

Ethics for Behavioral Health Providers Working in Schools and Health Care Settings

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Learning Objectives

1. List and define **fundamental ethical principles** governing the practice of providing behavioral health care in schools and health care settings.
2. List and define various components of ethical standards regarding **responsibilities of the behavioral health care provider** to students/patients, colleagues, community, profession, and self.
3. List and define **steps in ethical decision-making**.

Fundamental Ethical Principles: Autonomy

Independence & Self-Determination

Allowing an individual freedom of choice and action

Responsibility of provider to encourage young person, when appropriate, to make their own decisions and to act on their own values including:

- 1) Help young person understand how their decisions and values may or may not be received within the context of the society in which they live, and how they may impinge on the rights of others.
- 2) Evaluate young person's ability to make sound and rational decisions. Persons not capable of making competent choices, such as children, and some individuals with mental challenges, should not be allowed to act on decisions that could harm themselves or others.

Fundamental Ethical Principles

Do No Harm + Do Good

Nonmaleficence

“Above all do no harm”: both the idea of not inflicting intentional harm, and not engaging in actions that risk harming others

Beneficence

Provider's responsibility to contribute to the welfare of the patient. Simply stated it means to do good, to be proactive and also to prevent harm when possible

Fundamental Ethical Principles

Justice and Fidelity

Justice

Does not mean treating all individuals the same, but "treating equals equally and unequal's unequally but in proportion to their relevant differences". *If an individual is to be treated differently, the provider needs to be able to offer a rationale that explains the necessity and appropriateness of treating this individual differently.*

Fidelity

Loyalty, faithfulness, and honoring commitments. students/patients must be able to trust the provider and have faith in the therapeutic relationship if growth is to occur. Therefore, the provider must take care not to threaten the therapeutic relationship nor to leave obligations unfulfilled.

QUESTION 1

Which ethical principle most clearly applies when a provider abruptly ends care without providing referrals or a transition to another provider?

1. Justice
2. Fidelity
3. Autonomy
4. Nonmaleficence

Moral Compass

- Do no harm
- Accept responsibility and consequences for personal actions.
- Accept a duty of care.
- Affirm the individual's right to self-determination.
- Put the truth first.
- Never use a person as a means to an end.
- Be honest.
- Honor agreements.
- Conduct relationships with integrity.
- Leave a positive legacy to future generations.

Ethical Standards: Responsibilities to students/patients

Providers:

Treat students/patients with dignity and respect as unique individuals.

Encourage the maximum development of every individual.

Respect students/patients' values, beliefs and cultural background and do not impose the provider's personal values on students/patients or their families.

Are knowledgeable of laws, regulations and policies relating to students/patients and strive to protect and inform students/patients regarding their rights.

Promote the welfare of individual students/patients and collaborate with them to develop a plan for success.

Consider the involvement of support networks valued by the individual students/patients.

Understand that professional distance with students/patients is appropriate, and any sexual or romantic relationship with students/patients is prohibited regardless of a patient's age.

Consider the potential for harm before entering into a relationship with former students/patients or one of their family members.

QUESTION 2

When a provider imposes their personal values on students/patients or their families, they are most clearly violating the ethical principle of

1. Justice
2. Fidelity
3. Autonomy
4. Nonmaleficence

Responsibilities to students/patients Confidentiality

Providers:

Inform students/patients how they may receive counseling. Informed consent requires competence on the part of students/patients to understand the limits of confidentiality, and therefore, can be difficult to obtain from students/patients of a certain developmental level. Professionals are aware that even though every attempt is made to obtain informed consent it is not always possible and when needed will make counseling decisions on students/patients' behalf.

Exceptions to confidentiality: harm to self/others; guardian rights; legally required reporting of communicable disease

Neither seek nor maintain records of information not needed to provide services

Consent

Most uses of patient-identifiable information will be justified by having obtained the consent of the patient. Information provided in confidence should not be used or disclosed in a form that might identify a patient, without his or her consent.

There are three conditions that all must be satisfied for consent to be valid:

- Consent obtained must be **Informed Consent**
- The person giving consent must have some degree of real **choice**
- There must be some **indication** that the **patient has given consent**; this may be expressed (explicit) or implied.

Consent

- **Express (explicit) consent** is expressed verbally or in writing, except where students/patients cannot write or speak, when other forms of communication may suffice. Express consent should be sought where sharing of information outside the healthcare team (including uplift to the electronic record) is anticipated.
- **Implied (implicit) consent** is inferred from a person's conduct in the light of facts and matters of which they are aware, or ought reasonably to be aware, including the option of refusing. (E.g., a patient visiting a doctor for treatment may be taken to imply consent to the doctor consulting his or her medical records to assist diagnosis or prescription.)

Disclosure in the Best Interest of the Patient May Be Justified:

- Where you believe an adult patient to be a victim of **neglect** or emotional or physical **abuse**, or at risk of **suicide or homicide**, and that patient is **incapable** of giving or withholding consent for the disclosure of information, for example by reason of a mental disorder.
- Where without disclosure you would not be acting in the public interest with respect to the overall best interests of a child or young person and where it is impractical to obtain consent from the person with parental responsibility.

Additional Responsibilities to Students/Patients

- Ensure equitable access to comprehensive counseling program.
- Avoid dual relationships.
- Make appropriate referrals to outside resources.
- Follow best practice guidelines for clinical work.
- Follow best practice protocols for students/patients at risk of harm to self/others.
- Know distinctions/limits of medical vs. sole-possession records/case notes.
- Follow professional standards selecting, administering, and interpreting assessment measures. Use assessment measures only within scope of practice, competency and training.
- Understand ethical use and complications of technology (including electronic medical records) and social media.
- Safeguard the welfare of students/patients participating in peer-to-peer support and other group programs.

Question 3

Which of the following is ***not*** an example of a dual relationship?

1. A provider who works in a health care clinic suggesting he would have more flexibility treating the patient if he saw them in his private practice.
2. A provider who lives in a small, rural community and waves hello to her student and their family at the grocery store.
3. A provider who follows her school principal's directive to discourage parents from requesting IEPs.
4. A provider who shares his personal dislike for the patient's nurse practitioner with his patient.

Responsibilities to Others

- Respect rights and responsibilities of colleagues and guardians, informing them of confidential nature of provider/patient relationship.
- Treat colleagues with professional respect, courtesy and fairness.
- Provide professional personnel with data necessary to adequately evaluate, counsel and assist the patient while adhering to guidelines for confidentiality.
- Understand the distinction between public and private information and staff consultation.
- Promote equity for all through community resources.
- Take care not to use role as provider to benefit any type of private practice in which they might be involved outside of the medical home setting.
- Advocate for multicultural and social justice.

Responsibilities to Profession & Self

- Conduct self in such a manner as to advance both individual ethical practice and the ethical standards of the profession.
- Follow guidelines dealing with the unethical practice of a colleague. Know when to (1) directly approach the colleague in question, (2) consult confidentially with a colleague, (3) utilize channels within the agency, state association, New Mexico Counseling and Therapy Practice Board, National Boards Ethics Committees.
- When providers are forced to work in situations or abide by policies that do not reflect the ethics of the profession, the provider works responsibly through the correct channels to try and remedy the condition.

Contract for Supervision

Both Parties Agree

Purpose of Supervision: Responsibility of both the supervisor and supervisee to ensure that supervision meets all requirements consistent with the stated purpose (experience to meet licensure requirements, establishing new competencies, meet terms of a licensing board disciplinary order, etc.). of the supervised experience.

Term of Supervision: will be from (month/day/year) to (month/day/ year).

Type of Supervision: 1:1 supervision vs. group supervision (e.g. may involve additional supervisees of the same discipline or a treatment team)

Payment for supervisor + malpractice insurance to cover the supervisee's professional services rendered under supervision

Behavioral Health Providers Are Committed to

- Integrity
- Compassion
- Altruism
- Continuous improvement
- Excellence
- Working in partnership with students/patients, families, communities and the wider health care team

TOP ETHICS CONCERNS REPORTED BY providers

- Breaching **confidentiality**
- **Dual/conflictual relationships** with students/patients, providers, and/or staff
- **Administrative pressures to act unethically** (not recommending a service requiring additional agency resources, despite provider's belief it would be helpful; not disclosing evaluation results that might contradict evaluations supporting a decision favored by the agency, etc.)
- **Acting on patient information of danger to self or others**
- **Confronting unethical colleagues**
- **Storage and disposal of records**

A Provider's Guide to Ethical Decision-Making

1. Identify and define the problem emotionally and intellectually, including personal and professional values.
2. Apply ethical standards and the law.
3. Determine the nature and dimensions of the dilemma.
 - Consider the patient's chronological and developmental levels.
 - Consider the setting (contextual features).
 - Identify and consider the values and conflict of values of key persons.
4. Apply the moral/ethical principles.
5. Generate potential courses of action. Be creative. Consider all options.
6. Consider the potential consequences of all options.
7. Choose a course of action.
8. Evaluate the selected course of action.
9. Consult as needed
10. Implement the course of action.

QUESTIONS TO ASK YOURSELF

To Identify the Problem

- ⦿ Is it an ethical, legal, professional, or clinical problem? (If a legal question exists, seek legal advice.)
- ⦿ Is the issue related to me and what I am or am not doing?
- ⦿ Is the issue related to a patient and/or the patient's significant others and what they are or are not doing?
- ⦿ Is the issue related to the institution/agency and their policies and procedures?

Identifying the Problem

- Be as specific and objective as possible. Outline the facts, separating out innuendos, assumptions, hypotheses, or suspicions.
- It is good to remember that dilemmas you face are often complex. Examine the problem from several perspectives and avoid searching for a simplistic solution.

Determine Nature and Dimensions of the Dilemma

- Consider the moral principles of autonomy, nonmaleficence, beneficence, justice, and fidelity. Decide which principles apply to the specific situation and determine which principle takes priority for you in this case.
- Review the relevant professional literature to ensure that you are using the most current professional thinking in reaching a decision.
- Consult with experienced professional colleagues and/or supervisors. They may see other issues, provide a perspective you have not considered, identify aspects of the dilemma you are not viewing objectively.
- Consult your state or national professional associations to see if they can provide help with the dilemma.

Consider Potential Consequences of All Options

- Evaluate each option and assess the potential consequences for all the parties
- Involve patient, family, health care providers, community, and yourself as a provider.
- Eliminate the options that clearly do not give the desired results or cause even more problematic consequences.
- Review the remaining options to determine which option or combination of options best fits the situation and addresses the priorities you have identified.

Evaluate Selected Course of Action

Stadler (1986) suggests applying three simple tests to the selected course of action to ensure that it is appropriate.

- Would you treat others the same in this situation?
 - Would your behavior/conduct be judged well by students/patients, families, colleagues, the general public? Would you be OK if your behavior was reported in the press (the “publicity test”)?
 - Would you could recommend the same course of action to another provider in the same situation?
- After implementing your course of action, it is good practice to follow up on the situation to assess whether your actions had the anticipated effect and consequences.

Question 4

Which of the following statements is true?

1. No more than one ethical standard/principle applies to a particular situation.
2. Continuing education requirements of licensing boards have no connection to ethical standards of care.
3. Avoiding problematic consequences for all those involved in ethical dilemmas connects to the ethical principle of nonmaleficence (do no harm).
4. The “publicity test” refers to the fact that your ethical behavior is primarily measured by the number of scholarly publications you write.

A provider Is Probably Acting in an Ethically Responsible Way If...

Van Hoose and Paradise (1979) suggest that a provider "is probably acting in an ethically responsible way concerning a client if

- (1) she or he has maintained personal and professional honesty coupled with
- (2) the best interests of the client,
- (3) without malice or personal gain, and
- (4) can justify her or his actions as the best judgment of what should be done based upon the current state of the profession".

Following this model will help to ensure that all four of these conditions have been met.