



Counselor Spotlight: Non-sexual boundary violations

Healthcare Providers Service Organization (HPSO), in collaboration with CNA, has published our *Counselor Professional Liability Exposure Claim Report: 3rd Edition*. The report includes statistical data and case scenarios from CNA claim files, along with information on where to access risk management resources designed to help counselors reduce their professional liability exposures and improve client safety. You may access the complete report, and additional Risk Control Spotlights, at: www.hpso.com/counselorclaimreport. This Counselor Spotlight focuses on claim analysis and risk recommendations for one of the most significant topics in the report: Non-sexual boundary violations. Counselors assume a position of trust and authority with their clients, frequently becoming familiar with personal aspects of their lives. This may set the stage for boundary extensions and boundary violations, which may also be precursors to sexual/romantic relationships. Professional boundaries are the cornerstone of the therapeutic relationship in clinical practice. Violating boundaries erodes trust and exposes counselors to liability lawsuits and/or State Board matters.

The report revealed that claims asserting violations of “the counseling relationship” (Section A of the American Counseling Association (ACA) Allegation Categories) remained the top allegation category in the 2019 and 2024 datasets, and had an overall average total incurred in the amount of \$119,742, as depicted in the figures below. Included in the claims asserting counseling relationship violations are allegations related to prohibited sexual and/or romantic relationships and other non-professional interactions, such as non-sexual boundary violations. This Counselor Spotlight provides insight into professional liability and license protection exposures related to non-sexual boundary violations. Claim scenarios from the dataset will be utilized to exemplify specific risks and offer strategies to enhance therapeutic counseling.

Distribution of Closed Claims by Top 5 ACA Code of Ethics Sections

Closed Claims with Paid Indemnity of ≥ \$1

This figure highlights those allegation categories with the largest portion of the distribution

ACA Allegation Category	ACA Code of Ethics Section	2019 Dataset	2024 Dataset
The counseling relationship	A	55.2%	52.3%
Supervision, training, and teaching	F	13.0%	18.0%
Professional responsibility	C	21.7%	10.2%
Evaluation, assessment, and interpretation	E	2.9%	9.4%
Confidentiality and practice	B	7.3%	7.8%

Average Total Incurred by Top 5 ACA Allegation Categories

Closed Claims with Paid Indemnity of ≥ \$1

This figure highlights those allegation categories with the largest portion of the distribution

ACA Allegation Category	ACA Code of Ethics Section	2019 Dataset	2024 Dataset
The counseling relationship	A	\$141,366	\$119,742
Supervision, training, and teaching	F	\$80,749	\$161,510
Professional responsibility	C	\$103,489	\$138,701
Evaluation, assessment, and interpretation	E	\$24,933	\$460,671
Confidentiality and practice	B	\$28,094	\$76,250

Pathways to Non-sexual boundary violations

In several claims in the 2024 dataset, the initial boundary extension was altruistic—i.e. visiting a client in the hospital or offering to drive the client to an appointment. However, “favors” or “acts of kindness” have the potential to be misinterpreted through transference or countertransference resulting in the development of emotional attachments or romantic relationships. In claims involving boundary extensions, clients often asserted that the counselor was “grooming” them for a future romantic relationship. It is important to note that even if the client attempts to initiate or consents to extensions of the counselor-client relationship, counselors have the duty to manage and maintain professional boundaries as defined by the ACA Code of Ethics, state-specific practice acts and state licensing boards. Regardless of the counselor’s motivation or altruistic intentions, boundary extensions have the potential to result in a non-therapeutic counseling relationship as seen in the following claim scenario:

- The insured in this case was a Licensed Professional Counselor (LPC) with over fifteen years of experience in counseling. The client was a 45-year-old female with a history of borderline personality disorder, bipolar depression and post-traumatic stress disorder (PTSD). The client initiated counseling with the LPC and began attending 1-hour sessions twice weekly. The LPC informed the client at the initial session that he was open to unlimited texting and communicating after hours and gave the client his personal cellular phone number and email address. Almost immediately, the client began texting and emailing the LPC with messages that went beyond typical counselor/client communications about scheduling and office practices and included personal matters and topics that were being discussed in their counseling sessions. Over time, the client became emotionally attached to the LPC and believed that their relationship was like that of siblings. In fact, the client specifically asked the LPC if he would informally adopt her as his sister. The LPC agreed and they began referring to each other as siblings in all of their communications.

Several months later, the LPC and client collaborated on a business venture which resulted in the client starting her own business. Although the relationship never became romantic in nature, there were multiple communications in which they expressed “love” for each other. The client invited the LPC to her wedding in which he agreed to give her away as the designated family member. Shortly after the wedding, a colleague of the LPC became aware of the boundary extensions that were occurring and immediately advised the LPC that the relationship with the client was unethical and inappropriate. The colleague advised the LPC to refer the client to another counselor due to boundary violations. However, the LPC did not heed this advice, and it was not

Maintaining a therapeutic counseling relationship requires prudent judgment and vigilance. As illustrated in the diagram below, boundary crossings and violations often occur on a continuum, accompanied by warning signs or “red flags.” These can start with subtle and seemingly harmless boundary crossings, such as special treatment or favors. Over time, the client may develop a perception of a personal bond, potentially leading to harmful boundary violations.

until another counseling peer also expressed concern about the boundary extensions that the LPC took action. He informed the client that he needed to terminate the counseling relationship and provided her with several referral options in order to maintain uninterrupted therapy. Shortly thereafter, the client filed a lawsuit asserting that the counselor had engaged in an inappropriate dual relationship and that the boundary violations resulted in severe emotional distress. Integral to the defense’s resolution plan for this case was the lack of expert support and the likelihood that the client’s/plaintiff’s testimony would convince a jury that the LPC’s actions represented a breach of the standard of care. Based upon the above-noted defense challenges, the claim was settled for more than \$200,000. A board complaint was also filed by the client which resulted in license revocation, a fine, and defense costs.

Spotlights on Risk Management

To supplement the *Counselor Professional Liability Exposure Claim Report: 3rd Edition*, CNA

and HPSO will publish seven Spotlight documents, which will highlight specific topics and provide greater detail on key risk management strategies and client safety practices.

The following Counselor Spotlights include resources such as case studies, risk control considerations, and self-assessment checklists designed to help counselors evaluate and mitigate risk exposures associated with current practice:

- [Defending Your License](#)
- [Non-Sexual Boundaries](#)
- [Telebehavioral Health](#)
- [Liability Risks for Business Owners and Supervisors](#)
- [Managing Clients in Crisis](#)
- [Well-being and Provider Mental Health](#)
- [Documentation](#)

A Common Pathway to Sexual Misconduct and Abuse

Boundary Crossings

A deviation from professional behavior that seems harmless in nature and is presented as meeting the special needs of the patient/client.

Examples:

- **Accommodating the patient/client** with a convenient appointment time not available to other clients.
- **Taking on tasks beyond the job description**, such as delivering prescriptions or providing transportation to appointments.
- **Sharing personal information**, such as a home address or personal cell phone number, to facilitate contact with the patient/client.
- **Reducing fees** or refraining from billing the patient/client.

Boundary Violations

An action that furthers the provider's agenda rather than the patient's/client's interest, and which often becomes habitual.

Examples:

- **Scheduling appointments after clinical hours** and/or offering longer encounters.
- **Connecting on social media** for non-clinical purposes.
- **Socializing** outside of the clinical setting.
- **Prying** into personal affairs.
- **Asking the patient/client for professional advice**, e.g., on financial or legal matters.
- **Borrowing money** or requesting other favors.
- **Prolonging clinical relationships** when a referral is indicated.
- **Keeping secrets** with the patient/client.
- **Posting encounter-related information** on social media outlets.

Sexual Misconduct and Abuse

Any behavior that is overtly sexual in nature or may reasonably be interpreted by the patient/client as sexual.

Examples:

- **Flirting** or undue touching.
- **Disclosing sexual fantasies** or otherwise engaging in seductive, demeaning or harassing behaviors.
- **Non-consensual contact**, especially with the breasts, buttocks or perineal area.
- **Coercing the patient/client**, e.g., forced nudity or providing care in exchange for sexual favors.
- **Making and distributing sexually explicit images** or recordings of the patient/client.
- **Assaulting the patient/client**, i.e., committing rape, sodomy or any other form of sexual violence.

The following claim scenario is an example of how boundary extensions have the potential to develop into non-sexual boundary violations.

- The insured in this case was an LPC who had been in private practice for ten years. The client was a married 30-year-old female with a history of familial sexual abuse during childhood who presented for marital counseling accompanied by her husband. The LPC suggested that the client also participate in individual counseling to address her behavioral health issues associated with past trauma. The client agreed and participated in weekly individual therapy as well as joint marriage counseling sessions. After several months, the couple was unable to resolve their differences, discontinued marriage counseling and entered into divorce proceedings. However, the client continued with individual counseling sessions which were initially scheduled for 45-minute evening appointments. The client began to request extended sessions which often lasted until 11 p.m. and also asked the LPC to meet her at restaurants as opposed to the LPC's office. The relationship insidiously transitioned from a professional counseling relationship to "a personal friendship". Over the next several months, the LPC

and client were texting daily, socializing together and exchanging expensive gifts. When the client began to realize that the relationship was inappropriate and no longer therapeutic, she discontinued therapy and had no further contact with the LPC. Shortly after the discontinuation of therapy, the client filed a complaint with the licensing board and initiated a professional liability lawsuit asserting that the boundary violations resulted in an exacerbation of her pre-existing behavioral health conditions.

The Board concluded that the LPC failed to maintain professional boundaries which violated the ACA Code of Ethics. As a result of the Board's investigation and findings, the LPC was fined \$2,000 and was required to complete 20 hours of continuing education. With regard to the professional liability lawsuit, counseling experts for the defense were critical of the LPC's actions and were unable to provide support. The lawsuit was settled in mediation for over \$49,000.

Vicarious liability

In addition to individually insured counselors, counselors who are firm owners and employ or contract with counselors, interns, students, social workers and other licensed professionals, also have professional liability exposures based upon the inherent duties related to ownership, including hiring, screening, supervision and policy management, as well as vicarious liability for treatment and care on behalf of the corporate entity. In section F.1.a., the ACA Code of Ethics describes the responsibilities of counselors who are in a supervisory role. The expectation is that supervisors are engaged in the oversight process, conduct ongoing one-on-one meetings and ensure that supervisees follow the ACA Code of Ethics and the entity's policies and procedures.

There were multiple claims in the 2024 dataset involving assertions against counseling firm owners regarding inappropriate non-sexual

boundary violations in which the firm owner was held vicariously liable for the acts of the employees, interns or independent contractors providing services on behalf of the corporate entity. The assertion was that the owner should have been aware of and managed the situation through supervision to prevent harm to the client.

The following claim scenario provides an example of vicarious liability:

- The insured firm owner employed an LPC who had several years of experience in counseling and had recently been hired by the insured. The client was a 21-year-old male who presented for treatment of a newly diagnosed anxiety disorder and a history of bipolar depression which he attributed to an abusive family situation. The client was residing at home with his parents and reported that he wanted to extricate himself from the abusive home environment, but was unable to afford an apartment on his own. The LPC offered to “help” and advised the client to pay him an additional amount over and above the counseling fee each week that he would “save” and return to him when there was enough for the client to secure an apartment. However, instead the LPC used the client’s money to pay for her own personal debts. After several months, the client asked the LPC for the funds as he found an affordable apartment and a roommate. The LPC admitted that she no longer had the funds and explained that she needed to use the money for unexpected debts. In response, the client discontinued counseling and filed a police report and

licensing board complaint. The LPC was criminally charged for theft and was subsequently charged by the Board with failing to provide notification of a criminal conviction and engaging in unethical conduct. The Board matter was resolved through a settlement agreement in which the LPC voluntarily surrendered her license. In addition, a professional liability lawsuit was filed by the client against the LPC asserting that the boundary violation exacerbated his underlying behavioral health condition and delayed his treatment, as he was unable to trust anyone in the counseling profession. The insured firm was held vicariously liable for the actions of the LPC in addition to claims of negligent supervision. The LPC admitted in her deposition that she had violated the ACA Code of Ethics and that her actions were unethical. The firm owner testified that he was unaware of the unethical actions of the LPC and that he had not conducted any supervision as he assumed the LPC was experienced and competent. This case was settled for more than \$150,000 on behalf of the insured firm. Amounts incurred by other defendants in the case are not available.

Risk Management Recommendations for Counselors: Managing Boundary Extensions

The following risk management recommendations are designed to help raise awareness of boundary-related risks and promote a healthy, ethical client-counselor relationship.

- **Clarify roles and boundaries at the outset of the counseling relationship.** Discuss mutual expectations with clients outlining the scope of the therapeutic relationship and establish limits of availability and method of contact at the initial client meeting. Review steps to take in the event of an emergency outside of normal business hours and document the discussion in the healthcare information record.
- **Use professional judgment in all client interactions outside of a professional setting** in order to avoid ambiguity in the therapeutic relationship.
- **Consider the risks and benefits of extending boundaries in the counseling relationship** and take actions such as consultation, supervision, documentation and informed consent to ensure that the actions are appropriate and aligned with professional guidelines.
- **Conduct a detailed informed consent discussion for every proposed boundary extension** and document all discussions in accordance with the [ACA Code of Ethics. \(A.6.c.\)](#), including, but not limited to, the counselor’s rationale for the interaction and the potential benefits and risks for the client.
- **Consider the risks and benefits of extending the counseling relationship with the client, the client’s family members and/or their significant others.** Avoiding such extensions may involve declining invitations to participate in social activities outside of the treatment setting. Document all such invitations in the healthcare information record, as well as the response given. Occasionally, participation in such events may be beneficial to the client. If a decision is made to participate, document the potential benefit to the client, the clinical decision-making process and the client’s response.
- **Utilize social media prudently** and conduct all [social media](#) interactions with clients on a professional account. Refer to Section H.6 of the [ACA Code of Ethics](#) for further guidance.
- **Limit self-disclosure.** Any self-disclosure should be related to the client’s overall treatment goals, and the rationale for such disclosures should be documented.

- **Manage transference and/or countertransference** with appropriate clinical techniques and pursue supervision and/or consultation with colleagues. Document any supervisory counseling obtained as well as client communications.
- **Use caution when bartering with clients** as this may be misconstrued as being self-serving. According to the [ACA Code of Ethics \(A.10.e.\)](#) counselors “may barter only if the bartering does not result in exploitation or harm, if the client requests it, and if such arrangements are an accepted practice among professionals in the community.”
- **Follow the ACA Code of Ethics A.12 when terminating the client-counselor relationship** in order to avoid claims of abandonment and neglect. Document the rationale and all supportive actions taken to assist the client in obtaining ongoing treatment. Terminating the client relationship does not waive the prohibition against boundary extensions/ violations and sexual/romantic relationships. Refer to the [ACA code of Ethics A.5.c](#) for further information.
- **Document pertinent information for all client interactions contemporaneously and factually**, as comprehensive documentation is the best proactive legal defense.

Risk Management Recommendations for Counseling Firm Owners

- **Offer ongoing clinical support and supervision** for employees, contractors and supervisees.
- **Develop hiring policies that require background checks** in all states where an applicant has lived or worked, including, but not limited to criminal investigations, licensure restrictions and disciplinary actions. Personnel files also should include a documented query of the National Sex Offender Registry.
- **Develop policies to address boundary violation and sexual abuse prevention** to ensure that members of the firm are aware of their obligation to report all perceived acts of boundary violations. The policy should permit clients and/or witnesses to make anonymous reports.
- **Conduct educational sessions for employees regarding the management of boundary extensions** and include information about “red flags” that may precede boundary violations, including but not limited to:
 - Accepting exorbitant fees or loans from clients.
 - Engaging in inappropriate activities with a client such as meeting outside of business hours or in non-professional locations.
 - Accepting gifts from or giving gifts to a client.
 - Becoming a business partner with a client.
 - Connecting inappropriately with a client on a social media site



This information was excerpted from HPSO and CNA's full report, *Counselor Liability Claim Report: 3rd Edition*. www.hpso.com/counselorclaimreport



1100 Virginia Drive, Suite 250
 Fort Washington, PA 19034
 1.800.982.9491 www.hpso.com



333 South Wabash Avenue
 Chicago, IL 60604
 1.888.600.4776 www.cna.com

In addition to this publication, CNA and Healthcare Providers Service Organization (HPSO) have produced numerous studies and articles that provide useful risk control information on topics relevant to counselors, as well as information relating to counselor professional liability insurance, at www.hpso.com. These publications are also available by contacting CNA at 1.888.600.4776 or at www.cna.com.

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