


# Risk Management Ground Rules for Clinical Supervision

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## Overview of Presentation

- **Clinical Supervision**  
Legal and Ethical Bases
- **Liability**  
How Courts Determine Liability
- **Risk Management**  
Ten Ground Rules for Reducing Liability Exposure

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# Clinical Supervision

## Legal and Ethical Bases

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## Supervision Standard of Care

- Risk management begins with a clear understanding of the “standard of care” against which the actions of a supervisor will be evaluated.
- The expectations of what constitutes responsible clinical supervision have become more and more explicit.
- These expectations come from ethical codes, state statutes, court cases, liability insurance underwriters, and perspectives proffered in the professional literature.
- The more aware of and responsive to these expectations – the more likely supervisors will conduct themselves in keeping with the evolving standard.

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## Supervision

### *ACA Code of Ethics (2005)*

#### Section F: Supervision, Training, and Teaching

##### F.1.a. Client Welfare

A primary obligation of counseling supervisors is to monitor the services provided by other counselors or counselors-in-training. Counseling supervisors monitor client welfare and supervisee clinical performance and professional development. To fulfill these obligations, supervisors meet regularly with supervisees to review case notes, samples of clinical work, or live observations. Supervisees have a responsibility to understand and follow the *ACA Code of Ethics*.

##### F.5.d. Endorsement

Supervisors endorse supervisees for certification, licensure, employment, or completion of an academic or training program only when they believe supervisees are qualified for the endorsement. Regardless of qualifications, supervisors do not endorse supervisees whom they believe to be impaired in any way that would interfere with the performance of the duties associated with the endorsement.

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## Supervision

### *ACES Ethical Guidelines (1993)*

**Supervisors** - Counselors who have been designated within their university or agency to directly oversee the professional clinical work of counselors. Supervisors also may be persons who offer supervision to counselors seeking state licensure and so provide supervision outside of the administrative aegis of an applied counseling setting.

Inherent and integral to the role of supervisor are responsibilities for:

- a. monitoring client welfare;
- b. encouraging compliance with relevant legal, ethical, and professional standards for clinical practice;
- c. monitoring clinical performance and professional development of supervisees; and
- d. evaluating and certifying current performance and potential of supervisees for academic, screening, selection, placement, employment, and credentialing purposes.

2.01 – 2.14 Supervisory Role (provides additional detail)

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## Supervision Professional Literature

Bernard, J. M., & Goodyear, (1998).  
Fundamentals of clinical supervision.  
Boston: Allyn & Bacon.

*An intervention provided by a more senior member of a profession to a more junior member or members of that same profession. This relationship is evaluative, extends over time, and has the simultaneous purposes of enhancing the professional function of the more junior person, monitoring the quality of professional services offered to the clients, and serving as a gatekeeper of those who are to enter the particular profession.*  
(p. 6)

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## Supervision of Students-in-Training

CACREP Standards DRAFT #3 June 2007, Glossary p. 60

**SUPERVISION** — a tutorial and mentoring form of instruction in which a supervisor monitors the student's activities in practicum and internship and facilitates the learning and skill development experiences associated with practicum and internship. The supervisor monitors and evaluates the clinical work of the student while monitoring the quality of services offered to clients.

- **individual supervision** - a tutorial and mentoring relationship between a member of the counseling profession and a counseling student.
- **group supervision** - a tutorial and mentoring relationship between a member of the counseling profession and more than two counseling students.
- **triadic supervision** - a tutorial and mentoring relationship between a member of the counseling profession and two counseling students.

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## American Association of State Counseling Boards

### Approved Supervisor Model (2007)

Clinical supervision includes, but is not limited to, the supervisor's participation in the diagnostic evaluation, diagnosis, the development of a service plan, progress notes and other documentation, release of clinical information, appropriate referral, appropriate use of more experienced colleagues, adherence to applicable laws and ethics, and nurturing the therapeutic process. The clinical supervisor endeavors to insure competence of professional services, achieve and sustain appropriate standards of care, and to facilitate the supervisee's professional development.

Although both parties (supervisor/supervisee) are clinically responsible for the appropriate care of the consumer/client, ultimately the supervisor bears full ethical and professional responsibility for the professional activities rendered by the supervisee during the course of the professional relationship. Hence the supervisor is responsible for the planning, course of action, and outcome of the professional work of the supervisee.

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## Clinical Supervision State Statute

### Florida

- **Florida Statute 491 (Rule 64B-4)**
- 2.002: Definition of Supervision for Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

Supervision is the relationship between the qualified supervisor and intern that promotes the development of responsibility, skills, knowledge, attitudes and adherence to ethical, legal and regulatory standards in the practice of clinical social work, marriage and family therapy and mental health counseling. Supervision is face-to-face contact between an intern and a supervisor during which the intern appraises the supervisor of the diagnosis and treatment of each client, client cases are discussed, the supervisor provides the intern with oversight and guidance in diagnosing, treating and dealing with clients, and the supervisor evaluates the intern's performance.

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# Legal Liability

## How Courts Determine Liability

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# Legal Liability

- **Liability**  
Legal responsibility for one's conduct.
- **Professional Liability**  
Professional/clinical actions taken or not taken by the practitioner that result in an "injury" to the client (plaintiff).
- **Vicarious Liability**  
May be imposed where supervisee is negligent (and negligence is imputed to supervisor)

*Let the master respond* – liability for the actions of others based on the premise that the supervisor is the "master" practitioner

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## Legal Liability

- **Elements of a Malpractice Claim**

A malpractice/liability case brought against a mental health professional (clinical supervisor) must contain four elements:

**DUTY**  
**BREACH OF DUTY**  
**PROXIMATE CAUSE**  
**DAMAGES**

- **Supervisory Liability**

When the Damages experienced by the client can be determined to have occurred in whole or part due to a failure of the clinical supervisor to meet the expected standard of care for clinical supervision as defined by statute, ethics, and responsible practice.

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## Clinical Supervision

- **Colleague Consultation and/or Collaboration**

The supervisor may adopt a consultative or collaborative style – but that style does not diminish the legal responsibility or liability. Supervision is hierarchical – it is not an interaction among peers.

Don't consult or collaborate when direction is required.

- **Administrative Supervision**

Supervisory activities which increase the efficiency of the delivery of counseling services; whereas, clinical supervision includes the supportive and educative activities of the supervisor designed to improve the application of counseling theory and technique directly to clients. (ACES Ethical Guidelines, 1993, Preamble)

Don't confuse administrative supervision with the requirements of clinical supervision.

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# **Risk Management**

## Ten Ground Rules for Reducing Liability Exposure

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# **Risk Management**

## Ground Rule #1

### **Build/Maintain a Relationship of Trust**

- It's all about the relationship and trust is the foundation
- Make explicit – commitment by supervisor and supervisee to the relationship to “make explicit” any issue or concern that has a bearing on supervisee learning and clinical effectiveness.
- Developmental “bumps in the road” – lack of knowledge, lack of skill, lack of confidence, counter-transference, interpersonal tension with other staff members, exhaustion/burnout and others are developmentally inevitable. Help supervisee work through these but don't slip in to becoming the supervisee's therapist.

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## Risk Management Ground Rule #2

### Establish a Supervisory Agreement/Contract

- Scheduling – when, where, and how often
- Supervisor expectations – what will supervision involve – how should the supervisee prepare for supervision
- Supervisor philosophy and counseling theoretical approach
- Confidentiality, Privilege, and Privacy – responsibilities the supervisor and supervisee have to maintain client confidences
- Fees and payment – clear description of fees and charges if supervision is a fee-for-service
- Liability insurance – proof provided to supervisor of liability insurance and timely renewal

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## Risk Management Ground Rule #2 (continued)

### Establish a Supervisory Agreement/Contract (continued)

- Emergency procedures
  - Contact phone/pager numbers
  - Process for interrupting the supervisor with an urgent concern
  - Contact information for alternative supervisor in the event the primary supervisor is away or unavailable
- Cases and clinical situations that require immediate notification and consultation with supervisor, including: harm to self or others, mandatory reporting issues (abuse), legal concerns, ethical conflicts, and others

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## Risk Management Ground Rule #3

### Expand the Client Informed Consent

- Counselor credentials – ensure clients are informed of the credentials of the provider (student intern, pre-licensed counselor, etc.)
- Supervision requirement – ensure clients are informed of the requirement for supervision and how the supervisor will have access to confidential information
- Identity of supervisor – ensure clients are informed of the identity and professional credentials of the supervisor

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## Risk Management Ground Rule #4

### Restrict Supervision to Areas of Clinical Competence

- Clinical expertise – clearly define your clinical competence. Don't agree to supervise cases or presenting problems that are not within the scope of your clinical expertise or obtain further consultation.
- Theoretical orientation and approach – clearly define your theoretical approach. Don't agree to supervise someone who utilizes an approach you don't understand or agree with.

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## **Risk Management Ground Rule #5**

### **Stress Legal, Ethical, Administrative, and Professional Behavior**

- Help supervisees recognize the legal and ethical implications within a case.
- Help supervisees understand and work with administrative procedures – some of which may seem counter-productive. Assist them to resolve apparent conflicts whenever they occur between administrative procedures, ethical principles, or legal mandates.
- Give quality attention to the overall development of the professional – including, written and verbal communication, professional presence, and demeanor.
- Ensure supervisee takes action in accordance with legal or ethical requirements.

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## **Risk Management Ground Rule #6**

### **Monitor the Entire Caseload & Review All Records**

- Don't depend on the supervisee to determine the cases that need to be discussed.
- Don't get casual and allow the supervisee to self-supervise.
- Maintain an active interest in all cases.

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## **Risk Management Ground Rule #7**

### **Document Supervision Sessions**

- Maintain supervision records.
- Be particularly mindful of documenting any directives you provided including instructions regarding abuse reporting, duty to warn or protect, and any other directives that have a bearing on the welfare of the client.

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## **Risk Management Ground Rule #8**

### **Avoid Relationships that Might Distort the Process of Supervision**

- Conflicts of interest between supervisor and supervisee
- Co-occurring relationships including supervision of emotional intimates, business associates, counseling clients, and former clients
- Power differentials that distort the supervisory relationships

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## **Risk Management Ground Rule #9**

### **Conduct Supervision to the Current Standard of Care**

- State Statute/Rule Requirements
- Agency/Organization/School Policies
- Ethics Codes
- Remain Current
  - Update supervision skills
  - Remain aware of evolving supervision-related requirements

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## **Risk Management Ground Rule #10**

### **Fulfill the Gatekeeper Responsibility**

- Be alert to signs of supervisee impairment
  - physical health
  - psychological/mental health fitness
  - substance abuse
  - values/attitudes in conflict with professional ethics
- Don't allow impaired supervisees to continue – take action – address the issue
- Don't endorse a counselor-in-training who isn't competent to move to the next level

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