New Ethical Dilemmas in the Digital Age

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Acknowledgments

Presentation Outline

1 — **History of Technology Use in Counseling**

2 — **Digital Types**

3 — **Social Media**

4 — **Ethics – Counseling Self-Disclosure**

5 — **Emailing & Texting Clients – Privacy & Security**

6 — **Social Media Policies**

Ethics codes cannot do our questioning, thinking, feeling, and responding for us. Such codes can never be a substitute for the active process by which the individual therapist or counselor struggles with the sometimes bewildering, always unique constellation of questions, responsibilities, contexts, and competing demands of helping another person. Ethics must be practical. Clinicians confront an almost unimaginable diversity of situations, each with its own shifting questions, demands, and responsibilities. Every clinician is unique in important ways. Every client is unique in important ways. Ethics that are out of touch with the practical realities of clinical work, with the diversity and constantly changing nature of the therapeutic venture, are useless.

(Pope & Vasquez, 1998, xiii–xiv)

1942 by Carl Rogers

In **1999**, experts predicted advances in technology for therapists/counselors.

1. Fax machines, word processors, answering machines, and voice mail machines

2. Enhancement of test administration, scoring, and interpretation

3. Use of telephone, e-mail, and chat rooms

(McMinn, Buchanan, Ellens, & Ryan, 1999)

Did we have ethical codes regarding using fax machines or voice mail 10 - 15 years ago

AND NOW…?

Technology 'Creep'

- **Lack of literature and research to provide guidance**

- **Technology may be used as part of the *'Therapeutic Exchange'* and then WHAT?**

  – *Documentation of the exchange*
  – *Guidelines for the exchange*

(Gabbard et al., 2011; Mishna et al., 2012)

Some professionals are....

...ethically astute but struggle to keep up with the technology.

...comfortable with technology but less familiar with ethical codes.

UNETHICAL
UNETHICAL
UNETHICAL
ETHICAL

(Lannin & Scott, 2013)

'Adapting to the new culture wisely will necessarily involve both **understanding the ethical principles** themselves as well as **developing competence in the technology** of the burgeoning digital culture.'

(Lannin & Scott, 2013)

'native speakers' of the digital language
of computers, cell phones, video games,
and the Internet

(Zur, 2012; Prensky, 2001)

DIGITAL NATIVES
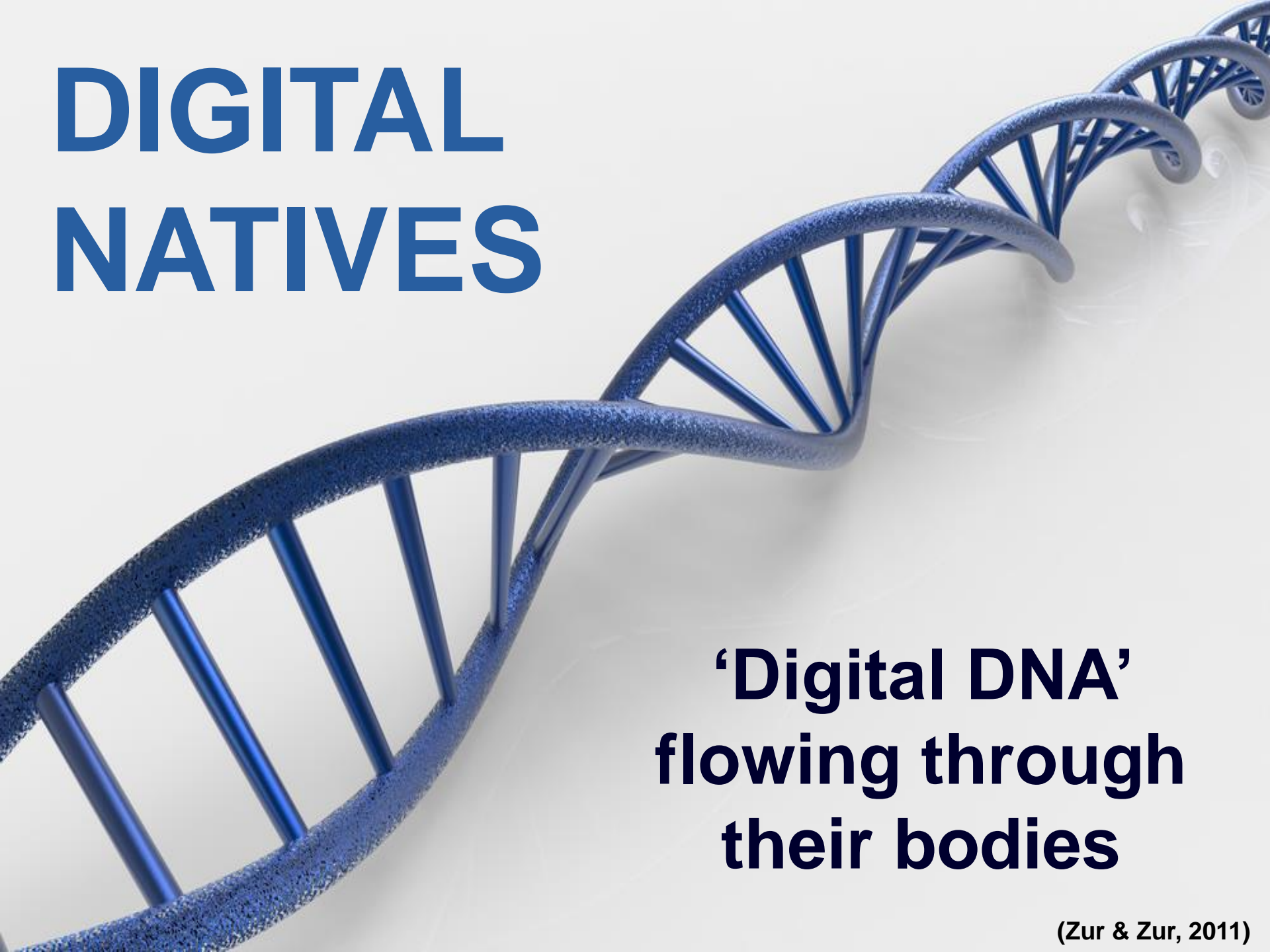
'Digital DNA' flowing through their bodies

(Zur & Zur, 2011)

Comparison of Digital Types

Digital Immigrants

- **Prefer to talk in-person or on the phone**

- **Don't text or only sparingly**

- **Prefer synchronous communication**

- **Prefer receiving information slowly: linearly, logically, & sequentially**

- **Prefer reading text (i.e., books) on processing pictures, sounds & video**

Digital Natives

- **Prefer to talk via chat, text, or messaging thru social media**

- **Text more than call**

- **Prefer asynchronous communication**

- **Prefer receiving information quickly & simultaneously from multiple multimedia & other sources**

- **Prefer processing /interacting with pictures, graphics, sounds & video before text**

(Zur & Zur, 2011; Rosen, 2010; Prennsky, 2001)

Other Digital Types

Ways to sort people other than age

- **Attitudes**

- **Comprehension**

- **Relationships**

- **Practices**

- **Comfort with technology**

(Feeney, 2010; Toledo, 2007)

75% of SUD treatment workforce is over the age of 40

(Knudsen, 2003)
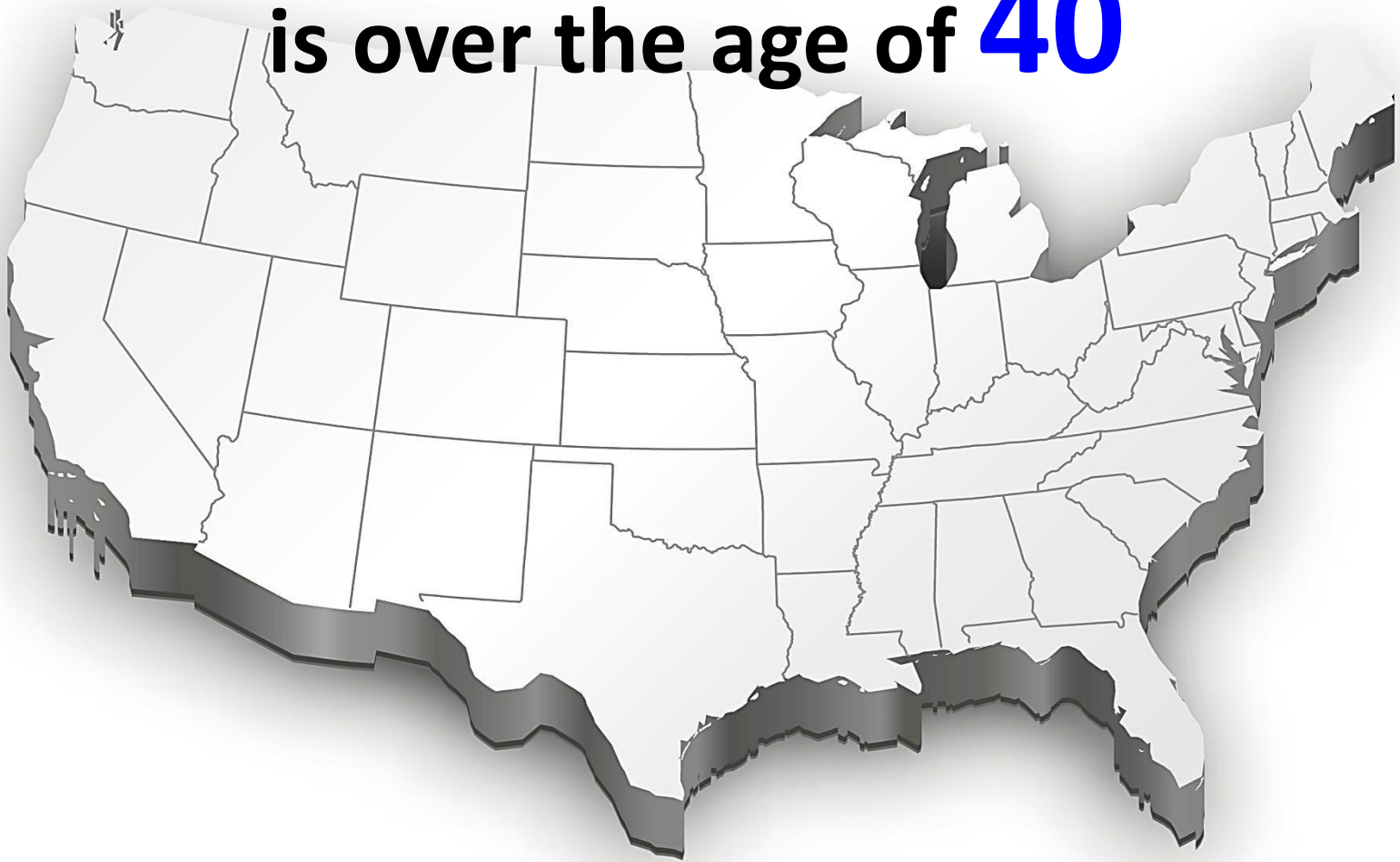
Average age of Clinical Directors is 52…

60% are over the age of 50

(Ryan, Murphy, & Krom, 2012)

Almost one-third of clinical directors report that they are only *somewhat* proficient in web-based technologies

(Ryan, Murphy, & Krom, 2012)
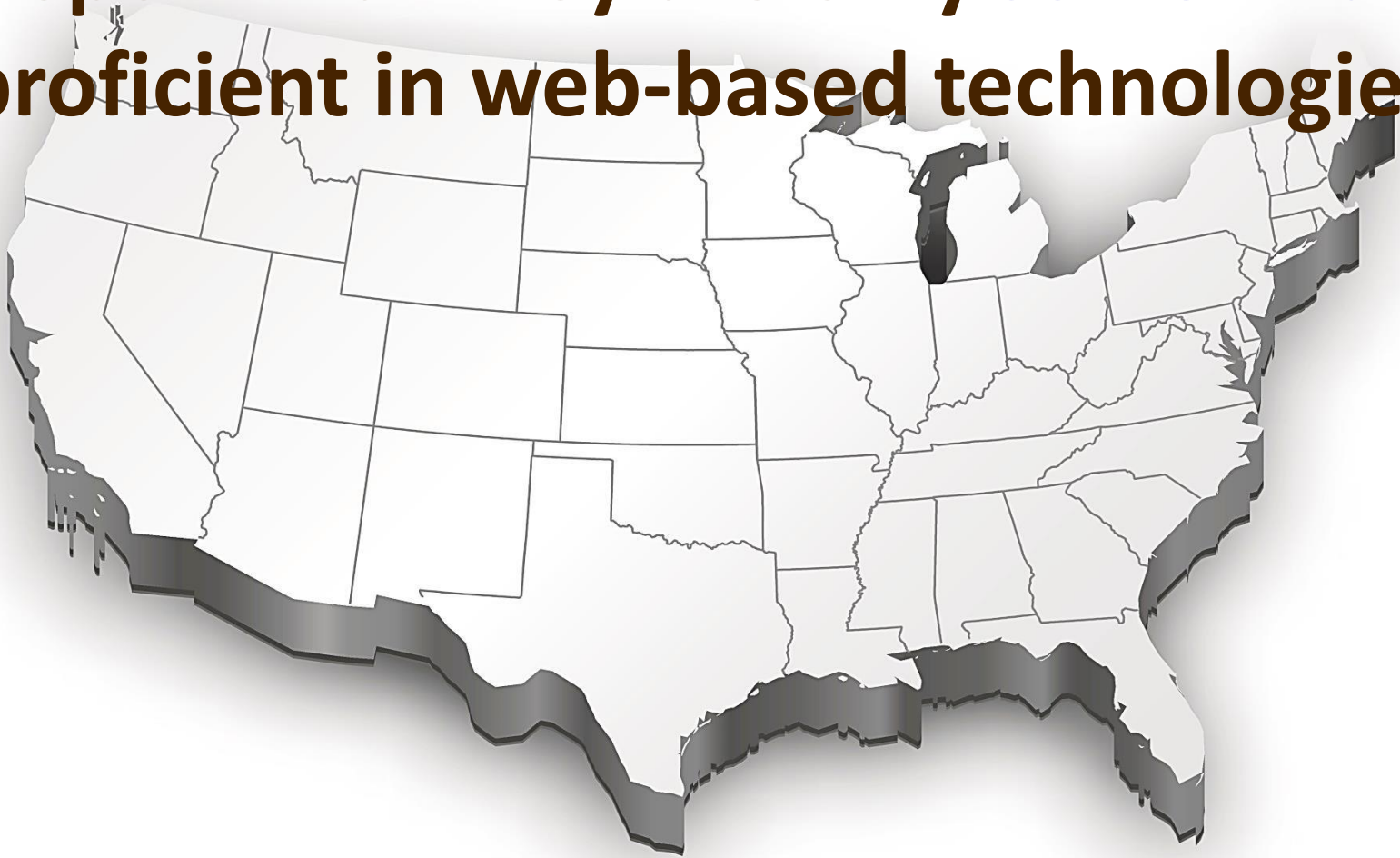
"All I'm saying is <u>now</u> is the time to develop the technology to deflect an asteroid."

Social Network Site

... a website that provides a venue for people to share their activities with family, friends, and colleagues, or to share their interest in a particular topic.

Examples include:
Facebook, Google+, LinkedIn, Twitter

(http://www.pcmag.com/encyclopedia/term/55316/social-networking-site)

SNSs are a specific type of social media that allow individuals to:

- **construct a public or semipublic profile within a bounded system**

- **articulate a list of other users with whom they share a connection**

- **view and traverse their list of connections and those made by others within the system**

(Boyd & Ellison, 2007)

73% of American adults reported using the internet to engage in social networking
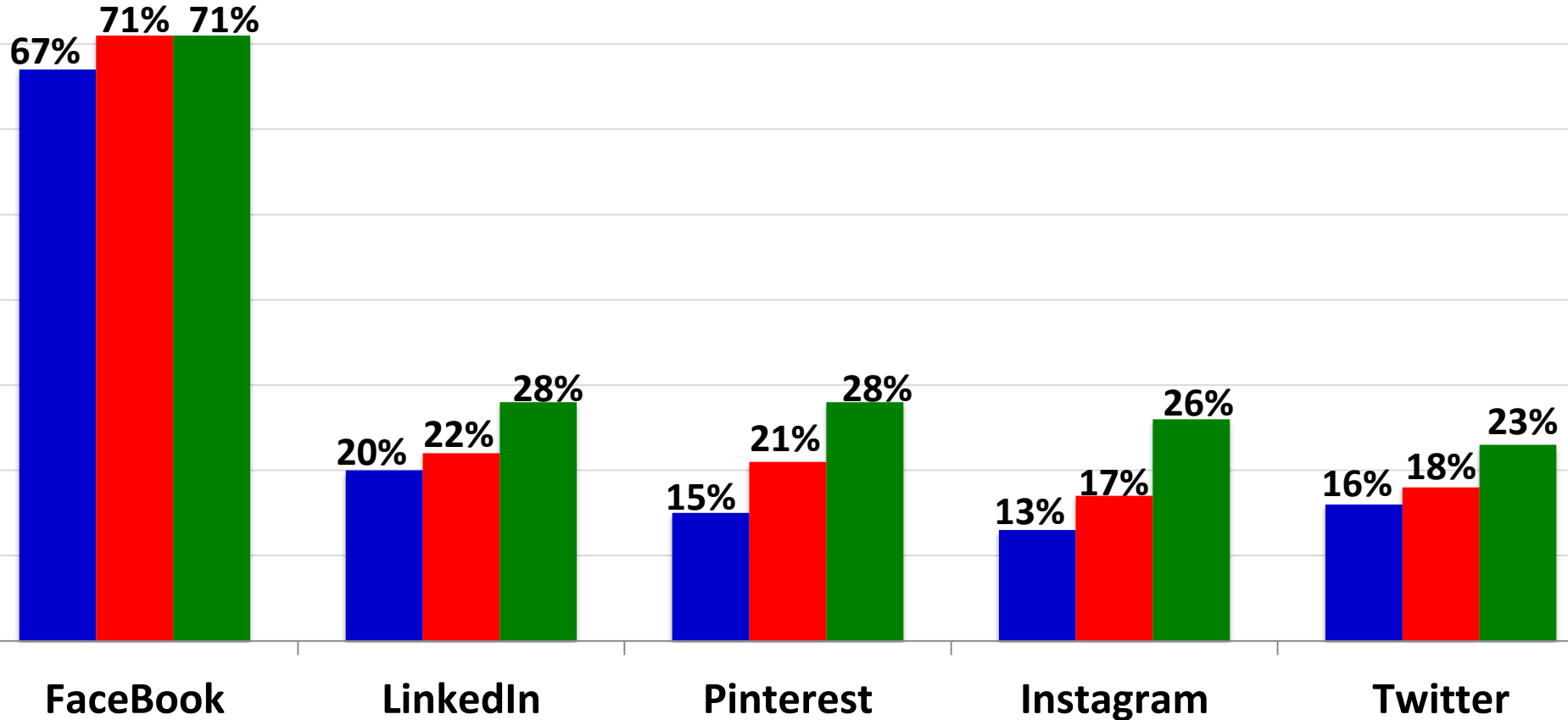
(Duggan & Smith,2014)

Examples of Social Network Sites

- **Facebook**
- **LinkedIn**
- **Instagram**
- **Pinterest**
- **Virtual Worlds**
- **Blogs**
- **Micro Blogs-Twitter**
- **Counselor List Serves**

Social Media Sites 2012-2014

Percent of Online Adults Who Use the Following Social Media Websites

■ 2012 ■ 2013 ■ 2014

Site	2012	2013	2014
FaceBook	67%	71%	71%
LinkedIn	20%	22%	28%
Pinterest	15%	21%	28%
Instagram	13%	17%	26%
Twitter	16%	18%	23%

Pew Research Center's Internet Project Surveys, 2012-2014
2014 data collected Sept. 11-14 & Sept. 18-21, 2014; N=1,597 internet users ages 18+

http://www.pewinternet.org/2015/01/09/social-media-update-2014/

Since patients are likely to use SNSs, it may be helpful for practitioners to understand the phenomena of SNSs, even if they do not participate themselves.

(Myers et al., 2012)
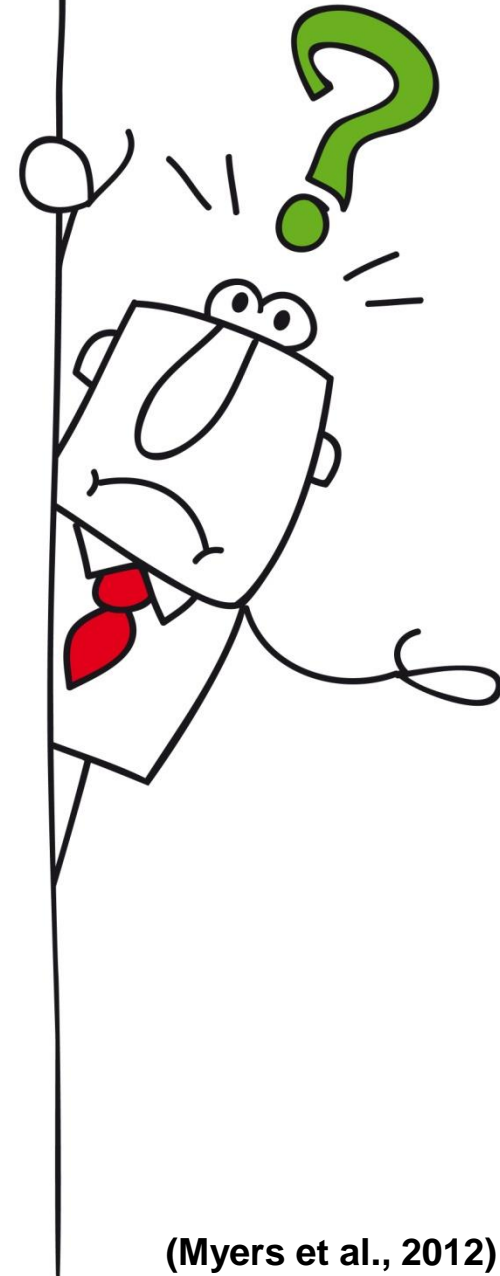
The term *weblog*
was first coined in 1997 by
Jorn Barger, editor of the website
Robot Wisdom, and this word
was eventually shorted to
"blog"

Social Media Explained

twitter – i'm eating a #donut

facebook – i like donuts

foursquare – this is where i eat donuts

instagram – here is a photo of my donut

youtube – here i am eating a donut

linkedin – my skills include donut eating

pinterest – here's a donut recipe

spotify – now listening to "donuts"

g+ – i'm a google employee who eats donuts

Ethical Issues

- **Ethical Codes and Technology**
- **Ethics and Self-Disclosure**
  - **Self-Disclosure Definition/Guidelines**
- **Rural examples**
- **Ethical Guidelines for Social Media from different disciplines**
- **Suggestions for Posting to SNSs**
- **Liability Insurance for Social Media**

Other boards may use existing laws and investigate complaints on the grounds of:

- **Unprofessional conduct**

- **Unethical conduct**

- **Moral turpitude**

- **Mismanagement of patient records**

- **Revealing a privileged communication**

- **Breach of confidentiality**

(Cronquist & Spector, 2011; Spector & Kappel, 2012)

Social Media Guidelines

- **Nurses' Guide to Use of Social Media**
  National Council of Boards of Nursing

- **Model Policy Guidelines for the Appropriate Use of Social Media and Social Networking in Medical Practice**
  Federation of State Medical Boards

Jamie has been working in hospice care for the last six years and one of her patients, Maria, maintained a hospital-sponsored communication page to keep friends and family updated on her battle with cancer. One day, Maria posted about her depression. As her nurse, Jamie wanted to provide support, so she posted, "I know the last week has been difficult. Hopefully, the new happy pill will help, along with the increased dose of morphine. I will see you on Wednesday." The site automatically listed the user's name with each comment. The next day, Jamie was shopping at the local grocery store when a friend stopped her to ask about Maria's condition. "I saw your post yesterday, I didn't know you were taking care of Maria", the friend said. "I hope that new medication helps with her pain."

Discriminatory Language

- **A concerned staff member at a local hospital reports discriminatory language on a physician's Facebook page:**

    "I saw this homosexual patient who came in complaining of dysuria and wants me to help. Well… that's what you get for being gay. I really don't feel any compassion for these people—they don't deserve antibiotics, they need to change their behaviors."

(Greysen et al., 2013)

National Boards and Ethical Guidelines/Codes for Social Media

- **APA**

- **NASW**

- **NBCC**

- **ACA**

- **AAMFT**

Self-disclosure in psychotherapy is defined as the revelation of personal rather than professional information by a psychotherapist to a client.

(Zur et al., 2009)

Psychotherapist Self-Disclosure

- **Unintentional**
- **Deliberate**
- **Accidental**
- **Verbal**
- **Nonverbal**
- **Avoidable**
- **Unavoidable**

(Zur et al., 2009)

Counselor Self-Disclosure Impact

- **BENIGN**

- **APPROPRIATE**

- **INAPPROPRIATE**

(Zur et al., 2009)

Rural areas and social network sites are characterized by:

- **pervasive incidental contact**

- **inevitable self-disclosure**

- **unavoidable multiple relationships**

Lannin & Scott, 2013
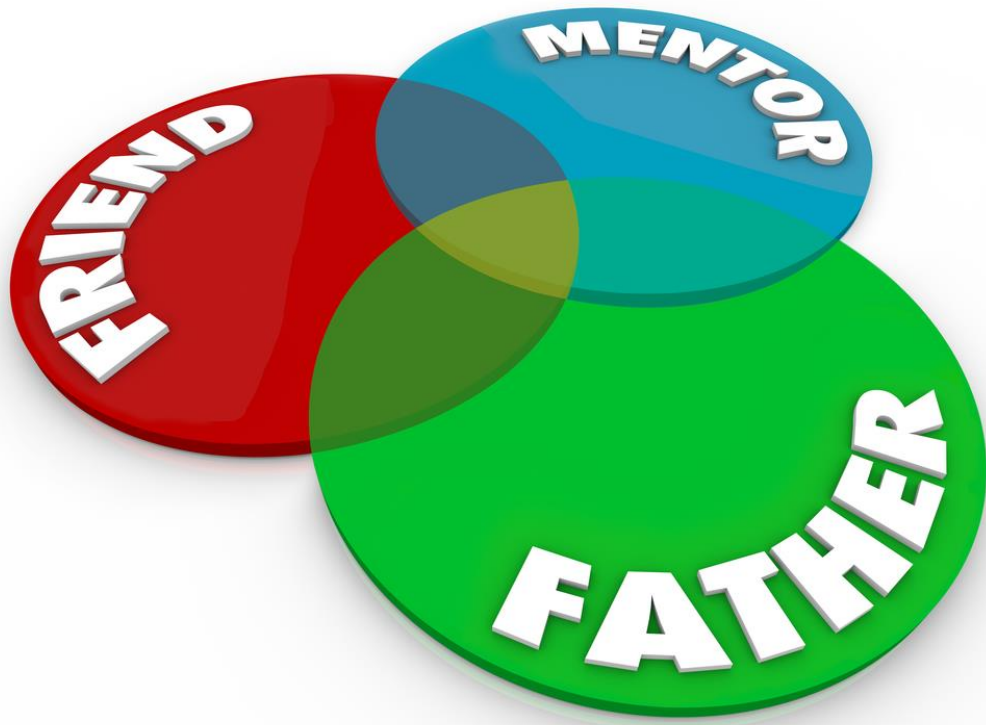
overlapping relationships involving the psychologists' family

(Schank & Skovholt, 1997)

Even when a practitioner creates concrete guidelines for himself or herself around the area of self-disclosure, the Internet can potentially counteract even the best of intentions on the part of an ethical psychologist.

(Zur, 2010)

Need to examine psychologists' personal use of SNS outside of the therapy hour & its impact on psychologists' reputation & credibility

(Van Allen & Roberts, 2011)

Should counselors/therapists participate in social network sites as a private citizen?

Questions to Ask Yourself Before Posting

- **What are the costs and benefits of posting the information?**

- **Is there a high probability that clients will be significantly and negatively affected?**

- **How will the disclosure affect my relationship with my clients?**

- **Does the disclosure threaten my credibility or undermine the public's trust in the field of counseling?**

(Gabbard et al., 2011)

Follow the Elevator Rule…
If you wouldn't say it aloud in a crowded elevator don't post it online

Counselors Should Not POST

- post client information

- disparaging comments about colleagues or client groups

- unprofessional media (e.g., photographs and/or videos that undercut the reputation of psychological practice)

- comments about litigation in which one is involved

(Gabbard et al., 2011)

Five Ethical Principles

- **Nonmalefiscence - do no harm**
- **Autonomy-clients get to make their own choices**
- **Beneficence-do good**
- **Fidelity-keep promises**
- **Justice- be fair**

(Kitchener, 1984; Chapin & Byrne, 2013)

Ethical Reasoning
(Stenberg, 2012)

1	**Recognize there is an event that prompts a reaction**
2	**Define the event as having an ethical dimension**
3	**Decide that the ethical dimension is of sufficient significance to merit an ethics-guided response**
4	**Take responsibility for generating an ethical solution to the problem**
5	**Figure out what abstract ethical rule(s) _might_ apply**
6	**Decide how these abstract ethical rules _actually_ apply in order to suggest a concrete solution**
7	**Prepare for possible repercussions of having acted in what one considers an ethical manner**
8	**Act**

"electronic exchanges"

Security of Email

- **Emails are stored at multiple locations: the sender's computer; your Internet Service Provider's (ISP) server; & the receiver's computer**

- **Deleting an email from your inbox doesn't mean there aren't multiple other copies still out there**

- **Emails are also vastly easier for employers and law enforcement to access than phone records.**

- **Finally, due to their digital nature, they can be stored for very long periods of time**

'Email is not like mailing a sealed letter or package. It's more like sending a postcard – people are not supposed to read it while in transit, but it passes through many hands, & one can never be sure that someone is not reading it illegally.'
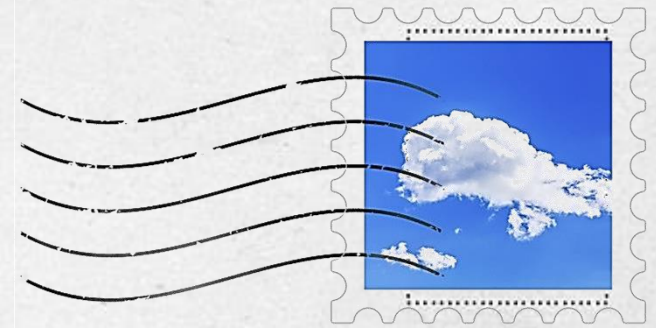
Ms. Wendy Woods

% National Frontier & Rural

Addiction Technology Transfer Center

Reno, NV

(AMA, 2010-13)

HIPAA New Rule Regarding Email

- **Privacy Rule** allows providers to communicate electronically with patients
  - Reasonable safeguards
    - Checking email for accuracy
    - Sending an email alert
    - Limiting the amount or type of information disclosed
  - Must be in compliance with 45 CFR Part 164 Subpart C
- **Health care providers** can provide email reminders to patients if they consent
- **Patients** can initiate email communications with providers using email

More than one-third of cell phone users

- **have sent a text message to the wrong person (38%)**

- **report that a text they sent was misunderstood by the reader (37%)**
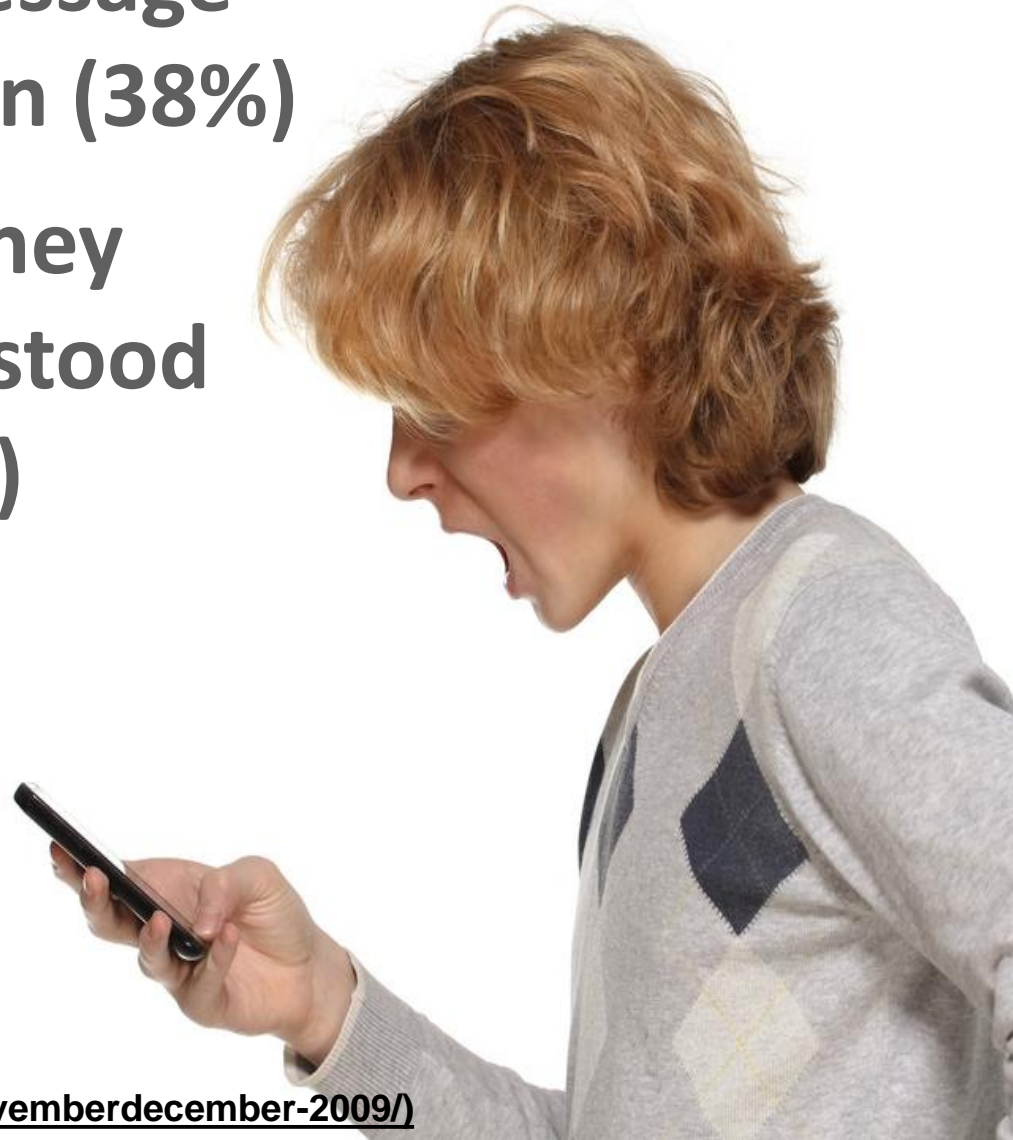
"No it is not acceptable for physicians or licensed independent practitioners to text orders for patients to the hospital or other healthcare setting. This method provides no ability to verify the identity of the person sending the text and there is no way to keep the original message as validation of what is entered into the medical record."

The Joint Commission November 10, 2011

Implement *policies & procedures* to *restrict access* to, *protect the integrity* of, & *guard against unauthorized access* to electronic PHI (e-PHI)
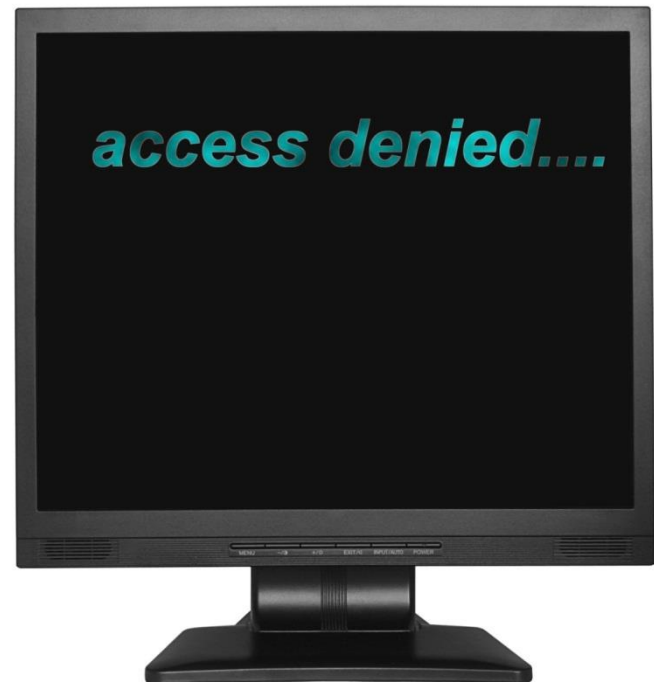
Do you or your agency have a social media policy?

For Clients and/or Staff?

Whether the counselor accepts friend requests from social networking sites

(Kaplan, Wade, Conteh, & Martz, 2011)

Whether clients can be a Facebook friend of the counselor

(Kaplan, Wade, Conteh, & Martz, 2011)

Whether clients may be a follower of the counselor on Twitter or Blogs

(Kaplan, Wade, Conteh, & Martz, 2011)

Another website can post a link back to a counselor's/therapist's blog or easily copy and paste a counselor's/therapist's blog entry, referencing the counselor/therapist as the original author.

(Gabbard, Kassaw, & Perez-Garcia, 2011)

The following items should not be included in blogs or networking sites:

- **Patient information and other confidential material.**

- **Disparaging comments about colleagues or groups of patients.**

- **Any comment on lawsuits, clinical cases, or administrative actions in which one is involved, because they can potentially compromise one's defense**

The Healthcare Blogger
Code of Ethics

- **representing their perspective clearly**

- **respecting confidentiality**

- **announcing commercial disclosures**

- **providing reliable information**

- **being courteous to others**

Medical bloggers can submit their blogs for approval and, after a review process, be accepted as a blog that adheres to this ethical code.

Our opinion is that engaging in **friending** and **following** those whom we serve, supervise, teach, or collect research data from, crosses inappropriate boundary lines because it implies a personal relationship.

(Kaplan, Wade, Conteh, & Martz, 2011)
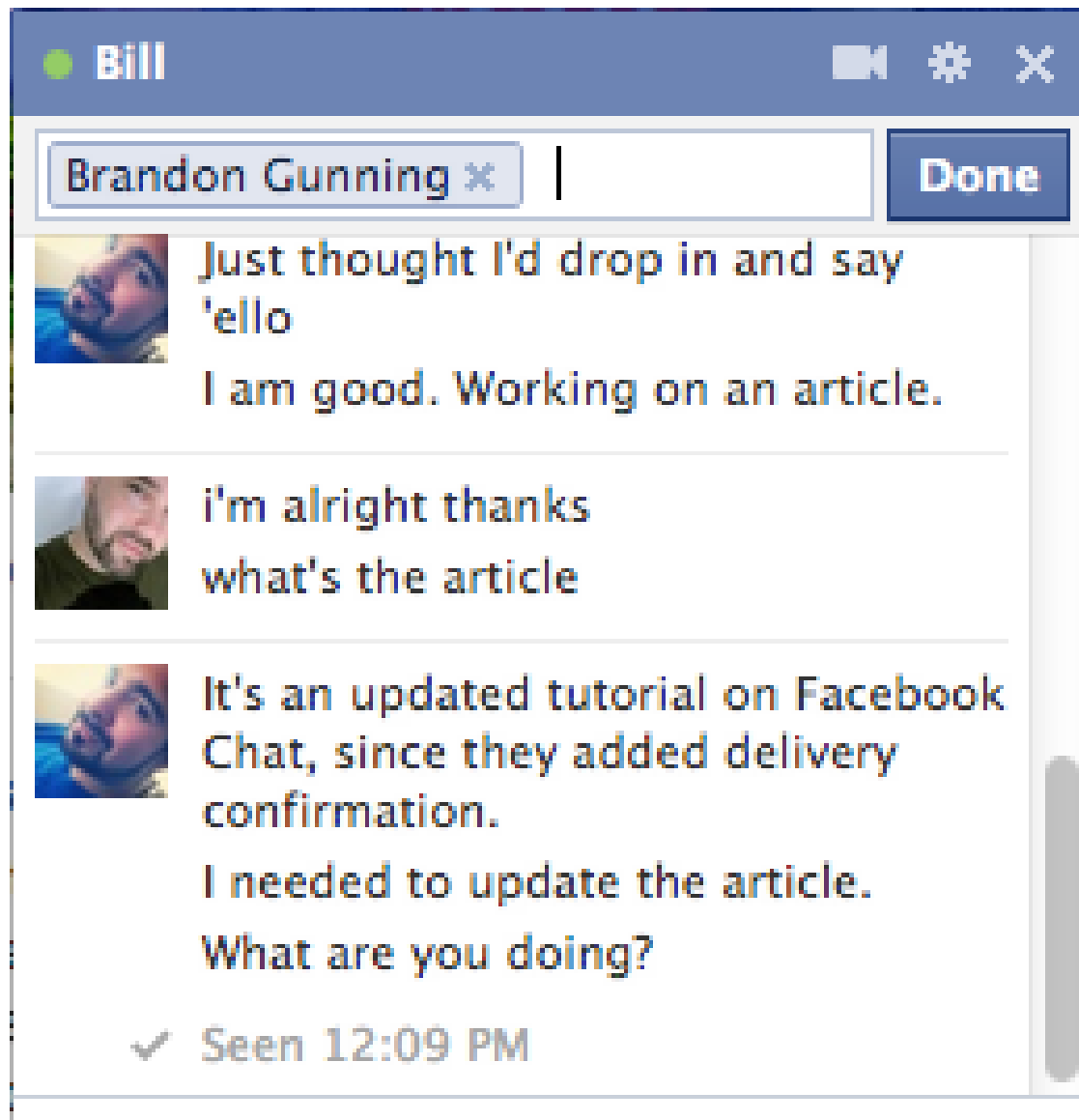
Whether clients can text, email, or take phone calls during sessions?

(Zur, 2010)

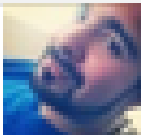# Whether messaging through social network sites such as LinkedIn or Facebook can be used to interact with the counselor
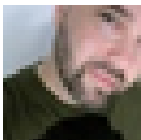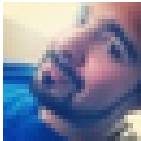

(Kaplan, Wade, Conteh, & Martz, 2011)

FACEBOOK CHAT

The conditions under which Google, Facebook, or other search engines may be used to find out information about a client

(Kaplan, Wade, Conteh, & Martz, 2011)

Prevalence of Googling

- **22%** of **193** clinical psychology graduate students had Googled their psychotherapy clients **(Martin, 2010)**

- **28%** of **227** multidisciplinary psychotherapists accidentally found information about clients online whereas **48%** intentionally sought this information

(Kolmes & Taube, 2010)

98% of doctoral psychology students had searched for at least one client's information over the past year... even though most reported that searching for clients online was "always" or "usually" unacceptable.

(DiLillo & Gale, 2011)

Patient Targeted Googling …

Is it infringing on a patient's privacy?

3 Things to Consider Before Conducting Patient Targeted Googling

- consider the intention of the search

- evaluate the potential risk to the patient

- anticipate the effect of gaining previously unknown information

More in-depth questions
(Clinton, Silverman, & Brendel, 2010)

1	**Why do I want to conduct this search?**
2	**Would my search advance or compromise the treatment?**
3	**Should I obtain informed consent from the patient prior to searching?**
4	**Should I share the results of the search with the patient?**
5	**Should I document the findings of the search in the medical record?**
6	**How do I monitor my motivations and the ongoing risk-benefit profile of searching?**

With the click of a mouse, clients can find a wealth of information on their counselors about their psychologists online

(Tunick, Mednick, & Conroy, 2011)

In some cases psychologists in training had either been matched with current/former clients through anonymous dating websites

(Taylor et al., 2010)

Instead, assume that patients know a good deal about you because your private life is *NOT* beyond reach of the patient.

(Gabbard, Kassaw, & Perez-Garcia, 2011)

Clients **Googling** Counselors

70% of clients reported finding personal information about their psychotherapist on the Internet ...

only **28%** discussed it with their psychotherapist

(Kolmes & Taube, 2011)

Counselors/Therapists who feel that their personal space is being intruded by the patient must deal with this matter as a countertransference issue for supervision, consultation, or personal treatment while exploring with patients the meanings of their curiosity.

(Gabbard, Kassaw, & Perez-Garcia, 2011)

The term

boundary violation

is not applicable to the patient who investigates the counselor/therapist online through public information

(Gabbard, Kassaw, & Perez-Garcia, 2011)

How do you respond if a client tells you that he has "Googled" you, read your blog, or visited your website?

Whether the counselor accepts testimonials on his or her various websites

(Kaplan, Wade, Conteh, & Martz, 2011)

American Psychological Association's Ethics Code states under **Principle 5.05** that it is unethical for psychologists to solicit testimonials:

"Psychologists do not solicit testimonials from current therapy clients/patients or other persons who because of their particular circumstances are vulnerable to undue influence."

How the counselor may or may not respond to comments or ratings posted on internet sites

(Kaplan, Wade, Conteh, & Martz, 2011)

⭐☆☆☆☆ 5/2/2013

In the beginning, SCCC's services were very helpful and I had a great experience. However, during services, I found myself involved in a severely traumatic experience. They assigned me to a new therapist who was not qualified for the issues that had arisen. Not only did this therapist misdiagnose the situation, he also pathologized me during treatment. When I attempt to remedy the situation the director shut me down and was unresponsive. The point here is that I needed advocacy and I was treated as a sick person instead of getting the assistance I needed.

Was this review ...? Useful ✓ Funny ✓ Cool ✓

🔖 Bookmark ✉ Send to a Friend 🔗 Link to This Review 💬 Add owner comment

⭐⭐⭐⭐☆ 3/23/2010

Wow...there are some serious negative reviews here and I'm amazed. Several years ago my husband and I were going through a difficult time and if it weren't for SCCC we would've divorced. Which is really sad considering how awesome life is for us right now.

Our therapist was the best and I truly appreciate how many tools for life he taught us.

I honestly cannot speak for group therapy, but our one on one was great. The times they offered were great too..

I think the one drawback was the front desk guy with the glasses...he's a bit...um...standoff-ish and it can be slightly unnerving.

Was this review ...? Useful ✓ (10) Funny ✓ (4) Cool ✓ (3)

🔖 Bookmark ✉ Send to a Friend 🔗 Link to This Review 💬 Add owner comment

⭐☆☆☆☆ 4/1/2010

I went to this place in 2003 or 2004. The therapist in training that I got assigned (you do NOT get any opportunity to interview them; they are just ASSIGNED TO YOU, by a lottery) was

How the counselor notifies clients regarding GPS Notification Services

(Kaplan, Wade, Conteh, & Martz, 2011)

If the organization has a social media policy

Employees will share their gripes and struggles on Twitter, Facebook, YouTube, Instagram, and any other site with friends or strangers who will listen…

(Kasarjian, 2013)

Social Media Policy Sample

- **Use Sample Policy Based upon Walmart's Policy**

- **Use examples**

- **Don't use a summary statement that this policy doesn't violate employees' Section 7 Rights**

- **Many case examples - don't become one of them**

(Kasarjian, 2013)