

## Professional Ethics: Walking the Walk

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Association  
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## Disclosure



- I have been provided financial support for making this presentation. Support includes travel expenses and an honorarium.
- I am a former chair of the Kentucky Board of Speech-Language Pathology and Audiology, former chair of the Council on Academic Accreditation, and former chair of the Council for Clinical Certification. I am currently president-elect of ASHA. I am not here as a representative of any of those entities.

## Session Objectives

- Participants will be able to discuss the application of core ethical principles to relevant ethical codes
- Participants will be able to describe a model for ethical decision making
- Participants will be able to list at least three frequently recurring themes for ethical inquiries
- Participants will be able to apply an ethical decision making model to real life scenarios

## Ethics



Ethics involves the study of our actions, values, and the rules of conduct by which we live.

Describes actions, not people

Remember....

- Ethics is not about feelings
- Ethics is not about religion
- Ethics is not about following the law
- Ethics is not about science

## Ethical Core Values

- **Beneficence** (doing good for others)
- **Nonmaleficence** (avoiding doing bad for others)
- **Autonomy** (respecting a person's right to make choices; which protects and defends the informed choices of patients)
- **Justice** (fairness of access to health care)
- **Fidelity** (being faithful and keeping promises)

## Ethical Conduct Arises From:

- Experience
- Good Judgment
- Personal Maturity
- Awareness of Values
- Practitioner's Skill
- Knowledge of Principles and Codes

Ethics is knowing the difference between what you have a right to do and what is right to do.

Potter Stewart  
Associate Justice  
U.S. Supreme Court  
1958-91



## Relationship of Ethics and Law



Ethics is the identification of values  
– what we ought to do

Law is the expression of values in social rules  
– what we have to



## Distinctions Between Law and Ethics

- Different sources
- Different enforcement
- Different consequences for breach

As speech-language pathologists and audiologists we are frequently confronted by ethical and legal questions, often at the same time.

## Where Ethics and Law Overlap in Our Professions

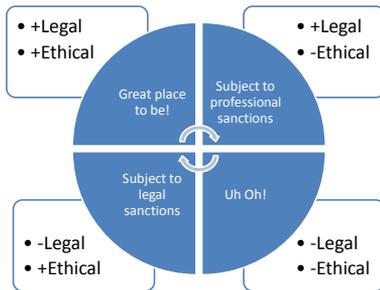
- Access to treatment
- Confidentiality/privileged communications
- Reporting obligations
- Conflict of interest
- Misrepresentation/fraud

## Ethics and the Law

Actions may be:

- Legal and moral
- Illegal and moral (Stealing food following a natural disaster)
- Legal and immoral (e.g. some feel DNRs are not moral)
- Illegal and immoral (e.g. murder)

### Four-Quadrant Clinical Practice Grid



### Code of Ethics vs. Licensure

- Codes of Ethics & Professional Organizations (Ethics)
  - Voluntary membership
  - Professionals in CSD may or may not have CCC
  - Monitored by a board of ethics
- Licensure Regulations (Law)
  - Required to practice
  - Professionals must be familiar with the regulations of the states where they practice
  - Monitored by a licensure board

### Responsibilities of Most Boards of Ethics

- Formulate, publish, and update a Code of Ethics
- Develop educational programs and materials for members
- Adjudicate complaints alleging violations of the Code of Ethics

### Professional Codes Provide Guidance

- Provide helpful guidance to members
- Establish and embrace the common, core values reflecting consensus among members
- Promote public trust by stating what is to be expected of professionals
- Promote high standards of practice
- Define acceptable/unacceptable conduct within the profession
- Code of Ethics should not be used for revenge

### ASHA Code of Ethics

- *Preamble* states who the Code is intended to cover
- *Principles* form the underlying basis for the Code based on principles of ethics
- *Rules* form the minimally accepted standards of professional conduct
- Word choices: 'shall' vs. 'may'

### Who Is Covered by ASHA's Code?

- ASHA members who hold ASHA certification
- ASHA members who do not hold ASHA certification
- Non-members who hold ASHA certification
- Applicants for ASHA certification

## Principles within ASHA's Code of Ethics

- Principle I** – Responsibilities to persons served professionally
- Principle II** – Responsibility for one's professional competence
- Principle III** – Responsibility to the public
- Principle IV** – Responsibilities involving inter- and intra-professional relationships

Each principle has several Rules of Ethics

## Principle of Ethics I

Individuals shall hold paramount the welfare of the persons they serve professionally or who are participants in research and scholarly activities and shall treat animals involved in research in a humane manner.

➤ 18 Rules of Ethics support this principle

## Principle of Ethics II

Individuals shall honor their responsibility to achieve and maintain the highest level of professional competence and performance.

➤ 4 Rules of Ethics support this principle

## Principle of Ethics III

Individuals shall honor their responsibility to the public by promoting public understanding of the professions, by supporting the development of services designed to fulfill the unmet needs of the public, and by providing accurate information in all communications involving any aspect of the professions, including the dissemination of research findings and scholarly activities, and the promotion, marketing, and advertising of products and services.

➤ 7 Rules of Ethics support this principle

## Principle of Ethics IV

- Individuals shall honor their responsibilities to the professions and their relationships with colleagues, students, and members of other professions and disciplines.

➤ 14 Rules of Ethics support this principle

## AAA Code of Ethics: 8 Principles

- Professional services provided honestly
- Maintain high standards of competence
- Maintain confidentiality
- Provide services in best interests of persons served
- Provide accurate information
- Comply with ethical standards
- Honor responsibility to public and colleagues
- Uphold dignity of the profession

## Trends of Inquiries to ASHA's Board of Ethics

- Ethical dilemmas are a common and difficult part of the practice of speech-language pathology and audiology (Anderson & Chabon, 2007)
- ASHA receives approximately 3,500 ethics inquiries per year
- In 2013 began reviewing disclosure statements by prospective members

## Most Frequently Recurring Themes of Ethics Inquiries

- "Employer demands"
- Lapses in documentation
- Use and supervision of support personnel
- Impaired practitioner/professional
- Reimbursement for services
- Professional vs. business ethics
- Clinical fellowship supervision

(Britten, 2014)

## "Employer Demands"

Pressure to

- provide services without adequate training
- increase caseload
- adhere to treatment eligibility criteria or program placement recommendations which may be in conflict with your clinical judgment
- Use old or poorly maintained equipment/technology and test materials
- Provide services which, in your clinical judgment, are not warranted

Information from David Denton (2007) and Fred Britten (2014)

## Lapses in Documentation

- Clearly describe services provided
- Correct date and time information
- Accurate amount of time spent
- Other types of errors of documentation

## Use and Supervision of Support Personnel

- Inappropriate delegation of responsibilities to support personnel
- Inadequate documentation of supervision
- Billing for services by unsupervised students/assistants
- Inadequate supervision

➤ Note: Make sure you know the law within your state regarding supervision

(Providing Ethically Responsible Services to Children from Culturally and Linguistically Diverse Backgrounds. Anderson and Chabon, Schools 2007 ASHA Conference, Pittsburgh, PA.)

## Impaired Practitioner

- Impairments which may impact the provision of services to the consumer
  - Use and abuse of drugs
  - Use and abuse of alcohol
  - Mental health issues
- The professional not knowing when they are not able to deliver service

## Reimbursement for Services

- Misrepresenting information to obtain reimbursement.
- Billing for services provided by an individual who is not certified and/or does not receive the necessary supervision.
- (Intentionally) misusing incorrect code numbers or diagnostic labels on billing forms for purpose of qualifying for payment.
- Billing for services not provided or not necessary.

(Providing Ethically Responsible Services to Children from Culturally and Linguistically Diverse Backgrounds. Anderson and Chabon, Schools 2007 ASHA Conference, Pittsburgh, PA. )

## Newspaper Headlines

- Speech-Language Pathologist Arrested for Medicaid Fraud (\$459,000)
- Speech-Language Pathologist Arrested for Defrauding Medicaid Out of More Than \$586,000
- Audiologist Sentenced to Six Months in Prison for Medicare Fraud (\$100,000)

(Britten, 2014)

## Professional vs. Business Ethics

- Solicitation of cases for private practice from your caseload
- Acceptance of gifts or incentives from manufacturers or other individuals
- Client abandonment and/or disruption of services
- Failure to report unethical behavior
- Misuse of professional credentials
  - CCC not current

(Providing Ethically Responsible Services to Children from Culturally and Linguistically Diverse Backgrounds. Anderson and Chabon, Schools 2007 ASHA Conference, Pittsburgh, PA. )

## Clinical Fellowship Challenges

- Inadequate or inappropriate supervision of clinical fellows
- Inadequate time to meet supervisory responsibilities
- Inadequate documentation of supervision and CF's performance
- Failure to maintain one's own competence
- Misuse of power over the CF

(Providing Ethically Responsible Services to Children from Culturally and Linguistically Diverse Backgrounds. Anderson and Chabon, Schools 2007 ASHA Conference, Pittsburgh, PA. )

## Difficulties Applying the Code of Ethics

- Most codes are broadly written; it can be difficult to apply general rules to specific cases
- Ethical questions are complex and may not be completely addressed by a code of ethics
- An ethical code may conflict with institutional policies and practices
- Individuals may be required to practice within a framework of numerous codes of conduct

(Hoffman, 2003)

## Where to Obtain Assistance

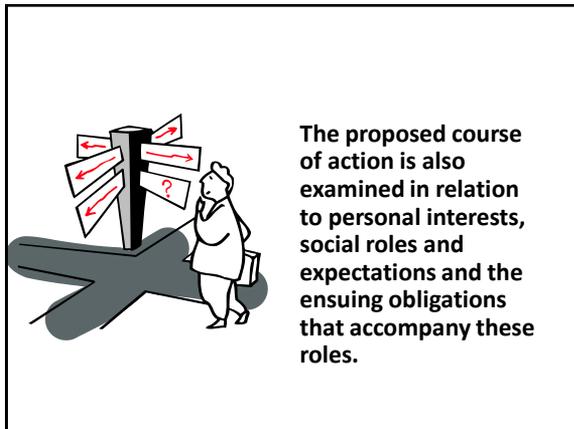


- ASHA
  - Code of Ethics (2010)
  - Issues in Ethics
- AAA Code of Ethics (2011)
- State Licensure Boards
- State Association Codes of Ethics

A code of ethics does not make a person ethical nor is it the mechanism by which we solve ethical problems



Rather, ethical decision-making involves a commitment to applying the ethics code to construct rather than simply to discover solutions to ethical quandaries.



The proposed course of action is also examined in relation to personal interests, social roles and expectations and the ensuing obligations that accompany these roles.

## Ethical Decision Making

- The decision-making process begins with the question, *"Am I facing an ethical dilemma?"*
- If the situation is one in which personal and professional integrity are being challenged, the answer will likely be *"Yes."*

(Morris & Chabon, Rockhurst University, 2005)

- The decision-making process may include the question, *"Am I facing a legal quandary?"*
- If the situation is one in which violating the licensure law or regulation is possible, the answer will likely be *"Yes."*

- Before an appropriate decision can be made about whether an ethical/legal problem exists, you should:
  - Consider all relevant facts, values and beliefs
  - Consider different perspectives about the issue
  - Identify all individuals who have an interest in the outcome



- Once it is established that an ethical and/or legal dilemma exists, the questions addressed include:

*“What possible courses of action are permissible, impermissible or necessary?”*

and

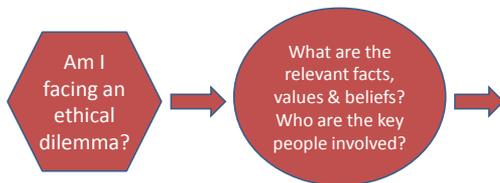
*“What are the effects (benefits and burdens) of each action?”*

**Obligatory:** must always be done, regardless of the circumstances

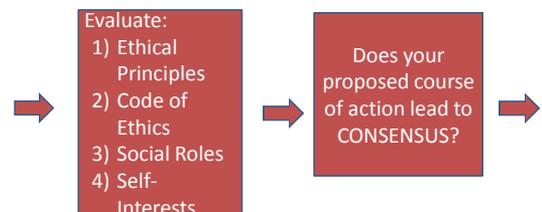
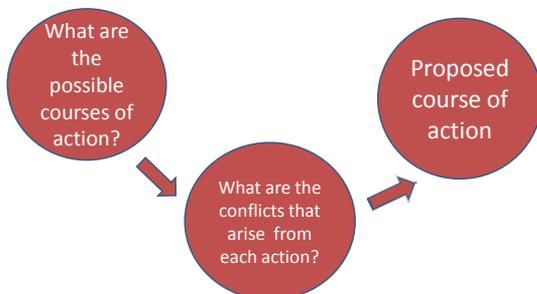
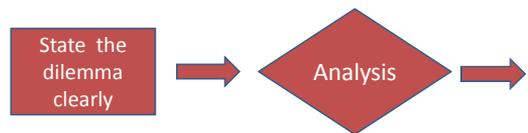
**Impermissible:** must never be done, under any circumstance

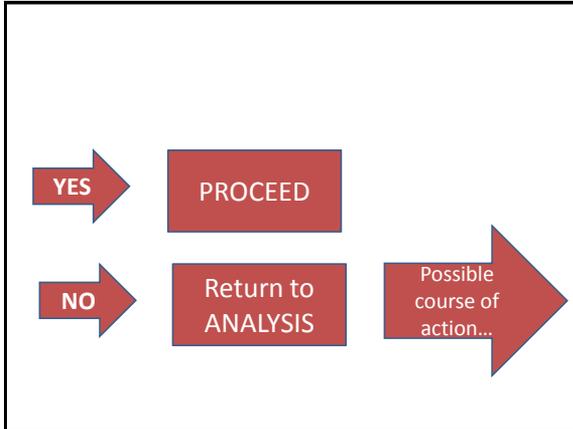
**Permissible:** can either be done or, not done - it is good either way

## A Model for Ethical Decision Making



(Morris & Chabon, Rockhurst University, 2005)





## Quick Decision Making Model

Ask yourself 4 questions

Is it....

- safe?
- legal?
- moral/ethical?
- right?

now ask two more...

Would your mother approve?

AND

Would you be comfortable having it reported on  
*60 Minutes?*

## When Violations Occur

### Regulatory Boards

- Hearing conducted by licensure board
- Sanctions imposed by board
  - May include cease & desist order, fines, licensure actions, criminal convictions, civil judgments
- Reported to Healthcare Integrity and Protection Data Bank (HIPDB)
  - a federal data tracking system designed to protect program beneficiaries from unfit health care practitioners.
  - requires reporting of adverse licensure, hospital privilege and professional society actions against all health care practitioners

## Closer to Home...

“In addition, disclosing such number [social security] is mandatory in order for the Speech-Language Pathology and Audiology Board to comply with the requirements of the federal National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank 42 U.S.C. §1320(a)-7e(b), 5 USC §552a, 45 CFR Part 60.1, and 45 CFR Part 61.”

ILPA Speech-Language Pathology & Audiology Application Instructions

[http://www.in.gov/pla/files/SLPA.INSTRUCTIONS\\_2012.pdf](http://www.in.gov/pla/files/SLPA.INSTRUCTIONS_2012.pdf)

### Professional Associations

- Hearings conducted by Board of Ethics
- ASHA BOE has no investigatory power
  - Reported via complaints
  - Initial Determination Hearing
  - Further Consideration Hearing
- Sanctions include cease & desist, reprimand (private), censure (public), suspension, revocation

## Summary

Ethics is at the heart of professionalism as it motivates, guides and gives meaning to our work

Gabard and Martin (2003)



## Scenarios

Anderson, N., & Chabon, S.S. (2007, July). Providing ethically responsible services to children from culturally and linguistically diverse backgrounds. Presented to the ASHA School Conference, Pittsburgh, PA.

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