

Ethical Decision-Making in Sex-Offending Treatment

**VSOTA**

2022

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Virginia CSOTP Standards contributed by  
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Today's Content & Learning Objectives

1. Participants will identify ethical prominent and challenging ethical dilemmas as a SOTX provider.
2. Participants will clarify obligations for client confidentiality and legal exceptions.
3. Participants will identify and demonstrate the ability to engage in a strategic decision-making process for resolving ethical dilemmas.
4. Incorporated Virginia CSOTP Practice Standards (2021 Regulations) in keeping with the Boards requirement that ethics must include the relevant Laws and Regulations of the Board of Health Professions because practitioners are disciplined under those Laws and Regulations and not under other professional association ethics.

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To think more critically and thoughtfully about the ethical dilemmas we face

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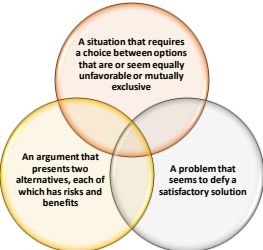
May provide more questions than answers.



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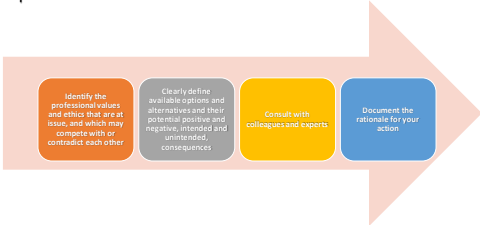
What is an Ethical Dilemma?



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Steps to Ethical Practice Decisions

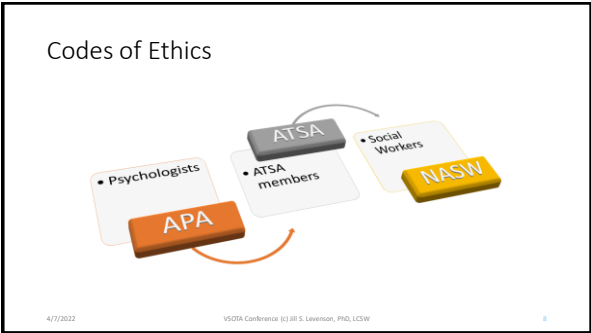


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**Who is the client?**  
**ATSA COE**

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- (b) Client—Any person or entity who enters into a therapeutic or consulting relationship with an ATSA member for the purpose of receiving assessment, treatment, or consulting services. For further clarification regarding involuntary evaluations, see Section 7: Client Relationships (I).
- Section 7 (I): ATSA members recognize that their primary professional obligation is to the client to whom they are providing services, regardless of who is paying for those services. Additionally, ATSA members recognize that third-party relationships have the potential to create conflicts of interest and that the primary professional obligation remains to the client.

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**Virginia CSOTP Standards (2021)**

The protection of the public health, safety, and welfare and the best interest of the public shall be the **primary guide** in determining the appropriate professional conduct of all certified practitioners who provide services to sex offenders.

Sex offender treatment providers respect the rights, dignity, and worth of all people, regardless of the nature of one's crimes or offenses, and are mindful of individual differences.

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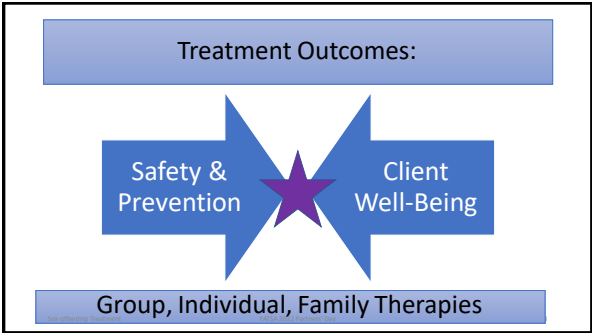
**More than one Code of Ethics Applies**

- Barsky offers a process and guidelines for selection:
  - Which standards apply to you (membership has privileges AND responsibilities)
  - Ensure that you and clients know which standards you are using (informed consent)
  - Avoid dual roles
  - What to do when laws / rules / practice guidelines / contracts conflict with professional COEs?
  - Consult – brainstorm with wiser sources

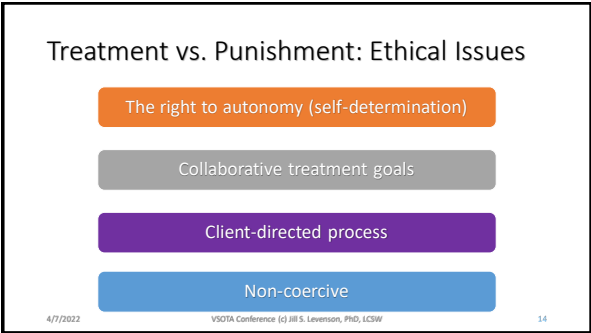
Barsky A (2018)

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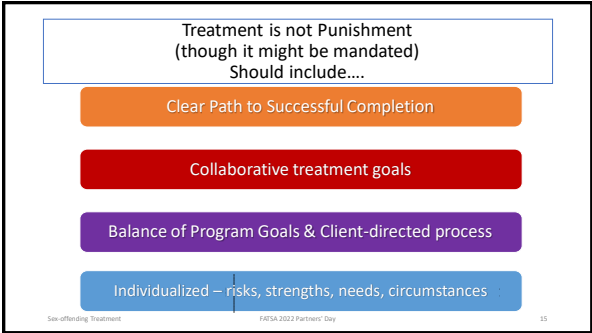
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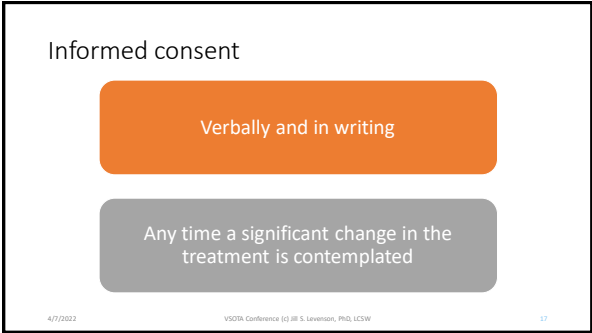
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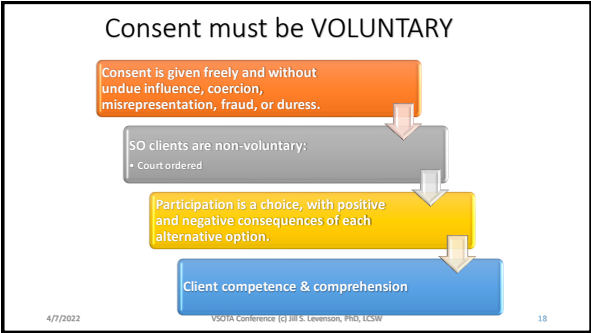
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Voluntary consent requires:

Competence

Comprehension

Language

Literacy

Non-coercion

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What do professional codes say about non-voluntary clients & informed consent?

NASW

In instances when clients are receiving services involuntarily, social workers should provide information about the nature and extent of services and about the extent of clients' right to refuse service.

APA

When psychological services are court ordered or otherwise mandated, psychologists inform the individual of the nature of the anticipated services, including whether the services are court ordered or mandated and any limits of confidentiality, before proceeding.

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Virginia CSOTP Standards (2021)

Informed Consent

Accurately inform sex offender clients of (i) the purposes of an interview, testing, or evaluation session; (ii) the ways in which information obtained in such sessions will be used before asking the sex offender client to reveal personal information or allowing such information to be divulged; (iii) the methods of interventions, including any experimental methods of treatment; and (iv) the risks and benefits of any treatment;

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What are the Exceptions to Confidentiality?

Permission from client

Court order

Supervision & consultation

Mandatory reporting

Danger to self or others

Minors

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Mandatory Reporting

Suspicion of abuse or neglect of a child, elderly or disabled person

Professionals usually may not report anonymously

With suspicion that a child is or was abused or neglected

May not require reporting when victim is now over 18

Who do we report to?  
• A CPS hotline or agency

Requirements in VA State Law?

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Danger to self

Person poses and imminent threat themselves

Usually suicide, but could include severe injury

Prevention of harm vs. right to not be confined against one's will



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Danger to self & Assessment

Imminent danger

Least restrictive option

Right to self determination

Duty to prevent harm

Contracting

Pros & Cons:  
Harms caused by over-reacting and under-reacting?

Ethical questions

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Danger to others

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Permission to warn or duty to warn?

Credible threat regarding an [identifiable] victim

To be reported to intended victim and authorities

Document all communications, consultations, and rationale

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Case example:  
Confidential,  
mandatory  
reporting, or  
duty to warn?

Travis, a 20 year old college student, contacts you for help because he has been viewing child pornography online for years. He fears he may get caught and wants to stop.

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Travis

What are the competing ethical issues?

What are your possible alternatives?

What are the potential positive and negative outcomes?

What might you do?

Are we required to report crimes?  
To whom?  
And under what circumstances?

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Travis

- In the vast majority of states (except CA, PA, & DE), will not meet criteria for mandated reporting.
  - Possession or production?
  - Any current victims?
- Balance the potential harm to others with creating a positive therapy experience for Travis. (do no harm)

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Times-Herald

CRIME

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Home > Crime

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in

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Judge tosses challenge to child porn reporting law

POSTED 10:05P 3/31/19 BY JEFFREY L. ... UPDATED 2 WEEKS 4 DAYS AGO 0 COMMENTS

LOS ANGELES (AP) — A judge has dismissed a lawsuit by mental health experts who wanted to prevent Los Angeles County from enforcing a law requiring them to reveal whether their patients watched child pornography.

City News Service says a judge ruled on July 29 that there's no constitutional or privacy right to possess child porn.

California law had required therapists to report suspected abuse of a child but an amendment requires them to also report whether clients had downloaded or viewed child porn — whether or not abuse was suspected.


Those therapists challenged the amended statute, arguing it violated privacy rights and did nothing to protect children. They argued the amendment even intruded on minors involved in sexting.

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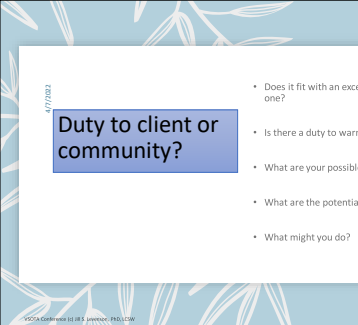


### Duty to Warn?

I work in a school and have no urges or intentions to abuse anybody. If I went to see a therapist about my minor-attraction issues, would they be required to report me to the school and/or police?

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### Duty to client or community?

- Does it fit with an exception to confidentiality? If so, which one?
- Is there a duty to warn someone? Who & Why?
- What are your possible alternatives?
- What are the potential positive and negative outcomes?
- What might you do?

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### Ethical Questions: Denial

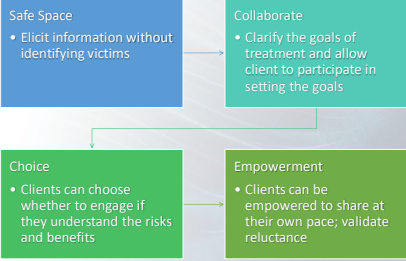


- Does someone have the right to protect from self incrimination?
- How can we treat a person for a problem they say they do not have?
- Do clients have the right to refuse treatment?
- Can clients choose when and how to disclose information?
- Denial is a defense mechanism to protect self.

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### Denial






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graph TD; A[Safe Space] --> B[Collaborate]; B --> C[Empowerment]; C --> D[Choice]; D --> A;
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Levenson, 2011  
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### Members' Training & Expertise

-  Engage in continuing education
-  Do not practice outside your area of specific training
-  To develop new competencies, attend a sufficient number of training sessions that address the area before providing services.

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### Virginia CSOTP Standards (2021)

Maintain current competency in the areas of practice through continuing education, consultation, or other procedures consistent with current standards of scientific and professional knowledge; (6 Continuing Education Hours for CSOTP)

Provide or supervise only services and use only techniques for which they are qualified by education, training, and experience;

Accurately represent their areas of competence, education, training, experience, professional affiliations, credentials, and published findings to ensure that such statements are neither fraudulent nor misleading;

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Personal Problems & Conflicts

- (c). In instances where personal difficulties impact professional behavior to a significant extent, members shall seek professional counseling; addiction, mental health, or medical services; supervision; and/or peer consultation; and members shall consider limiting, suspending, or terminating their work-related duties until these problems are resolved.

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Virginia Board of Health Professions

Health Practitioners' Monitoring Program

The Virginia Health Practitioners' Monitoring Program (HPMP) is an alternative to disciplinary action for qualified healthcare practitioners with a substance use diagnosis, a mental health or physical diagnosis, that may alter their ability to practice their profession safely. HPMP refers healthcare professionals for appropriate treatment and provides ongoing monitoring of treatment progress.

Participation in the program is voluntary. Disciplinary action may be avoided and, in the absence of criminal behavioral or Board action, public records may not be generated. (See Virginia Board of Health Professions website for more information)

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Virginia CSOTP Standards (2021)

Report to the board known or suspected violations of the laws and regulations governing the practice of sex offender treatment providers, as well as any information that a sex offender treatment provider is unable to practice with reasonable skill and safety because of physical or mental impairment or substance misuse or otherwise poses a danger to the provider, the public, or clients;

Upon learning of evidence that indicates a reasonable probability that another mental health provider is or may be guilty of a violation of standards of conduct as defined in statute or regulation, persons licensed by the board shall advise their clients of their right to report such misconduct to the Department of Health Professions in accordance with § 54.1-2400.4 of the Code of Virginia.

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Why are dual relationships problematic?

Impairs objectivity

May present a conflict of interest

Can blur the professional nature of the therapeutic relationship

Professional relationships represent a power differential which creates the potential for exploitation

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Examples of Dual Relationships?

Avoid	Refrain	Resolve	Clarify
Avoid them when possible	Refrain from accepting professional or scientific obligations when a pre-existing relationship may foreseeably create a conflict, impair professional judgment, or create risk of harm.	Resolve dual relationship that develop due to unforeseen circumstances as quickly as possible.	Explore potential pros and cons, risks and benefits of role multiplicity

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Virginia CSOTP Standards (2021)

Not engage in sexual intimacies or a romantic relationship with a student, supervisee, resident, intern, therapy patient, client, or those included in collateral therapeutic services, such as a parent, spouse, or significant other of the client, while providing professional services. For at least five years after cessation or termination of professional services, not engage in sexual intimacies or a romantic relationship with a therapy patient, client, or those included in collateral therapeutic services. Consent to, initiation of, or participation in sexual behavior or romantic involvement with a sex offender treatment provider does not change the exploitative nature of the conduct nor lift the prohibition. Because sexual or romantic relationships are potentially exploitative, sex offender treatment providers shall bear the burden of demonstrating that there has been no exploitation, based on factors such as duration of therapy, amount of time since therapy, termination circumstances, client's personal history and mental status, and adverse impact on the client;

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Payment for Services

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- **Bartering** for services may result in a dual relationship and therefore may leave a Member open to an ethical complaint. Members should conform to their specific professional discipline's codes of ethics for further guidance (e.g., the Canadian Psychological Association or American Psychological Association).
- Describe fees, make payment arrangements at the beginning of relationship, discuss changes in fees

What does VA say?

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Virginia CSOTP Standards (2021)

**Conduct financial responsibilities to clients in an ethical and honest manner by:**

- a. Informing clients of fees for professional services and billing arrangements as soon as is feasible;
- b. Informing clients prior to the use of collection agencies or legal measures to collect fees and provide opportunity for prompt payment;
- c. Obtaining written consent for fees that deviate from the practitioner's usual and customary fees for services; and
- d. Not obtaining, attempting to obtain, or cooperating with others in obtaining payment for services by misrepresenting services provided, dates of services, or status of treatment;

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Supervisory Relationships

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- Delegate appropriately
- Provide appropriate training
- Provide appropriate supervision
- Expectations should be clarified in writing
- No sexual behavior with students, supervisees, or others over whom Member has evaluative or direct authority

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Virginia CSOTP Standards (2021)

Not engage in a dual relationship with a person under supervision that could impair professional judgment or increase the risk of exploitation or harm. Sex offender treatment providers shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired, and no exploitation occurs;

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Professional Conduct (ATSA COE)

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- (e) Members shall not engage in sexual harassment. Sexual harassment is unlawful discrimination within a professional relationship on the basis of gender and/or sexual orientation and includes any unwelcome verbal or physical sexually oriented conduct that is sufficiently severe or pervasive to have the purpose or effect of unreasonably interfering with a professional relationship or creating a hostile, intimidating, or offensive professional environment.
- (f) It is unethical for ATSA members to conduct evaluations with the primary purpose of determining guilt or innocence.

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Professional Conduct (cont)

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- (f) Any ATSA member or pending ATSA member with a felony conviction that rationally reflects adversely upon the individual's fitness to provide professional services or professional tasks must disclose the conviction and disposition upon applying for or renewing their ATSA membership.
- (g) No member shall engage in illegal behavior that rationally reflects adversely on the member's fitness to provide professional services or professional tasks.

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Virginia CSOTP Standards (2021)

Maintain client records securely, inform all employees of the requirements of confidentiality, and dispose of written, electronic, and other records in such a manner as to ensure their confidentiality; and

Maintain client records for a minimum of five years or as otherwise required by law from the last date of service, with the following exceptions:

At minimum, records of a minor child shall be maintained for five years after attaining 18 years of age;

Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or Records that have been transferred pursuant to § 54.1-2405 of the Code of Virginia pertaining to closure, sale, or change of location of one's practice.

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Virginia CSOTP Standards (2021)

**Client records, persons regulated by the board shall:**  
Maintain timely, accurate, legible, and complete written or electronic records for each client. For a sex offender treatment provider practicing in an institutional setting, the recordkeeping shall follow the policies of the institution or public facility. For a sex offender treatment provider practicing in a noninstitutional setting, the record shall include:

a. The name of the client and other identifying information;  
b. The presenting problem, purpose, or diagnosis;  
c. Documentation of the fee arrangement;  
d. The date and clinical summary of each service provided;  
e. Any test results, including raw data, or other evaluative results obtained;  
f. Notation and results of formal consults with other providers; and  
g. Any releases by the client;

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New Ethical Issues re: Technology Use

- Awareness of unique challenges that technology creates in relation to:
  - Confidentiality / privacy
  - Informed consent
  - Professional boundaries
  - Professional competence
  - Record keeping... and other ethical considerations
  - Telehealth – individual & group tx
  - Social Media - implications of “knowing” things
  - Googling client (and them googling you)

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Steps to Ethical Practice Decisions

Identify the professional values and ethics that are at issue, and which may compete with or contradict each other

Clearly define available options and alternatives and their potential positive and negative, intended and unintended, consequences

Consult with colleagues and experts

Document the rationale for your action

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It can be confusing!  
More than one set of laws / rules / ethics...

- Licensure Laws
- Professional COE (NASW, APA, ACA)
- ATSA COE
- SOTX Guidelines
- Contracts with govt or agency
- What to do when laws / rules / practice guidelines / contracts conflict with professional COEs?
- CONSULT WITH OTHERS & DOCUMENT YOUR PROCESS OF COMING TO A DEFENSIBLE POSITION.

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Questions & Discussion?

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**Ethical Decision-Making in Sex-Offending Treatment**

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**Resources Available Online**

- International Society for Mental Health Online: <http://ismho.org/>
- American Distance Counseling Association: <http://www.adca-online.org/>
- Online Therapy Institute: <http://onlinetherapyinstitute.com/ethical-training/>
- American Telemedicine Association  
[American Telemedicine Association: http://www.americantelemed.org/i4a/pages/index.cfm?pageID=3604](http://www.americantelemed.org/i4a/pages/index.cfm?pageID=3604)

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**Resources**

- NASW/ASWB/CSWA/CSWE Standards for Technology Practice. The Standards are available online at: <http://bit.ly/2sFmTWI>
- NASW Code of Ethics [NASW Code of Ethics - National Association of Social Workers](#) available online at <https://www.socialworkers.org/About/Ethics/Code-of-Ethics/Code-of-Ethics-English>
- Social Media Policies: Kolmes, Keely, *My Private Practice Social Media Policy*: <http://www.drkkolmes.com/docs/socmed.pdf>

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