Boundary Issues in Clinical Practice

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Protocol for Boundary Crossings

The 3 “Ds”

- **Demeanor**: behave professionally
- **Debrief**: at next session and document that
- **Document**: your reasoning and cost-benefit analysis for the crossing

“It is the mark of a mature intellect that it can hold two contradictory ideas without ceasing to function.”

—Kinsey
Basic Axioms in Sexual Misconduct

1. Only the therapist is
   – culpable
   – liable
   – blameworthy

2. If competent adults, both parties are responsible for their actions, as are all adults
Fiduciary Relationship

The fiduciary places the interests of the ward before his/her own

Power Asymmetry

One party has greater social power than another by law, status, position, knowledge, etc., especially by knowledge of the particular patient.
Axioms in Assessing Sexual Misconduct

A. Most sexual misconduct begins with (incremental) boundary violations

B. However: The presence of boundary violations alone does not prove sexual misconduct occurred

C. And yet: Fact finders find sexual misconduct more credible in the presence of boundary violations
“There was an undisputed level of intimacy between the two which supports the inference of sexual relations.”

—Massachusetts Board of Registration in Medicine on an alleged sexual misconduct case

Boards of Registration

Tend to ignore context and operate from a “list of forbidden acts”
“Slippery Slope” becomes “Slippery Cliff”

Speaker’s empirical forensic experience.
Boundary

The “Edge” of appropriate behavior

Boundary Breaches: Two Types

Boundary Crossings: May advance the Therapy

Boundary Violations: Exploit the Patient May Vitiate the Therapy

Crossing Examples

Stepping out of role:
• Offer crying patient a tissue
• Giving hand to patient who has fallen on your office floor
• Providing your cell number for emergencies
Violation Examples

• Using patient for narcissistic or dependency needs
• Extensive physical contact, including sex
• Disclosing extensive personal history, personal issues, familial details, etc.
  – May evoke “role reversal” – patient caring for treater

Common Sites for Boundary Violations

1. **Role**: “Is this what a therapist does?”
2. **Time**: Extra or extra-long sessions
3. **Place**: Restaurants, etc.
4. **Money**: Freebies, “Chickens” or other; mounting debt
5. **Behavior**: Hugs and hanky-panky

Boundary Violations (cont’d)

6. **Self-disclosure**: Personal, financial, etc.
7. **Sessions in cars**
8. **“Unique therapy” model**:
   – No other therapist could do this
   – Therapy is more important to therapist than patient ("We must finish/resolve this")
9. **Too high consult/supervision threshold**

“[Therapist] told me that nobody else would understand our relationship, that it was unlike anything he had ever experienced in his life, that we were lucky to be a part of it, and that the only way somebody could understand it would be to be in it and experiencing it first hand themselves.”
Borderline Personality Disorder: 
Special Issues

• Boundary confusion
• Impulsivity
• Neediness
• Psychotic (untestable) transference
• “Golden fantasy”: Doctor will meet all needs, not just clinical ones

Self-Testing to Aid Prevention

• Reluctance, guilt, embarrassment at telling or fearing to tell supervisor/consultant
• Obsession or preoccupation with patient, eg, with romantic fantasies
• Fear that consultant will tell you to stop
“You’ve gone this far…”

- Doctor has conceded to some minor boundary transgressions but draws the line at a major one
- Patient: “You’ve come this far already, why does it matter?”
- Doctor fears being reported for earlier deviations
You’ve gone this far… (cont’d)

Response:

• “Upon reflection I realize that you have helped me see my earlier (concessions, decisions) were ill advised; and I apologize for the error. We will go back to how it was before and try to understand what happened and why.”
A Common Quote

• “Now, Dr. Gutheil, I don’t usually do this with my patients, but for some reason, in this case I _______________.

[Insert foolish or self-defeating activity here]

Speaker’s empirical forensic experience.
Sexual Misconduct Therapist Types

Male
1. Dr. Loman: Midlife crises
2. Dr. Sick: (Hypo) mania, grandiose
3. Dr. Predator: Psychopathy, poly-exploits
4. Dr. Weird: Schizoid, paraphilia

Female
1. Dr. Hysteric: Emotional flooding
2. Dr. Mother: Nurturant lesbian → sexual

Boundary Substrates

Sexually Abused in Childhood

Sexual Misconduct

Borderline Personality Disorder
(Eating Disorder)

Dissociative Identity Disorder

Speaker's empirical forensic experience.
Sexual Misconduct Actions

Most common/significant:
1. Criminal (15 states) Case
2. Civil Case
3. Board Complaint
4. Ethics Committee Complaint
Sexual Misconduct Concepts Often Confused

- Misconduct and deviation (technical)
- Harm and exploitation
- Damages: Basis of award in litigation
- Abuse and trauma: Complex issue

“Cessation Trauma”

• During improper sexual relationship, the “Rubber Band” stretches

• On termination/revelation it “SNAPS”

• Emotional harms at that point: humiliation, pain, rage, suicidal ideation, etc.

Supervision Clues

1. Silences/lacunae in content
2. Evasiveness
3. Tact and openness
4. Modeling self-reflection, countertransference awareness

Dissertation Finding

Study of women therapists at all ages/stages revealed:

- Female trainees avoided discussing erotic countertransference with their male supervisors out of fear that they would be accused of being seductive

Treaters of Sexualizing Clinicians

1. Usually confidentiality dominates
2. Consider counsel, recommend, threaten, report
3. Report for very serious harm unresponsive to all interventions
Miscellaneous Tips

Don’t have sex with non-patients in your office, either

Example

Marrying the patient is not a solution
Carmichael v Carmichael
Sexual Misconduct Damages: Intrinsic

1. Loss of time/chance for good therapy

2. Provision of bad therapy
   (maybe re-traumatization)

3. Lost time for recoverability

Speaker's empirical forensic experience.
Sexual Misconduct Damages: Intrinsic (cont’d)

4. Boundary violation – loss of trust in future relations, especially therapists

5. Exploitation, humiliation, shame, betrayal, anger, suicidal feelings, maybe public embarrassment

Example
Crossing or Violation?

Therapist follows patient into bathroom:
- For psychoanalyst, violation since not contracted for
- For behaviorist, crossing if done as stage in treatment of *paruresis*: fear of using public bathrooms

Identical behavior may be a crossing in one context and a violation in another
Boundary Pitfall in Litigation

• Problem in liability context when member of “wrong” subspecialty or discipline is used as expert
• “I would never do that in my practice”
• But it may not be your practice
The Key Boundary Question:

CONTEXT
Preventive Measures Against Boundary Violations

1. Psychodynamic education

2. Alerting to “exceptions”

3. Didactic teaching explicitly on clinical and legal pitfalls

Preventive Measures Against Boundary Violations (cont’d)

4. Teaching on patient management

5. Presenting case of erotized transference to supervisor
Boundary Guidelines

1. Neutrality
2. Foster Separateness
3. No “Personal” Relations
4. Relative Anonymity
5. Stable Fee Policy
6. Consistent Setting
7. Defined Session

Risk Management

Consultation and documentation:
• The twin pillars of malpractice prevention
• Professionalism