach of your contract
- ➢ On landing page at theinsurancemaze.com/CT, you'll find
  - My article on refusing to bill for couples therapy
- ➢ I feel you need to bill UNLESS
  - there is no diagnosis / medical necessity present
  - 90847 is not covered by client's insurance
  - client asks to waive insurance (sign Private Pay Agreement, as in Practice Forms Packet – link: theinsurancemaze.com/CT)
  - providing educational classes (e.g. communication, conflict resolution) or support groups

QUESTION

"I saw Dmitri, the partner of the IP, once alone. I billed 90846 (couples/family therapy without patient present). Whose name is on the claim as the IP for this session? Does it matter if he has a diagnosis, or his own insurance?"

ANSWER

- ➢ Anya's name is still on the claim. She is the IP, and the individual session is part of the couples therapy, which is being filed under her name
- ➢ It doesn't matter if he has a diagnosis or insurance

QUESTION

"Anya and Dimitri came to see me to discuss their daughter's depression. I am not treating the daughter. Neither parent has a diagnosis. What CPT code would I use on the claim for their sessions?"

ANSWER

Trick question. If there's no diagnosis (other than a Z-code), there's no insurance bill or invoice, thus no CPT code.

QUESTION

"If Anya and Dimitri both have insurance, can I bill each health plan for a couples session? Or for an individual session?"

ANSWER

- ➢ No! Double-billing for same session is usually fraud
- ➢ This would be equivalent to you (or the clients) being reimbursed twice for a single session
- ➢ You can't bill for 2 individual sessions: You didn't even provide one!

Longer Sessions

Longer Sessions

- Prior to 2017, there was no CPT code for longer couples sessions
- In 2017: Prolonged Services codes (99354/99355) were allowed to be used as an add-on to couples therapy sessions of 80 mins+
  - Sometimes covered
- But these codes deleted 1/1/2023; substitutes 99417 and G2212 do not appear to be able to be used with psychotherapy codes

So, how would you code a 100-minute+ couples session?

1. Can you use 90847, bill for 2 units?
   - ➢ Historically, not usually covered
   - ➢ *Ex: This 2022 Optum policy: "One family psychotherapy session may be utilized per date of service per family, regardless of the number of eligible family members with a…diagnosis [that] are present for the session."* [1]
   - ➢ But maybe that is changing…

1-https://tinyurl.com/optumfam

From the NASW in 2023, regarding loss of Prolonged Services Codes:

"After several months of research and meetings, the [NASW] and other mental health associations were able to discover a solution through contacts with the Centers for Medicare and Medicaid Services (CMS) and other third-party payers. To report prolonged services, clinical social workers may now report two units of 90834, individual psychotherapy for 45 minutes, for…90 minutes …

When providing prolonged services beyond 50 minutes for 90847, family therapy with the patient present, report two units also….

Although reporting two units of time is the preferred method of reporting prolonged services for psychotherapy, not all third-party payers are using this model. Therefore, [therapists] should contact third-party payers…to learn their preferred method of reporting prolonged services….

It is also important to document in the clinical record why the prolonged service was necessary. The rationale must be related to the patient's needs… For example, a trauma related treatment modality generally requires a prolonged service."

– https://tinyurl.com/PS-NASW

Longer Sessions *(cont.)*

2. Can you bill one client's plan 90847 for first 50 minutes, and bill the partner's plan 90847 for the 2nd 50 minutes?
3. Was it a crisis session? Use 90839 with add-on code 90840; see crisis billing article at theinsurancemaze.com/CT
4. If you are a network therapist, can you bill plan for first 50 minutes, and ask the client to pay the extra time?
   - Check contract/call plan
   - In advance, have ct. sign Private-Pay Agreement (PPA), outlining exact fees–PPA in my Practice Forms Packet theinsurancemaze.com/CT

TheInsuranceMaze.com

QUESTION

"Do I need to keep separate notes for each member of the couple? Separate charts? Separate treatment plans?"

ANSWER

- It's mostly therapist preference. Separate charts/treatment plans are not needed
- Consider:
  - Are you also doing indiv. therapy with each?
  - Is it an insurance case?
  - Is couple in committed relationship?

QUESTION

"Is a couples note different than for an individual client?"

ANSWER

- Like individual notes, be sure to document THERAPY start and stop times
- Might add how IP chosen, significant discussions (e.g. secrets policies, who is the client, etc), therapy decisions (ex. why meeting with them individually), changes in unit being treated
- Document who attended session and their relationship
- For insurance clients, make sure every note documents your support for diagnosis of main client (How? See next slide….)

Sample Couples Session Note

Actual Therapy Start & Stop Times: 4:01-4:54pm
Session info: Video couples session with ct. and husband Dimitri at home, telehealth consent obtained.
Diagnosis: F43.21 Adjustment Disorder With Depression
Topics: Ct reports depression, anger, hurt after finding out that D. was talking online with a woman; "I'm considering divorce." D. states still loves wife, promises to break off rel. with other woman, but ct does not trust him. D. sat quietly in session, hung head while wife tearfully asked him, "why?" D said woman made him feel funny and smart.
Symptoms: Ct admits she "interrogates" D. daily about other woman. Ct. worries D. is no longer interested in her. Crying daily, loss of interest in most things, appetite loss (eating 1 meal daily), sleep av. 4 hrs per night, overall poor self-care. D. reports guilt and shame, anxiety about what will come next in relationship. *(continued)*

Sample Couples Session Note *(continued)*

Risk: When asked, clients both denied ideation of self-harm or harm to others
Interventions: Taught Active Listening to help couple talk more calmly, and practiced in session. Had clients agree to 1) postpone divorce discussions to give time to process emotions, and 2) to refrain from speaking about difficult issues outside of sessions. D. also agreed to stay with a friend temporarily. Both accepted my advice to get individual counseling for added support.
Progress/Plan: Cts. in crisis: Increase frequency of sessions to help clients calmly process emotions and to make non-reactive relationship decisions. Get releases for individual therapists.
Next appt: In two days on XX/XX/XX.

Sample Couples Session Note #2

Actual Therapy Start & Stop Times: 5:01-5:54pm
Session info: Video couples session with ct. and wife Jenny at home, telehealth consent obtained from both.
Diagnosis: F43.23 Adjustment Disorder With Anxiety and Depression
Topics: Ct continues to feel anxious and depressed since losing his job 4 months ago. This week once again did not get a job he applied for. He worries about finances, and that his wife thinks less of him. J. admitted she thinks he is not looking hard enough to find another job, and that she is resentful.
Symptoms: Ct states that being turned down for jobs he applies to and depressed mood overall is impairing job search and motivation. Both clients report increase in irritability and impatience, and admit they are communicating less out of fear of getting into arguments. Ct states,"I feel like a failure." Continues to struggle with poor sleep (average 6 hours night). J. says she feels more pressure and anxiety since she is only income earner. *(continued)*

Sample Couples Session Note (continued)

Risk: No risk factors identified or volunteered.
Interventions: In session, facilitated active listening between clients to share emotions about how job loss is affecting their relationship. Helped ct. identify what he needs from wife (emotional support) and what he doesn't need (to send online job postings, or "nag" him about job search), and the effect of each on his depression/anxiety. J. said she "nags" him because he does not communicate about his job search, which increases her worry and resentment. I asked if he could report to her twice weekly on how the job search was going, as long as she tried to give only positive support; both agreed.
Progress/Plan: While ct continues to struggle with some depression and anxiety, couple reports couples therapy is leading to better ability to de-escalate conflict in relationship. Ct reports he is sleeping better (now averages 6 hrs/night, up from 5 hrs at therapy start).
Next appt: XX/XX/XX. [Your signature and license]

QUESTION

"What about treatment plans for couples?"

ANSWER

- As with individual clients, treatment plan goals for couples must be medically necessary and measurable
- My advice:
  - ➢ Goal #1 should focus on symptom reduction of diagnosis in IP (ex. "ct will report decreased frequency, duration, and intensity of depressive episodes"
  - ➢ Any other goals can focus on couple *(see next slide…)*

Possible Couples Therapy Goals

1. Address relationship issues contributing to client symptoms or lack of functioning
2. Assist partner to understand client's symptoms, to respond more effectively
3. Reduce relationship conflict that is contributing to client symptoms
4. Improve communication in relationship to enable client to gain necessary support
5. Assist in diagnosis/treatment planning for client
6. Reestablish trust to stabilize relationship

Sample Couples Treatment Plan

Diagnosis: F43.21 Adjustment Disorder with Depressed Mood

Presenting Symptoms: Daily crying, arguments with spouse due to trust breach. Trust issues, loss of interest in most things, appetite loss (eating 1 meal daily), sleep av. 4 hrs per night, overall poor self-care.

Goal #1: Reduce symptoms of depression

Objective 1: Ct. will report less severe and less frequent depressive episodes (less than 3x a week instead of daily)
Objective 2: Ct. will report averaging 7 hours of sleep per night, and taking less than 30 minutes to fall asleep.
Objective 3: Ct. will be eating 2 healthy meals daily

Goal #2: Stabilize primary relationship, which is currently in crisis

Objective #1: Ct. will be able to tell spouse 2 things she needs from him when she is depressed, and 2 things needed to help rebuild trust
Objective #2: Couple will report decrease in relationship conflict, and will learn and be practicing 2 skills learned in therapy to de-escalate conflict when it arises

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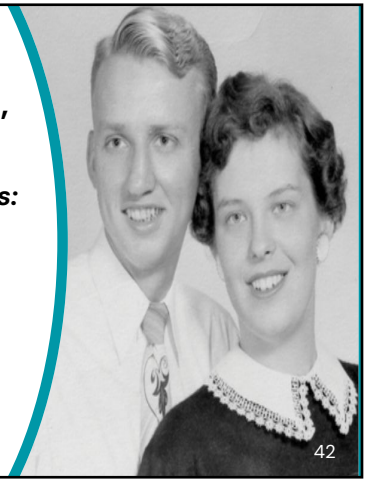
For more sample couples notes and treatment plans,

see my pre-recorded courses:

"What's Missing From Your Charts: Writing Great Progress Notes"

"How to Write a 10-Minute Treatment Plan"

Info at theinsurancemaze.com/CT



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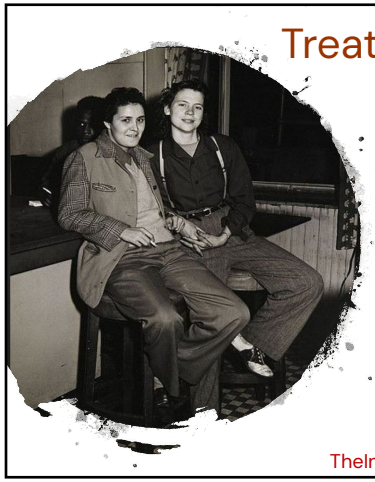
Are These in *Your* Treatment Agreement?

In addition to Telehealth Consent and normal Consent issues, your Couples Treatment Agreement might cover:

- Who is client
- Roles you will / won't take
- Will you see individually?
- If one shows up alone ….
- Confidentiality / secrets policies
- Communication between sessions
- Whose signature is needed to release info

Treatment Agreements (cont.)



- Using insurance: Identified Client, and need to diagnose
- Get both to sign release: "any info, including progress notes, necessary to process claims, or participate in treatment reviews or health plan documentation audits"
- Possible positive and negative outcomes of couples therapy
- Your approach to couples therapy

QUESTION

"If I do a couples telehealth session, what should I keep in mind?"

ANSWER

See next slide...

Telehealth Considerations

- Document "video" or "phone"
- Document exact location for each client at each session
- Interstate general rule: you must be licensed in state(s) where **BOTH** clients are located at the time of the session, or have permission from the licensing board for your license in that state(s)
  - Client's residence or their use of insurance doesn't matter
  - Otherwise illegal, and malpractice typically won't cover you
- Usually OK if you are the one who is out of state

Ethical Issues

- This is hard stuff -- unlike billing, no right or wrong; ethics codes hardly mention
- Many of us don't have clear policies or policies not expressed up front
- Many ethical missteps happen when we let clients define course of therapy
- Be like parent who knows best
- Goals today:
  - Develop policies, if don't have them
  - Rethink /clarify policies
  - Express to clients in advance

Who is Your Client?

ACA Ethics Code B.4 b: *"In couples and family counseling, counselors clearly define who is considered 'the client' and discuss expectations and limitations of confidentiality…. In the absence of an agreement to the contrary, the couple or family is considered to be the client."*

NASW Ethics Code 1.06 d: In couples and family therapy, *"social workers should clarify with all parties which individuals will be considered clients and the nature of social workers' professional obligations to the various individuals who are receiving services."*

(see also APA Code of Ethics 10.02 a)

The Collateral Option

Can make the non-identified client a "collateral" instead of a client

- Inform non-Identified client that
  - ➢ IP is primary focus of treatment
  - ➢ Notes will be kept about what they say, but may have less privacy protection
  - ➢ No right to request client chart
  - ➢ Not responsible for payment
  - ➢ Identified Client may release info to third parties without collateral release
  - ➢ Advice: Consult an attorney!
  - ➢ Sample collateral agreement: link at theinsurancemaze.com/CT

Wearing Multiple "Hats"

- ➢ Playing multiple roles (even simply seeing members of the couple individually) can invite trouble unless carefully handled
- ➢ Couples can be good at triangulating
- ➢ Clients can't always imagine how things might be difficult (ex. who has first appt. gets to report…)
- ➢ Essential to articulate clear policies (boundaries)

Bringing a Partner into Individual Work

You only see Anya for individual therapy. She asks to bring in Dmitri for one couples session.

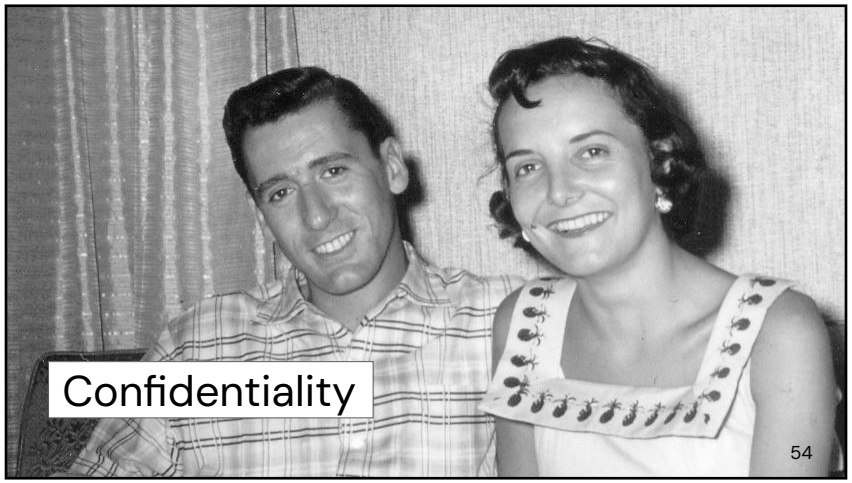
- We often say "yes" without thought: Ask her why
- What are the risks?
- Before he comes in, tell her "I may seem to side with him"
- At session, clarify role: "I'm her therapist and won't do couples therapy"
- How would you code session?
- For this session, have him sign all intake documents?

Multiple Roles

APA Ethics Code 10.02 (b):

"If … called on to perform potentially conflicting roles (such as family therapist and then witness for one party in divorce proceedings), psychologists take reasonable steps to clarify and modify, or withdraw from, roles appropriately."

(See also ACA Ethics Code A.8, NASW Ethics Code 1.06d)



Secrets or "No-Secrets" Policy?

Especially if you see members of couple individually, but even if you don't, you need to choose:

1. **Treat info from individual sessions (and info given by one partner outside the session) as confidential**
   - Pros: Clear. Clients can bring up treatment barriers
   - Cons: Handling secrets that come up can be tricky
2. **"No secrets policy" – info from indiv. sessions (and from one partner outside the session) is NOT confidential**
   You will work with them to bring up difficult topics in couples session, but you will share topics, if needed
   - Pro: Reduce risk of holding secret, alignment issues
   - Con: Clients may withhold important info

Put policy <u>in writing</u>, discuss <u>up front</u>. Why?

"Patients who participate in couples counseling or family therapy should expect to receive information from the practitioner that lays out the confidentiality parameters of the treatment. This is sometimes done in a written "no secrets" policy.

Failure to provide such information at the outset can result in a claim alleging breach of confidentiality- for example, when the therapist reveals some information to the family unit being treated that was learned from one of the participants when others were not present in the session."

– Richard Leslie, J.D., CPH "Avoiding Liability Bulletin," July 2024

What Ethics Codes Have to Say...

AAMFT Ethics Code 2.2: *"...the therapist may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual."*

NASW Ethics Code 1.07(f,g): *"... social workers should seek agreement among the parties involved concerning each individual's right to confidentiality and obligation to preserve the confidentiality of information shared by others ... [including] information ... exchanged in person or electronically, among clients or with others outside of formal counseling sessions...."*

QUESTION

"Anya's health plan is requesting a treatment review. Do I need a release from Dmitri to talk to the plan?"

ANSWER

Unless he is a collateral, yes. But hopefully you got a release at intake

How Would You Handle This?

At the intake, Anya is ready to end the marriage, and was dragged to therapy. Dmitri is very motivated to work on saving the marriage.

With such different therapy goals, would you agree to work with them?

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Bonus Slides,

If Time

How Would You Handle This?

Anya emails you to tell you about a fight with Dmitri.

Do you respond to the email? What do you say?

1) Do you tell Dmitri that she emailed, and what she said?
2) How could you have prevented this?

How Would You Handle This?

Anya shows up to a couples session alone. Will you meet with her? Why or why not?

If you meet, will info she shares be confidential?

How Would You Handle This?

Your new client Anya is shopping for a couples therapist. She wants to be seen a few times alone and then to start couples work. She says this is fine with her husband.

How Would You Handle This?

After 6 months of couples therapy, Anya and Dimitri break up. Anya wants to keep seeing you individually.

QUESTION

"As part of my couples therapy, I did a few individual sessions with Anya and Dimitri. Anya wants the records from her individual sessions. Whose release do I need?"

ANSWER

If kept a blended chart, likely will need both

Visit the landing page for more resources!

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