

# Midwest Conference on Problem Gambling and Substance Abuse Conference Presentation

## Resolving Ethical Dilemmas

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### What are ethics?

- Ethics “character” - what is considered good or right for specific groups of people
  - Purpose is to establish the criteria to label “good” and “bad” behavior and to promote the good and discourage the bad
  - Good, ethical decisions should be made on more than intuition

### The concept of *ethics*...

- Assumes that there exist
  - Norm
  - Principles
  - Values

...that have, are, and always will provide the foundation for a good life.

- What motivates your ethical practice?

### Working with Involuntary Clients

- Required by law to attend counseling (jail or counseling)
- Pressured to attend counseling by friends or family
- An involuntary client may be reluctant or resistant or both.
  - Resistance: “unwillingness to change” (Ritchie, 1986)
  - Reluctance: would not seek out services, involuntary

### Exercising Ethics: Strategies used with involuntary clients

- The continuum moves from the least intrusive techniques, relying on persuasion methods, to the most intrusive, compliance-oriented methods.
  - Foot-in-the-door principle
    - Asking clients for a small concession increases the probability that they will agree to a larger concession
  - Door-in-the-face principle
    - Asking clients for an outrageously large concession increases the probability that they will agree to a considerably smaller one (the one you really wanted)

What does Rooney say? (Rooney, 1992)

1. Practice within the legal guidelines –pre-therapy training
2. Keep ethical principals in mind -negotiable/nonnegotiable
3. Think about the goals of treatment- -win-win situation

**DISCORD**

## Strategies for Involuntary Clients

- Establish therapeutic relationship
- Start where the client is... even if it is “out of the door”
- Foot-in-the-door OR Door-in-the-face
- Punishment/Reinforcement

## Therapy and Technology

- If you keep case notes on a computer and your hard drive crashes, is that an ethical violation?
- Are you violating confidentiality by communicating with a client or supervisee via email?
- Can counseling really be done over the internet?



## What does the ACA Code of Ethics Say?

### B.3.e Transmitting Confidential Information

“Counselors take precautions to ensure the confidentiality of information transmitted through the use of computers, electronic mail, facsimile machines, telephones, voicemail, answering machines, and other electronic or computer technology.”

### Cell Phones

- Cell phones have been found to lack security regarding the transmittal of confidential information
  - Avoid the use of cell phones when discussing confidential information
  - Occasionally, conversations on cell phones can be picked up on other electronics
  - Texting clients
  - Signatures for service payments

### Electronic Media

- Personal Computers
  - Hardware: hard disk, disks, flash drives, CD-ROM’s, etc...
    - Hardware can be protected with a mechanical lock/key.
    - The hardware should be locked when unattended or not in use.
  - Software: Microsoft Word, Excel, Medisoft, etc...
    - The documents created with software can be protected with passwords for authorized personnel.
    - Authorized personnel should “log off” when the computer is unattended.

### Email and Fax Machines

- Email
  - Confidential information transferred by email should only be transmitted to secure locations

- Password controlled systems
- Mechanically locked systems
- Use of E-mail with Clients: Some Ethical Considerations
- Fax Machines
  - Counselors must attempt to send facsimiles to secure locations
    - Do not send to centrally located machines
    - Provide a cover letter with a Confidentiality Statement
- **Computer-Assisted Counseling**
  - **Career Counseling**
  - Programs such as System for Guidance and Information-Plus (SIGI-PLUS) have been found to be useful with highly motivated clients.
    - Clients with lower levels of motivation were found to benefit less.
    - Clinicians need to assess the appropriateness of such programs according to each client's level of motivation.
- **Online Counseling**
  - Forums
    - Very recent advancement in counseling
    - Ethical boundaries are still fuzzy
  - Internet
    - Email
      - Counselors should be careful of transmitting confidential information
      - Often, this information can be intercepted
      - Clients typically use email to ask mental health professionals specific questions
  - Future applications
    - Advertising for services
    - Real-time video conferencing
    - Tele-health applications
  - Ethical Implications
    - Need technological applications to protect clients
      - Video signal scrambling
      - Data encryption



## Ethics and Managed Care

- Sabin (1996) defined four principles. He states that when these principles are met, counselors can confidently provide managed care services that are solid on ethical ground
  1. Provide services without “overtreatment”
  2. Least costly treatment plan
  3. Advocate
  4. Informed consent
- **Other relevant privacy legislation**

- Health Insurance Portability and Accountability Act of 1996 (HIPPA)
- Family Educational Rights and Privacy Act of 1974 (FERPA)

### Diagnosis and Third-Party Payors Issues

- “Quick” diagnoses to justify payments for services
- Issues with “over diagnosing” to receive payment

### Ethical Principles of the Therapeutic Professions (Five Golden Principles)

- Autonomy- honoring the client’s right to independence and freedom as well as their decision making abilities.
- Beneficence- the doing of good to others
- Non-maleficence (the responsibility to avoid harm)- not doing harm through your actions
- Justice- being fair and treating clients equally
- Fidelity- the practice of honesty and loyalty

### Ethical Dilemmas

#### The BIG Myth

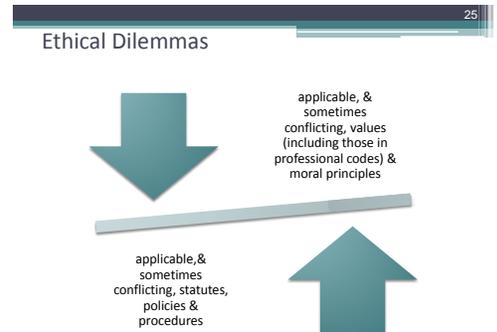
- *Learning ethical standards, principles and guidelines, along with examples of how they have been applied, translates into ethical practice* as long as we:
  - (1) follow our professional codes of conduct and
  - (2) understand their relationship to the pertinent legal statutes

### Strategies used to justify behavior as ethical (whether it is or not)

- It’s ethical if our agencies or insurance companies require it
- It’s ethical if other people are doing it
- It’s ethical as long as it is legal
- It’s ethical as long as our professional association’s code of conduct allows it
- It’s ethical as long as we meant well
- It’s ethical as long as no one complains about it
- It’s ethical if we find a consultant who says it’s OK
- It’s ethical as long as we can say
  - “anyone else” would have done the same thing
  - it came from the heart (or gut)
  - I just knew that’s what the client needed

### The Emergence of Ethics Committees

- Familiar in the health field, are beginning to emerge in the mental health and social service fields.
- There is a growing number of organizations in the for-profit arena that are developing ethics departments or committees.
- Studies in business have shown that providing an open environment to discuss ethical and value issues creates a supportive climate for staff.



- It can promote loyalty to the organization as the employees feel that their concerns are being addressed and that the organization cares for people.

**The need for ethical review mechanisms stems from:**

1. The complexity of ethical issues today;
2. The plurality of values and cultural diversity;
3. Protection from liability and the need for mechanisms for risk management;
4. Today's emphasis on respect for client autonomy;
5. The need to facilitate ethical decisions, interpret codes, policies, etc.;
6. The need to enhance dialogue among disciplines with varied codes of ethics and practice approaches;
7. The importance of creating a climate for ethical reflection and decision making.



**Purpose of Ethics Review Processes**

Case Review

- a) to identify and articulate ethical issues confronting staff
- b) to provide opportunity for ethical reflection
- c) to resolve ethical conflicts
  - Prospective review—to consider current issues
  - Retrospective review—to consider past issues in order to develop guidelines for future use.

**Education— to raise awareness and knowledge to deal with ethical concerns.**

- a) to provide a mechanism for training and skill development in an important area of practice;
- b) to provide the necessary theory and practice tools for competent ethical practice;
- c) to assure that ethical issues are given serious consideration;
- d) to provide a source for developing learning resources, such as literature and on-going educational resources in this area.

**Policy Development**

- a) to provide a vehicle for recommending policies in the area of ethics;
- b) to help to develop guidelines for ethical practice.

**Ethical issues during on-going service**

- Confidentiality
- Accurate record keeping
- Continuous personal growth
- Supervision, training, and/or consultation
- Cooperation with other service providers
- Proper action when a client poses a clear and imminent danger to themselves or others
- Laws regarding child abuse and neglect
- Referrals



## Ethical Decision Making Model

Step 1: Identify the problem

Step 2: Apply the ACA code of Ethics

Step 3: Determine the nature and dimensions of the dilemma

Step 4: Generate potential courses of action

Step 5: Consider the potential consequences of all options, choose a course of action

Step 6: Evaluate the selected course of action

Step 7: Implement the course of action

## Professional Boundaries (what are they good for)

- Boundaries protect
  - The client from intrusion & exploitation
  - The worker from impossible expectations & burnout, and intrusion
  - The relationship, so that helping can take place
- Establishing & maintaining professional boundaries is the responsibility of the professional ← potential ethical dilemma in a system of care that values collaboration and client choice (autonomy)?
- Wearing multiple hats simultaneously: Boundary “crossings” & “violations”



**CROSSING** - Dual relationship is not intentional or coercive. It may be helpful, hurtful, or neutral. Examples: joint affiliations and memberships, mutual acquaintances & friends

**VIOLATION** - Dual relationship involves exploitation, manipulation, deceit, coercion. It is always hurtful. Examples: sexual relationships, using client information for personal gain/benefit, intentional conflicts of interest where client is at risk for exploitation

## What about apparently unavoidable “multiple hats?”

### Reamer’s 5 Categories of Boundary Issues (2001)

- **Intimate relationships** such as sexual relationships, physical contact, counseling a former lover and intimate gestures;
- **Personal benefit**, i.e. monetary gain, goods and services or useful information;
- **Counselor Needs**: Emotional and dependency needs
- **Altruistic gestures** - which could be misinterpreted **Unexpected situations** - such as meeting sister’s new boyfriend who turns out to be a client

### Helpful VS Harmful

- Zur (2004), points out the importance of distinguishing between “harmful boundary violations and helpful boundary crossings.”

- Boundary violations occur when a counselor misuses the position to exploit a client, usually financially or sexually, for their own benefit
- Boundary crossings, on the other hand, when carried out with the client's welfare in mind, are often part of the treatment process and can be very effective.
- As with dual relationships, boundary crossings are unavoidable and expected in small communities, such as rural, military, universities and interdependent communities, e.g., church, deaf, ethnic, LGBT, etc.
- Different cultures have different expectations, customs and values regarding therapeutic boundaries.
- Not all boundary crossings constitute dual relationships.
- Making a home visit, going on a hike, or attending a wedding with a client are boundary crossings, but do not necessarily constitute dual relationships. (Zur, 2012)

## Boundary Crossings

- Boundary crossings can be an integral part of well formulated treatment plans:
  - **Verbal support**
  - giving a supportive hug to a grieving client,
  - accepting a small termination gift from a client,
  - flying in an airplane with a patient who suffers from a fear of flying,
  - bartering with a cash poor farmer,
  - lending a CD to a client,
  - making a home visit to a bed ridden patient,
  - attending a wedding,
  - going to see a shy client performing in a show, or
  - accompanying a patient to a dreaded but important doctor's appointment.

## Ethical issues affecting clinical practice

- Therapist Competence: Therapists need to only provide services for which they are qualified
- Client Welfare: Client needs come before counselor needs and counselor must act in client's best interest
- Informed Consent: Counselors must inform clients regarding nature of counseling and answer questions so that clients can make an informed decision
- Confidentiality: Clients must be able to feel safe within the therapeutic relationship for counseling to be most effective
- Dual Relationships: More than one relationship with a client (e.g. the counselor is a friend and the counselor) should be avoided when possible
- Sexual Relationships: Sexual relationships with clients are strongly prohibited and in some states constitute a criminal offense

## Competence and Malpractice

- **To provide competent treatment, therapists need to:**
  - only provide services for which they are qualified in their scope
  - accurately represent their credentials and qualifications
  - keep up on current information of the field, especially in specialty areas
  - seek counseling when they have personal issues
- **Malpractice**
  - Occurs when a counselor fails to provide reasonable care that is generally provided by other professionals and it results in injury to the client.

- Four conditions must exist:
  - The counselor had a duty to the client
  - The duty of care was not met
  - The client was injured in the process
  - There was a close causal relationship between the counselor's failure to provide reasonable care and the client's injury

### **Absolute Values That Guide Ethical Decision-Making**

- Autonomy – Freedom of choice & action
- Nonmaleficence – “Do no harm,” including both intentional harm & engaging in behaviors/actions that risk harm to others
- Beneficence – Do what is best; do good, prevent harm where possible
- Justice – Fairness. “Unequal” treatment must be rationalized & justified by “unequal context”
- Fidelity – Loyalty, faithfulness, honoring commitments

### **Other values that may be important**

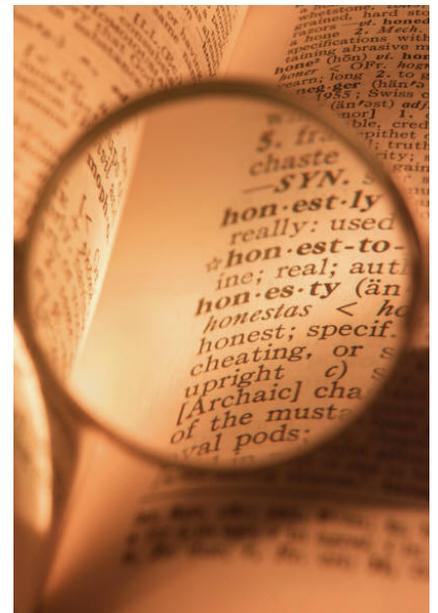
- Integrity – acting on convictions, leadership by example
- Obedience – obey legal & ethical directives
- Conscientious refusal – disobey illegal or unethical directives
- Competence – be knowledgeable & skilled
- Stewardship – use resources wisely
- Diligence – work hard
- Restitution – make amends to persons injured
- Self-interest – protect yourself
- Compassion – empathy for & action to relieve suffering
- Honesty – tell the truth
- Respect – for the dignity & worth of self and others
- Accountability - responsibility

### **Making an ethical decision involves:**

- Weighing absolute values – “categorical imperatives” that impose an absolute duty on a person
- Evaluating the likely consequences of the behavior, and weighing the good it may cause against the harm it may cause ... sometimes simplified to “the greatest good for the greatest number”
- Evaluating the impact the decision will have on the people involved – stakeholders.
- 

*A decision which does not take into account the way in which it may affect others is not ethical regardless of its actual consequences (Wm. White)*

- **Let's Think.....**



## Ethical Quandaries: What to do?

### LETS LOOK AT A HISTORICAL PERSPECTIVE OF ETHICAL REASONING..... ARISTOTLE

For Aristotle, ethical practice is *not*...

- dictating to others what the good is and what they ought to do

For Aristotle, ethical practice is...

- being deliberate by integrating a rational principle with a proven technique through discursive thought (ratiocination - the process of exact thinking : reasoning)

For Aristotle, then, it is not so much **what** we do that is crucial for ethical decision making.....what is crucial is **why we do what they do**...and the **quality of character** revealed in very practical decisions.

- **CASE STUDY: Case Notes to Insurance Carrier**

#### Integrating reflective practice and ethical decision making...

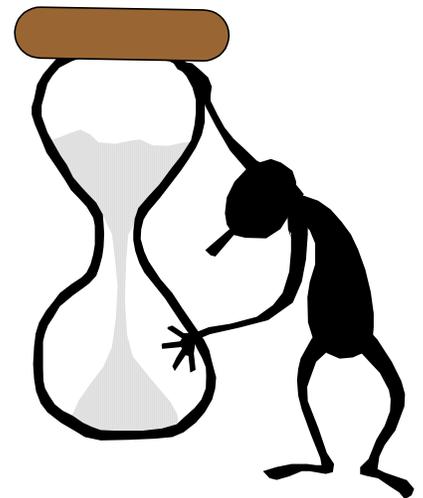
- *Reflective practice* and *ethical decision making* require intellectual exercise and discipline
- ...*reflective practice* focuses upon practice episodes to ascertain how one's beliefs and assumptions as well as one's background and experiences impact organizational functioning
- ...*ethical decision making* endeavors to promote the good amidst conflicting and contradictory choices

#### Personal Qualities of Effective Counselors

- Psychological health
- Self-awareness
  - What does one need to know about self?

#### Other characteristics of helpers

- Empathic ability
  - What does this mean?
  - Carkhuff's levels of empathy (See Handout)
  - Level 1: The counselor communicates no awareness of client's



feelings

- Level 5: The counselor is “tuned in” to clients and responds accurately to their deeper as well as surface feelings.

- Personal warmth - What does this mean?
- Genuine interest in others. Authenticity; Desire to help - Is this enough?
- Tolerance of ambiguity - What is ambiguity?
  - Doubtful, uncertain, multiple interpretations
  - Why is tolerance of this important?
  - Give some examples.

#### **One other counselor characteristic**

- Awareness of values
  - “Values are the beliefs that determine our goals and how we meet them.”
  - “A particular combination of values constitutes a world view, which will influence counseling activities.”
  - “Effective counselors have thought through their values and live by them.”.

#### **Should therapist’s values be conveyed to clients?**

- Beware of extreme positions: yes- always : no - never

Should counselors should be willing to express their values openly when they are relevant to the questions that come up in their sessions with clients?

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# THANK YOU!!