

38TH ANNUAL CONFERENCE
OCTOBER 17-20, 2018


SHERATON NEW ORLEANS HOTEL | NEW ORLEANS, LA

BECOMING AGENTS OF CHANGE

Contemporary Dilemmas in Ethical Decision Making

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I have no financial relationships to disclose




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Goals

- Know the five APA ethical principles of Bio-Medical Ethics
- Apply the Ethical Standards for psychologists when a diagnosis makes a difference
- Appreciate how to manage multiple relationships when they arise
- Understand how to respond after receiving a surprise subpoena



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A Bit of History

- Origins in Philosophy
 - Deontology
 - Utilitarianism

W. D. Ross
Created the building blocks
Defined an ethical dilemma



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Five Principles of Bio-Medical Ethics

- Beneficence
- Nonmaleficence
- Respect for Autonomy
- Justice
- Patient-Professional Relationships

Beauchamp and Childress (2009). *Principles of biomedical ethics*. New York: Oxford



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Beneficence

- Doing good
- Reasonable expectation of benefit
- How much harm is justified?
- Concerns regarding paternalism/competence
- Benefit society



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Nonmaleficence

- Do no harm
- What constitutes harm?
- Side effects of treatment
- How much discomfort is justifiable?




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Respect for Autonomy

- Right to act as an autonomous agent
- We treat others similarly even if we think they are mistaken
- Do not infringe of the rights of others
- Freedom of choice assumes competence



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Justice

- We treat equals equally and unequals unequally in proportion to the relevant differences-Aristotle
- A just society insures equal access to needed services-Rawls
- Is there an obligation of general beneficence?




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Patient-Professional Relations

- Fidelity - Karen Kitchener
- faithfulness, promise keeping, and loyalty
- informed consent is a statement of fidelity




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To Code or Not to Code

A neuropsychologist performed an evaluation of a five-year-old boy. There was some information suggesting that that he fell along the autism spectrum, but he did not meet criteria for those disorders. There was also a more likely possibility that he had ADHD predominantly hyperactive/impulsive type, but he did not meet criteria for that disorder either. Furthermore, the neuropsychologist was concerned that the boy's symptoms might be attributable to an anxiety disorder due to the ongoing conflict between his parents, but the boy did not meet criteria for this disorder either.




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At the family's request, the neuropsychologist presented her findings to the family verbally prior to writing her report. The parents had read about the symptoms of Asperger's Disorder on the Internet and were sure that this was what was wrong with their son, and they were clearly disappointed that the boy did not meet criteria and would not be able to receive a diagnosis that would make him eligible for services they felt he needed. They requested that she write the report (which they wanted to take to his school) to include a definitive diagnosis and omit the rule out that the boy's symptoms could be caused by family conflict.



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Oh My! This can't be!

A neuropsychologist is working in cognitive rehabilitation with Susie, a teenage patient who is recovering from a mild TBI. In the course of working with her, he learns that Susie has a boyfriend, John, with whom she is quite smitten; the relationship seemed rather serious. The psychologist has a stepson named John who has his biological father's last name. Since John is a common name, it did not occur to him that his son is the one with whom Susie is in love until one day Susie mentioned his last name.



What do I do now?

A neuropsychologist, Dr. Hyde-Smythe, has been working daily with Jim after Jim sustained a moderate TBI subsequent to a MVA. Jim never mentioned to Dr. Hyde-Smythe that he had filed a lawsuit against a number of different defendants. One day Dr. Hyde-Smythe receives a call from Jim's lawyer asking for his records and explaining that he will be soon receiving a subpoena for deposition. Dr. Hyde-Smythe tells the lawyer that as part of his informed consent, all of his clients, including Jim, understood and agreed that he did not do forensic work. Jim's lawyer asked for the records nonetheless.



Caveats

- I am not a lawyer
- This is general advice
- All rules are local
- Don't be afraid to ask for help



Help

Call the risk managers who work for your insurance carrier, state association, or the APA Ethics Committee

For further reading:

Committee on Legal Issues (2016). Strategies for private practitioners coping with subpoenas and compelled testimony for client/patient records or test data or test materials. *Professional Psychology: Research and Practice*, 47, 1-11.

Gottlieb, M, Lasser, J. & Simpson, G. Legal and ethical issues in couple therapy. In Gurman, A. (Ed.) (2008). *Clinical handbook of couple therapy*. (698-716). New York: Guilford



How to Proceed First Steps

- Evaluate the subpoena
- Call your patient
- Call the patient's lawyer



How to Proceed Second Step

- Subpoena arrives from opposing counsel



If I Have to Testify

- If you have a release
- If you don't have a release
- If you are ordered to testify
- Prepare and debrief the patient
- Document like crazy



What If I'm Afraid I'm in Trouble

- Think ahead retrospectively-Jeff Younggren
- -Never worry alone-Sam Knapp
- -Consult with someone you hate-Mitch Handelsman
- -Monitor your own feelings. For example, if you think you're the only one who can help, you're standing on the edge of the narcissistic abyss-please back up.
- -Good decisions do not necessarily feel good

