



Legal Considerations for “Therapy Dogs”

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Pets can serve as valuable sources of emotional support and a growing body of research is recognizing the positive effects that pets can have on an individual’s health. Thus, some mental health practitioners have found that incorporating a therapy dog into treatment plans with patients can be an integral and beneficial therapeutic intervention. Animal Assisted Therapy (AAT) is defined as “a goal oriented, planned, structured and documented therapeutic intervention directed by health and human service providers as part of their profession.”¹ Animal Assisted Therapy in Counseling (AAT-C) is a subspecialty of AAT, and is defined as the incorporation of specially trained and evaluated animals as therapeutic agents into the counseling process by mental health professionals, including marriage and family therapists. Therapists who practice or desire to practice AAT-C are encouraged to be familiar with the expanding research and literature on AAT-C and consider the legal and ethical issues when incorporating a therapy dog in sessions. This article discusses a recent Board of Behavioral Sciences (BBS) case related to AAT and the legal and ethical issues therapists should consider when practicing AAT-C or when therapists simply bring their own dog to the therapy office.

The BBS Case

In December 2016, the BBS took disciplinary action against a Licensed Clinical Social Worker for incompetence and/or gross negligence in the performance of clinical social work with a minor patient, specifically with respect to AAT. The BBS and the therapist ultimately settled the case, in which the therapist was placed on probation for three years under certain probationary terms and conditions.

The facts presented by the BBS in its Accusation against the therapist are as follows: The therapist was providing counseling to a minor. The therapist and minor patient were accompanied in the counseling room by the therapist’s dog, a Bernese Mountain dog. At the conclusion of the counseling session, while the therapist and the minor patient were walking through a narrow space in the therapist’s office, the minor patient attempted to pet the dog, which was sleeping, and the dog bit the minor patient, severing the minor’s earlobe. The minor subsequently underwent three surgeries to repair her earlobe. In response to an inquiry from the BBS, the therapist admitted that she had used a dog in counseling sessions for the last eighteen years. The therapist also indicated to the BBS that she does not have her patients, or minor

patient's parents, sign waivers regarding Respondent's dog being present during the counseling sessions. The BBS ultimately concluded that the therapist was subject to disciplinary action in that she recklessly caused physical and emotional harm to the patient and committed incompetence or gross negligence for the following reasons:

1. therapist did not obtain the proper training or certification to use a dog in counseling sessions;
2. The therapist did not adhere to animal assisted therapy best practices, especially during the beginning and end of the counseling session; and
3. The therapist did not have the minor parents sign a "consent to treat" form informing the parents of the risks, benefits and expected outcomes and goals of AAT.

Discussion of the Issues

This case is important for AAT-C practicing therapists who are registered or licensed with the BBS for two reasons: 1) it signifies that the BBS recognizes animal assisted therapy as a therapeutic intervention that requires specialized training and skills, and 2) it provides certain expectations for what the BBS deems to be competent practice of AAT-C.

Essentially, the BBS requires AAT-C therapists to 1) obtain proper AAT-C training; 2) adhere to AAT-C best practices; and 3) obtain consent from the patient (or patient's legal representative).

Proper AAT-C Training

Since AAT-C is a specialized therapeutic intervention, it is critical for therapists to be competent in their utilization and practice of AAT-C. *The CAMFT Code of Ethics* requires marriage and family therapists, while developing new areas of practice, to take steps to ensure the competence of their work through education, training, consultation, and/ or supervision.²

What is proper training in AAT-C to establish competency?

In order to respond to researchers' requests for standards of competence in the practice of AAT-C, the American Counseling Association (ACA) constructed the Animal Assisted Therapy in Counseling Competencies,³ to serve as a theoretical framework that represents competencies in AAT-C. The document was based on the findings of a qualitative investigation of the knowledge, skills, and attitudes required of competent animal-assisted therapy practitioners and can serve as a guide for therapists seeking to ensure competence of their AAT-C approach with patients. According to the AAT-C Competencies, providers of AAT-C are expected to acquire specific training, assessment, and supervision. This includes completion of successful coursework in AAT-C, knowledge of AAT-C specific counseling techniques and principles, an understanding of the relevant aspects of the human-animal bond, and participation in supervised professional practice. The coursework should include: evaluation of animal knowledge (how animals are incorporated into therapeutic settings and ability to work effectively as a team with a therapy animal) and evaluation of AAT-C knowledge (AAT-C professional identity, history of AAT-C, and literature and evidence-based practice of AAT-C).

Additionally, therapists who provide AAT-C are expected to develop relevant "hard skills," such as animal training techniques and understanding of animal behavior/physiology, as well as "soft skills," such as the clinical application of facilitating human-animal interactions and strategies for integrating animal-assisted therapy into previously acquired general counseling skills.⁴ AAT-C therapists should continue the development of these skills through continuing education and regular consultations with other AAT-C practitioners.

AAT-C Best Practices This case also indicates that the BBS expects therapists practicing AAT-C to adhere to animal-assisted therapy best practices. The BBS noted in this particular case that the therapist did not engage in AAT-C best practices especially during the beginning and end of the counseling session when the therapist failed to place boundaries and barriers between the animal and the patient, and did not place the dog in a crate or special place when it was sleeping. The AAT-C Competencies state that providers have knowledge about their therapy animal, including the ability to detect, and as necessary, arrange to facilitate the animal's socialization, desensitization, and comfort, and the ability to maximize the potential for safe interactions between patients and animals. A therapist utilizing a therapy dog should ensure that the animal is trained for the counseling environments and situations in which it is working. There are many programs available to train and certify therapy dogs.

In addition, therapists of AAT-C should be able to demonstrate the ability to prevent and respond to animal stress, fatigue and burnout, which includes the ability to identify and respond to the animal's signals and body language, especially when the animal does not want to interact.⁵

Required Consent and Disclosures The BBS expects therapists who practice AAT-C to obtain consent from patients and provide disclosures to patients regarding the risks, benefits, and expected outcomes and goals of AAT-C prior to rendering services. The CAMFT Code of Ethics also expects marriage and family therapists to inform patients of the potential risks and benefits when there is a risk of harm that could result from the utilization of any technique.⁶ The CAMFT Code of Ethics also requires marriage and family therapists to provide adequate information to patients in clear and understandable language so that patients can make meaningful decisions about their therapy.⁷ The ACA's AAT-C Competencies state providers of AAT-C inform patients of the purpose of AAT-C and discuss with the patients potential safety issues.

Other Considerations

Suitability: Therapists, when considering AAT-C with a patient, should assess the suitability and amenability of each patient to AAT-C. Some considerations may include the patient's allergies, phobias, past history of animal abuse, and past history of animal-related trauma.⁸

Liability: Therapists should also be familiar with the liability issues pertaining to rendering AAT-C and obtain personal and professional insurance coverage for AAT-C. Some insurance companies may include animal assisted therapy services as a part of the mental health malpractice coverage, however, most probably do not provide coverage for any bodily injury-related claims caused by the animal. CPH and Associates has confirmed that its mental health policy would cover malpractice-related claims against therapists practicing animal-assisted therapy as a part of their mental health practice. However, it does not provide coverage for bodily injury caused by the animal. It is recommended that therapists contact a local independent insurance agent or a therapy animal association regarding this particular coverage.

Bringing a Dog to the Therapy Office

Therapists who bring their own dog to the office and allow patients to casually interact with the dog should assess the risk for potential harm. Even if the therapist does not incorporate the therapist's dog into therapy sessions, the BBS may take disciplinary actions against the therapist (as well as potential legal action) if the dog bites or injures the patient. Therapists who bring their dog to the office should consider the following issues:

Appropriateness: Therapists may want to consider the reasons why they are bringing their dog to the office. Therapists may also want to consider how their dog reacts to environmental factors and any potential distractions or interruptions to therapy sessions.

Amount of Interaction: How much interaction would there be between the patient and the dog?

Disclosure: Therapists should disclose to patients prior to the session(s) that a dog will be present in the therapy office. This disclosure will allow patients to be aware of the presence of the dog and give the patient an opportunity to inform the therapist of any allergies, fears, or concerns. Consider providing the disclosure in writing and requesting signed off by the patient (parents, or legal representatives).

Liability: Therapists should consider the potential liability if the dog bites or attacks a patient. California is a statutory strict liability state for dog bites. Generally, with some exceptions, California makes the owner of a dog strictly liable for any dog bite from the moment that ownership begins. ⁹ Therefore, therapists who regularly bring their dog to the therapy office and allow for patients to casually interact with the dog should consider insurance coverage for potential bodily injuries caused by the dog.

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Endnotes

¹ As defined by Pet Partners, formerly known as Delta Society. Pet Partners is a non-profit organization that registers therapy dogs and other therapy animal pets including horses, cats, rabbits, and birds. Visit Pet Partners' website at <https://petpartners.org>.

² CAMFT Code of Ethics, Part I, Section 3.8

³ Stewart, L.A. Chang, C.Y. Parker, L.K., & Grubbs, N. (2016). Animal Assisted Therapy in Counseling Competencies. Alexandria, VA: American Counseling Association, Animal-Assisted Therapy in Mental Health Interest Network.

⁴ Stewart, L.A., Chang, C.Y., Rice, R. (2013). Emergent Theory and Model of Practice in Animal Assisted Therapy in Counseling. Journal of Creativity in Mental Health.

⁵ Stewart, L.A. Chang, C.Y. Parker, L.K., & Grubbs, N. (2016). Animal Assisted Therapy in Counseling Competencies. Alexandria, VA: American Counseling Association, Animal-Assisted Therapy in Mental Health Interest Network.

⁶ CAMFT Code of Ethics, Part I, Section 1.5.2

⁷ CAMFT Code of Ethics, Part I, Section 1.5

⁸ Stewart, L.A. Chang, C.Y. Parker, L.K., & Grubbs, N. (2016). Animal Assisted Therapy in Counseling Competencies. Alexandria, VA: American Counseling Association, Animal-Assisted Therapy in Mental Health Interest Network.

⁹ Cal. Civil Code §3342

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