Facing the problem of challenging behavior

Counselors want the best for their clients, and achieving that goal becomes difficult when you’re faced with “challenging” behavior. Challenging behavior occurs across a wide continuum, from not following the treatment plan, to manipulation or chronic lateness to threats of violence, and much more. But no matter the behavior in the continuum, it’s important for you to act appropriately and document the facts in a way that doesn’t leave you open to a lawsuit.

Stay calm
Your first priority in dealing with challenging behavior is to remain calm. Listen carefully and set some ground rules for your discussion about the behavior. For example, you might say that yelling won’t be tolerated. Try to find points of agreement, for example, perhaps the importance of a client being emotionally able to return to work. Finding common ground can ultimately lead to a common goal you both can work on.

Explore why the behavior is occurring. Ask about similar behavior at home. For example, if a male client says he frequently yells at his wife so he doesn’t understand why you’re upset, ask about the effects of the behavior so the client can verbalize that yelling has been ineffective.

If a client isn’t following your suggestions for taking needed steps, ask about barriers. Explore what he or she is feeling. Perhaps the client doesn’t understand you as well as you thought. Or, chronic pain might be blocking his or her ability to function normally.

Be careful what you document
It’s important not only to document the details of a client’s behavior, but also to keep to the facts so you don’t appear to be “judging” the behavior or making assumptions. You don’t want a jury to feel you’re labeling the client as being “difficult.” Invite a colleague to review your documented observations and provide an objective opinion. Be sure to document the consultation.

State the exact behavior, such as, “Mr. Jones stated, ‘I’m never going to do that so you’d better stop asking me or someone’s going to get hurt.’” Or describe the behavior, as in, “Ms. Smith paced the room for 10 minutes and declined to be seated when asked.”
Facing the problem continued

Choose your words carefully. For example, “refused” has a negative connotation, while “declined” is neutral. Avoid words “loaded” with negative association. “Never” and “always” both describe extremes that rarely occur in real life. Instead, try to quantify, using phrases like “three times this week” or “more than 15 times during the session.” Document trends; for instance, if a client is late for an appointment, document in the client’s record each time it occurs.

Know when to stop
Recognize when it’s time to discontinue a client relationship. Even excellent counselors can fail to connect with clients. In that situation, it’s best to refer the client to another counselor.

To protect yourself from charges of abandonment, notify the client of your intent, explain the reason for it, and make referrals that fall within the client’s transportation abilities. Notification and recommendations should be oral and in writing. Offer to make the initial contact. Once a new counselor is found, ask for the client’s permission to share your records. Remember, the goal is for clients to receive the help they need.

Tips for documenting challenging behavior

- State the facts.
- Avoid words with negative connotations such as “difficult” or “refused.”
- Describe the behavior.
- Include your actions, such as what information you gave the client.
- Use exact client quotes when possible.
- Describe the plan for improvement.
- Date and sign each entry.

Counselors and medical malpractice: A case study with risk management strategies

Medical malpractice claims can be asserted against any healthcare provider, including counselors. Although there may be a perception that physicians are held responsible for the majority of lawsuits, the reality is that counselors are more frequently finding themselves defending the care they provide.

The plaintiff was a 52-year-old practicing physician when he was court-ordered via the state’s professional resource network to see the defendant counselor for assessment following an arrest for suspected driving under the influence. The defendant counselor determined that the plaintiff had both a substance abuse history and was engaging in active substance use and recommended that he enter substance abuse treatment. The plaintiff denied the diagnosis and refused to enter treatment...

To read the full case with risk management recommendations, go to: www.hpso.com/case-studies/casestudy-article/341.jsp.
Three P’s of digital ethics: privacy, protection, and policy

Social networking has sparked many questions for counselors, such as, “Is it ethical to utilize a search engine such as Google to look up a client?” and “Should I accept a client’s friend request on Facebook?” You can protect your career, your reputation, and your license by following three P’s of digital ethics: privacy, protection, and policy.

Privacy
You are responsible for keeping client information confidential, whether it’s in speech, in print, or online. Adhere to the Health Insurance Portability and Accountability Act (HIPAA) privacy rules and professional standards such as the Code of Ethics from the American Counseling Association.

Because encryption of e-mails isn’t universally available, don’t include anything you wouldn’t feel comfortable posting in public for all to read. Consider including a signature line in your e-mail that reminds clients the information exchange isn’t secure.

The need for privacy extends to social networking venues such as Facebook, Twitter, and blogs. Don’t post information related to a client even if you think it can’t be linked back to him or her—you may end up in court. In June 2010, for example, Tri-City Medical Center in Oceanside, Calif., fired five nurses for allegedly discussing patient cases on Facebook, even though apparently no names were disclosed.

Using a pseudonym isn’t enough. There may be enough information elsewhere online for someone to put the pieces of the puzzle together.

If you want to post information about a case for educational purposes, obtain consent from the client but still omit names and key identifying information. Keep in mind that your lecture at a professional meeting may end up online on YouTube.

Protection
Protection includes both clients and counselors. Experts differ on whether it’s ethical to “Google” clients before accepting them or to verify information. Ofer Zur, Ph.D., a psychologist who speaks on social media issues and offers continuing education courses on the topic, says that professional counselors with home offices may want to prescreen new clients by conducting an online search.

Zur adds that it’s important to have a “well-articulated reason” before conducting online searches of clients. You may want to obtain permission from the client beforehand.

Zur also suggests you periodically search online for your own name. You may find that clients have commented or rated you on sites such as Yelp.com.

Many experts recommend you don’t become “friends” with clients on Facebook, LinkedIn, MySpace, or other social sites because it crosses the boundary of the therapeutic relationship. Remember to set your privacy settings on your personal page.

Policy
Establishing policies helps clients understand the ground rules. For instance, include social media information in new-client packets. Tell them not to contact you via your personal Facebook page and that even though you have a Twitter account, you will not “follow” clients.

Clients who want to follow you on Twitter or a blog but want to maintain privacy might consider using an RSS feed to protect their identity. A sample social media information page for clients can be found at www.drkholmes.com/docs/socmed.pdf. You can find examples of organizational social media policies at http://ebennett.org/hsnl/hsmp.

Another ground rule might be not texting or phoning during a session. Be aware that younger clients see nothing wrong in multitasking—they’ve likely been doing it for most of their lives. However, it’s certainly reasonable to ask a client not to use smartphones during a session.

What is acceptable?
Agreement on correct behavior for online client-related communication is far from universal. It’s best to err on the side of caution when making decisions in this area and to keep current on new developments.
Counselors give telephone advice in a variety of settings. The counselor who responds to a client’s question about an urgent problem or who takes a patient’s call about advice on how to handle a challenging situation is in a position to provide valuable information and make important assessments. But in their eagerness to help clients, counselors must be careful not to expose themselves to legal risks. Here are some tips to protect yourself while providing clients with quality information.

Consistency counts
Consistency helps ensure that questions are answered completely and effectively. Algorithms, protocols, and responses to frequently asked questions are useful tools that also reduce legal risk. Tools should be predicated on current standards and evidence, so be sure to review them on a regular basis and update as needed. Counselors who will be responding to questions should receive special training in how to conduct an assessment over the phone.

If it isn’t written…
In the hectic rush of the day, it’s easy to neglect documenting telephone calls. Treat each client-related telephone call the same way you would a face-to-face visit: Document the conversation, the advice given, and any follow-up instructions given to the client. Conducting a regular review of documentation will help maintain quality and identify areas of improvement.

Counselor-client relationship
Remember that giving advice over the phone establishes a counselor-client relationship. Keep your telephone skills sharp so the relationship yields positive results.