

Ethical Considerations for Civilian Mental Health Professionals Treating U.S. Service Members

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A member of

RUSH

WOUNDED WARRIOR PROJECT

WARRIOR

My Background

- Licensed Clinical Psychologist
- Road Home's Accelerated Treatment Program
- Air Force Veteran – former Active Duty Psychologist

Objectives

- Identify and explain the limits of confidentiality and informed consent as they apply to service members.
- Integrate military cultural competence into ethical decision making in clinical practice.
- Assess ethical dilemmas using ethics codes and select appropriate actions.

The Need

- Ethics Codes: APA, NASW, ACA, AAMFT
- Literature predominantly focuses on the ethical issues related to military Mental Health Professionals (MHP)
- Increasing number of Service Members (SM) engaging in mental health treatment outside of a Military Treatment Facility (MTF)
  - 9% in 2017 to 38% in 2022 (Sousa et al., 2024)
- Majority of non-DHA/VHA MHPs do not feel completely competent to treat SMs and Veterans (Tanielien et., 2014)
- APA (2020) made several recommendations to the DoD, which included increasing MHPs in the TRICARE network through appropriate reimbursement

Ethical Issues for Military MHPs

- Multiple Roles
- Dual/Mixed Agency
  - Discrepancy between ethics code and military regulations
  - Limits to confidentiality
  - Career repercussions
- Boundaries of competence

Command Notifications for DHA MHPs

- DoDI 6490.08: Command notification requirements to dispel stigma in providing mental health care to service members
- Harm to self
- Harm to others
- Harm to a mission
- Inpatient care
- Acute medical condition interfering with duty
- Enrollment in substance use treatment program
- Directed mental health evaluation by the commander
- Special personnel (e.g. PRP/Personnel Reliability Program)
- Other special circumstances

Minimally Necessary Information

- Diagnosis
- Description of the treatment plan
- Impact on duty or mission
- Recommended duty restrictions
- Prognosis
- Safety to self or others
- Ways the command can support or assist the SM’s treatment

APA's General Principles

a. Beneficence and Nonmaleficence
b. Fidelity and Responsibility
c. Integrity
d. Justice
e. Respect for People's Rights and Dignity

APA's Ethical Standards

- Privacy and Confidentiality
- Competence
- Human Relations
- Record Keeping and Fees

Fictitious Vignette

- Alex is an Active Duty, SrA (E-4), Security Forces specialist the Air Force
- She is seeking therapy services for anxiety and depressed mood with you: an outpatient, non-DHA MHP
- Due to concerns related to confidentiality, she is seeking off-base therapy
- She described her squadron as unsupportive and has heard negative remarks from others when SMs engage in MH care
- She noted that she is looking forward to an upcoming deployment due to potential career progress

Privacy & Confidentiality

- Maintaining confidentiality
- Discussing the limits of confidentiality
  - Differences between civilian providers and DHA providers
- HIPAA Military Command Exception
  - Legal and ethical issues
- Informed consent, confidentiality, & TRICARE (APA, 2024)
  - MHPs who accept military referrals and accept TRICARE as the payer have agreed to provide records to the MTF as a part of the process to become a TRICARE provider
  - Out-of-Network providers are encouraged to share records, but it is not a policy requirement
  - VHA records are shared with DHA clinicians through the EHR
  - Civilian MHPs who not use TRICARE and accept out-of-pocket SMs have no obligation to share records, however, SMs have a duty to report medical/mental health issues that may impact their readiness and fitness
- Summary of Care By Non-Military Medical Provider Form (DA Form 7809)

Vignette - Alex

- Disclosure at start?
- How might your decision change if you diagnosed with PTSD following her witnessing a fatal shooting related to an unauthorized person attempting to forcibly access the base while she was on duty at the gate?
  - Deployment considerations
    - Completed PTSD treatment with symptoms in remission?
    - Has not started PTSD treatment?
  - Do not report
  - Delay reporting
  - Disclose information to Commander or MTF MHP

Competence

- Competence to treat concerns and disorders common with military members
- Cultural competency
- Competency to assess readiness
- RAND research on non-DHA civilian MHPs included the following recommendations (Sousa et al., 2024)
  - Improve MTF access to private sector treatment
  - Increase MTF staffing for managing private-sector care
  - Educate civilian MHPs about readiness assessments

ROAD HOME PROGRAM

		CAN THIS MEMBER BE RETAINED? (CODE 37)	CAN THIS MEMBER FULLY DO THEIR JOB? (CODE 31)	CAN THIS MEMBER DEPLOY/PCS? (DW POSSIBLE?)
Disorders / Situations that do not meet retention standards - retention is unlikely				
Q1A	Schizophrenia Spectrum and Other Psychotic Disorders as defined in the current DSM.	U	U	N
Q1B	Bipolar and Related Disorders, as defined in the current DSM.	U	U	N
Q1C	Mental disorder(s) requiring use of lithium, anticonvulsants, or antipsychotics beyond 6 months.	U	U	N
Disorders / Situations that do not meet retention standards - retention is possible				
Q2A	DSM disorders causing or expected to cause duty/mobility restrictions (see Q3B-C Criteria) for greater than 12 months.	P	P	U
Q2B	DSM disorders resulting in more than one psychiatric hospitalization.	P	P	U
Q2C	Requires care at least every 3 months from a specialty Mental Health provider for greater than 12 months.	P	P	U
Q2D	Any suicide attempt/behavior in the past 12 months.	P	P	U*
Disorders / Situations that meet retention standards but not deployment standards - waiver				
Q3A	Any psychiatric hospitalization in the past 12 months.	Y	P	P*
Q3B	Concurrent use of 3 or more psychotropic medications.	Y	P	P
Q3C	Currently meeting criteria for any DSM Disorder(s) (F-Prefix) not in remission as documented in last encounter.	Y	P	P
Disorders / Situations that meet retention standards and deployment standards				
Q4A	Currently meeting criteria for any DSM Disorder(s) (F-Prefix) in remission for at least 3 months with treatment as documented in last encounter.	Y	Y	P*
Q4B	History of any DSM Disorder (F-Prefix) in remission for at lest 3 months without treatment as documented in last encounter.	Y	Y	Y
Q4C	Currently meeting criteria for any Z or T-Prefix DSM Diagnosis.	Y	Y	Y

Y YES P POSSIBLE U UNLIKELY N NO

Air Force Medical Service (2023)

Human Relations

- Avoiding harm
- Multiple relationships
- Interruption of psychological services

Record Keeping & Fees

- Documentation of professional work
- Records requests from service members

- What if Alex requests that you do not document services?
- Or to leave out information, including a diagnosis?

Recommendations

- Always ask yourself what is in the SM's best interests?
- Maintain awareness of your own competence
- Pursue trainings and education related to military mental health
- Seek consultation with MHPs with experience working with SMs
- Remind Commanders of Privacy Act when disclosing information
- Disclose the minimally necessary information
- Discuss limitations to confidentiality at onset and continuously
- Review guidelines from professional associations (APA, 2021; Prosek et al., 2018)
- Be attuned to your own levels of well-being and distress

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