



Considerations for Sexual Assault Programs That Employ or Contract with Mental Health Therapists

Therapists on Staff

When a sexual assault program has one or more therapists as employees, certain considerations may arise. The program manager and/or executive director of the agency should be aware that additional policies and procedures may be needed to address the inclusion of a mental health therapist on staff. Issues specific to therapists who are contractors rather than employees are addressed later in this document. Because some issues apply to both employed and contracted therapists, we recommend that you read the entire paper even if you have only contracted therapists.

For staff members, an important issue to be considered is the distinction between clinical and administrative supervision. If the therapist is not fully licensed, they must have a **clinical supervisor** in accordance with Washington State law and administrative codes. This person is legally responsible for overseeing the clinical work of the therapist, and therefore must be fully informed about the work of the therapist. The clinical supervisor must be a licensed mental health professional, but does not necessarily have to be an employee of the same agency. Certified counselors and certified advisors also have specific requirements for consultation or supervision under certain circumstances, as outlined in [WAC 246-810-025](#). Therapists who are qualified for independent practice are not required to be under supervision, but still need the opportunity to consult with peers, particularly about difficult cases, while maintaining client confidentiality.

The **administrative supervisor** is the agency staff person responsible for supervising the therapist as an employee—orienting the employee, conducting performance evaluations, and the like. It is important to have clarity about the respective roles of these two supervisors, and the type of accountability the therapist must have to each of them.

The agency may wish to have a written agreement with the clinical supervisor that specifies that the administrative supervisor will be notified if there are any concerns that the staff therapist is engaging in unprofessional conduct or failing to meet basic professional standards. These actions may create liability for the sexual assault program as well as resulting in substandard care for clients. The therapist will, of course, need to be aware of this agreement and will need to give permission for the clinical supervisor to provide this information to the program.

If you are providing administrative supervision for a therapist but are not a mental health therapist yourself, you may wish to consider these issues:

- Be sure you know the therapist's professional designation. Are they a psychologist, social worker, or mental health counselor, for example? Here is a listing of the mental health professions that are eligible for licensure in Washington State:
<http://www.doh.wa.gov/LicensesPermitsandCertificates/ProfessionsNewReneworUpdate/MentalHealthProfessions.aspx>
- Familiarize yourself with the licensing regulations for the appropriate profession.
- Carefully review the OCVA requirements for mental health professionals serving survivors.
- Be aware that mental health professionals must have continuing education to maintain their licenses, and that those requirements can change. For example, psychologists must now include suicide prevention training in their continuing education hours.

Several proposed policies and procedures related to the inclusion of a mental health professional as an employee of a sexual assault program are described below. Bear in mind that these should be customized for your particular situation and agency. In some cases, suggested wording is provided; in others, a description of considerations is offered.

- ✓ Indicates suggested policy language
- Indicates the need to develop a policy based on program considerations
- ❖ Indicates suggested procedures

Licensure and Qualification

- ✓ **Policy:** Any staff member providing mental health services must be licensed according to Washington State law, or must be working toward licensure under supervision in full compliance with state law.
- ❖ **Procedures:** Identify whether the agency or the staff member is responsible for licensing costs and continuing education costs. The agency should be responsible for providing time (as approved by the therapist's administrative supervisor) for continuing education activities. The therapist is responsible for staying informed about any changes in licensure requirements and informing the administrative supervisor. All appropriate paperwork relating to licensure should be provided by the staff member as identified in the procedure below, and included in the staff member's personnel file.
- ✓ **Policy:** Any staff member providing mental health services must meet the OCVA therapist requirements for initial qualifications and ongoing training.

- ❖ **Procedures:** Staff members are responsible for ensuring that they have a professional license in good standing, and for informing their administrative supervisor if there is any problem or potential problem with this. A copy of the therapist's license should be placed in the personnel file, and copies of updated licenses should be provided as they are acquired annually. The personnel file should also include information about the therapist's continuing education credits, and the therapist and the administrative supervisor should review this during the annual performance review to ensure that the therapist is on course to complete the required training. Documentation of conformity to the OCVA therapist requirements should be provided by the therapist and placed in the personnel file, along with documentation of ongoing training.

Supervision

- ✓ **Policy:** If a therapist is required to receive professional supervision toward licensure, supervision must be provided by an approved supervisor and all paperwork required by Washington State law and Administrative Codes must be completed and approved. In addition, there should be a written supervision agreement spelling out what is expected of both the supervisor and the supervisee. This agreement should include consent from the supervisee allowing the supervisor to notify the agency if they believe the supervised therapist is demonstrating unprofessional conduct, is not adequately serving clients, or is not meeting the agreed-upon responsibilities.
- ❖ **Procedure:** A copy of the supervision agreement should be placed in the employee's personnel file. In addition, copies of all paperwork filed with the appropriate state agency related to the licensure process and required supervision should be included in the staff member's file.
- ✓ **Policy:** Therapists on staff who are required to be under supervision will provide adequate information about their clinical work to the approved clinical supervisor as outlined in [WAC 246-809-035](#) for mental health counselors (or another WAC specific to the therapist's profession.)
- ✓ **Policy:** Professionals who are required to receive oversight or consultation on certain cases will be responsible for disclosing these requirements to their administrative supervisor and obtaining and documenting the oversight or consultation. There should be a written consultation agreement that is provided to the administrative supervisor, similar to supervision agreements, and the employee must authorize the outside consultant to notify the agency if they believe the employee is operating outside the scope of practice designated by statute and administrative code, demonstrating unprofessional conduct, not adequately serving clients, or not meeting the agreed-upon responsibilities.

Mental Health Records

- **Policy and Procedures:** Be sure the agency “records retention and safekeeping” policies include policies specific to mental health records. Specify where these records are to be kept and who has access to them. Describe procedures for keeping them safe. The administrative supervisor should be familiar with:
 - ❖ [WAC 246-809-035](#) - Recordkeeping and retention (this is for mental health counselors; use the appropriate WAC for the specific profession of the therapist)
 - ❖ [Chapter 70.02 RCW](#) – Medical records – Health care information and access and disclosure
 - ❖ Funding requirements for confidential treatment of survivors’ information (contact WCSAP or OCVA for more information)
 - ❖ HIPAA (Health Insurance Portability and Accountability Act) rules – see <http://www.hhs.gov/ocr/privacy/>
 - Note: You may be wondering if you are a ["covered entity"](#) under HIPAA (the Health Care Portability and Accountability Act), which has stringent guidelines for managing "Protected Health Information" and informing clients of their privacy rights. If you do not charge or bill for services and do not transmit any electronic information about therapy, you are probably not. Read the article linked above. If you do charge or bill for therapy, you will need to revisit this issue. In addition, many of the HIPAA standards have become best practice benchmarks even for those mental health practitioners that are not formally covered by the law.
 - ❖ ["Record Keeping for Practitioners"](#) – this is an article from the American Psychological Association, but the points it makes are relevant for all professions.
 - ❖ Psychotherapy notes may be treated differently than the rest of the file. They should be maintained in a separate file and are for the therapist’s personal use only, unless the client specifically requests release. According to [RCW 70.02.230](#),
 - Psychotherapy notes may not be released without authorization of the person who is the subject of the request for release of information.
 - According to the statute cited above, *“Psychotherapy notes” means notes recorded, in any medium, by a mental health professional documenting or analyzing the contents of conversations during a private counseling session or group, joint, or family counseling session, and that are separated from the rest of the individual’s medical record. The term excludes mediation [sic] prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the*

following items: Diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.”

- ❖ **Policy:** Mental health records should be maintained separately from advocacy records and only authorized personnel should have access to them. An advocate may not access a client’s mental health record without a release of information from the client.
- ❖ **Policy:** Release of information forms for mental health records should be specific about to whom information will be released and precisely what information will be released. They should be effective for the shortest period of time possible to accomplish the intended purpose. Clients should be clearly informed that they are not required to release information as a condition of services, and they should also be informed of the risks inherent in releasing information (such as loss of control over any subsequent re-release by the receiving party). Such releases should be maintained as part of the client’s mental health record.
- **Policy:** Be sure there is a policy for retaining or transferring mental health records in the event the agency goes out of business or the therapist dies or is incapacitated. See [WAC 246-809-035](#) (5) for general guidelines. Create associated procedures.
- ❖ **Policy:** Mental health records will be maintained by the designated therapist in compliance with agency procedures, the Washington Administrative Code, Washington State law, professional ethical standards, and the best interests of the client. If therapists experience any barriers to timely and professional completion of recordkeeping duties, they should inform the administrative supervisor as soon as possible.
- **Policy:** Agency policies should specify whether or not mental health records can be removed from the agency; whether electronic records will be kept and if so, how they will be safeguarded; and the use (or ban on use) of personal electronic devices for client information.
- ❖ **Procedures:** Agency procedures should specify how therapists should keep records, what "timely" recordkeeping means, what exactly should be included in the record, what forms are to be given to clients, how often those forms are to be reviewed and by whom. Bear in mind that there is a difference between the intentionally lean records maintained for advocacy services and best practice for mental health recordkeeping.

Ensuring Quality Services

- ❖ **Policy:** All staff members providing mental health services are responsible for ensuring that they are providing services in compliance with applicable

state and federal laws, Washington State administrative codes, requirements of funders, agency policies and procedures, and ethical standards applicable to their profession. In the event of a perceived conflict between these guidelines and any agency expectation, policy, or procedure, it is the responsibility of therapists to bring the conflict to the attention of their administrative supervisor or the agency director immediately, and to work to resolve the conflict along with the administrative supervisor and/or the executive director. Consultation may be sought to help resolve any such conflict.

Administrative Concerns

- **Policies:** Policies should address how the agency will handle the transfer of cases if the therapist leaves the agency. The policy should specify the need for adequate notice by the therapist to the agency in order to minimize disruption for clients, unless in the case of an emergency. In addition, the policy should specify a “wrap-up” period if a therapist’s employment is terminated as a result of a layoff or an unforeseen discontinuation of funding. The therapist should be provided adequate time to engage in an orderly termination and, if appropriate, transfer of services with clients.
- **Policies:** As required by OCVA Accreditation Standard AGA 6, agency policies should also specify how referrals to outside therapists are handled, and under what conditions.
- ❖ **Procedures:** There should be clearly delineated lines of communication regarding what information can and cannot be shared among staff members. Clients should have the expectation that what they say in therapy will not be shared with their advocate without a release.
- ❖ **Procedures:** The agency should check to ensure that its liability insurance covers the provision of mental health therapy services. Therapists may wish to consider purchasing or retaining their own individual professional liability insurance, but this will not cover the agency in the case of a lawsuit.
- ❖ **Procedures:** Appropriate and timely recordkeeping will be one of the factors on which a therapist’s performance review will rely.

Private Practice Issues

- **Policies:** OCVA Accreditation Standard AGA 5 addresses conflict of interest or the appearance of conflict of interest for Accredited Community Sexual Assault Programs. While the Accreditation Standard does not specify what program policies should say, it does state that there must be policies regarding “staff and paid consultants having any direct or indirect financial interest in the agency’s assets, business affairs, leases, or professional

services.” Programs should consider carefully what circumstances might lead to a real or perceived conflict of interest with therapists and create appropriate policies to address these concerns.

- **Policies:** Accreditation Standard AGA 6 states that “The agency ensures that steering or directing referrals exclusively to a private practice in which agency personnel, consultants, or their immediate families may be engaged, is prohibited.” This standard also states “The agency requires professional workers conducting a private practice on the agency’s premises to provide clients with a clear written statement that the client is receiving that worker’s services only, and not those of the agency.” Both aspects of this standard require written policy for compliance. To avoid the appearance of conflict of interest and/or any confusion on the part of clients about a therapist’s role within the agency, many programs choose to prohibit private practices on the premises.

- ❖ **Procedures:** As with any other employee, therapists on staff should be required to disclose any outside business interests. Most employers have an outside business interest disclosure form that employees must complete.

- ❖ **Procedures:** Because the conflict of interest and private practice policies are directly relevant to therapists, the therapist’s administrative supervisor should review and discuss these policies as part of the hiring and orientation process, and should document this in the employee’s personnel file.

Contracted Therapists

Some sexual assault agencies provide clients with therapy through contracts with therapists. The Office of Crime Victims Advocacy gives guidelines for the qualifications of these therapists.

As independent contractors, these therapists do not require the same type of administrative supervision as employees. However, there are some considerations to keep in mind.

- Contracted therapists should be fully oriented to the agency’s policies and procedures.
- Contracted therapists who see clients on the agency’s premises should be well acquainted with the safety and security plans of the agency.
- There should be a clear agreement about where client records are to be kept, who will have access to these records, whether they can be removed from the premises if the therapist is working on site, and how they will be safeguarded.
- Be sure that contracted therapists are aware of any relevant conflict of interest policies.

- See “Private Practice Issues” above.

In addition to being critical to clients’ well-being, ensuring that contracted therapists are highly competent and ethical will safeguard your agency’s reputation in the community. Using the guidelines described earlier in this document, you can ask prospective contractors about their licensure status, recordkeeping practices, continuing education, and scope of expertise. Be sure that their specific approach and preferences are compatible with your agency’s needs – for example, if you normally refer a substantial number of adolescents, you will want to find out if the therapist truly enjoys working with teens and has knowledge and/or training necessary to provide therapy competently to that population

Opportunities for Therapist Involvement

While being very careful to maintain a “firewall” between advocacy and therapy information about specific clients, having therapists who work with your clients can be an excellent way to increase the proficiency of both advocates and therapists in working with survivors.

- Create opportunities for therapists and advocates to participate in appropriate training together, so they develop a shared understanding of survivors’ needs.
- Be sure that therapists have the chance to explain directly to advocates what types of clients they treat, what treatment methods they use, and what clients can expect in therapy.
- Be sure that advocates have the chance to share their methods and approach with therapists, so that the therapists know what the advocate’s role is and how to work collaboratively.
- Create specific guidelines that assist advocates in knowing when to refer a client for therapy, and therapists to know when advocacy services will help their clients.
- The WCSAP resource [What Advocates Need to Know About Therapy](#) can be extremely helpful in ensuring that advocates can make useful referrals.
- Therapists working with the agency may be helpful in establishing positive working relationships with other community professionals such as healthcare providers.
- Therapists should have access to community resource information, of course, but should understand that advocates are the experts at connecting clients with resources, and should know when to refer or re-refer a client for advocacy services.

In Conclusion

Regardless of whether you employ or contract with a therapist, you are providing sexual assault survivors with a valuable service. The more knowledgeable you become about the practical issues involved, the more likely you will be able to offer truly useful therapeutic services to survivors in your community.