

Legal Responsibilities

Introduction: In addition to ethical requirements, mental health professionals are also bound by various laws. Some of these, such as confidentiality, overlap similar areas as the codes of ethics. It is also important to be mindful of areas that could increase risk for civil liability, in other words, being legally responsible for harm or damage caused to a client. These cases do not involve a law being broken but may include things like practicing outside of boundaries of competence and could result in a civil lawsuit.

Understanding Legal Liability: The Healthcare Providers Service Organization HPSO (HPSO) provides liability insurance and other services to clinicians. In partnership with the American Counseling Association (ACA), HPSO recently prepared a [report](#) which analyzed types of liability claims paid in order to better understand trends and patterns of types of claims against counselors. This can be informative in terms of areas of risk of which to be aware in order to avoid similar problems! The report concludes with recommendations to avoid similar pitfalls (HPSO, 2014).

Avoiding Legal Pitfalls: The first area recommended to avoid liability is staying within your scope of practice. This has to do with what is allowed by state regulations for a particular professional. This is followed by competence, both practicing within your boundaries of competence and ensuring that you stay current in the profession (Alexander, 2018). Other recommendations include following best practices in the field, utilizing supervision, communication, documentation, and more (HPSO, 2014).

Working with Organizations/Other Professionals: When working for an organization, or participating in a partnership, it is important to understand who is responsible for what. The American Psychological Association (2017) has provided a helpful [overview](#) of some of the issues that arise in this type of situation. Note for the purpose of this unit, especially those related to who is responsible for various aspects of competence and vicarious (shared) responsibility.

Other Areas of Legal Responsibility: For more on areas of Legal Responsibilities, the American Psychological Association has compiled a [list](#) of areas in which a professional may have a legal responsibility. Some are specific to certain situations, such as if you own a business (private practice). Others apply across the board, such as mandated reporting (American Psychological Association, 2013).

Further Reading: For an in depth discussion of these complex areas, written in a way that one can understand without a law degree, the American Counseling Association recommends the book, *The Counselor and the Law* (8th ed), published by Wiley. This book is co-authored by a clinician and a lawyer who is experienced in dealing with matters of counselor liability.

This is not intended to be legal advice. If you have questions regarding your specific situation, you should consult an attorney.

References

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