

Ethics and the Law

DBHR Office of Certification, Licensing, & Customer Relations

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“We counselors have a lot of power! As authorities on this terrible disease of addiction, let us be careful to never use power for petty or vindictive ends. To never thoughtlessly reject a client. We can affirm our client’s sense of value, or we can damage them with a casual joke or comment at their expense. We can help them to respect themselves, or we can tear down their self-esteem by treating them disrespectfully and unimportant. We have the power to do great good or great harm. Today, let me remember my power and take care to use it wisely.” - Anonymous

Help for the Helpers, Hazelton Foundation Publishers, 5/24/1989

Code of Ethics of the American Mental Health Counselors Association

Mental health counselors believe in the dignity and worth of the individual. They are committed to increasing knowledge of human behavior and understanding of themselves and others. While pursuing these endeavors, they make every reasonable effort to protect the welfare of those who seek their service, or of any subject that may be the object of study.

Code of Ethics of the American Mental Health Counselors Association

They use their skills only for demanding for themselves freedom of inquiry and community. Mental health counselors accept the responsibility this freedom confers: competence, objectivity in the application of skills, and concern for the best interest of clients, colleagues, and society in general.

ETHICS

- **Examine relevant values**
- **Think about relevant laws, policies, regulations, and code provisions**
- **Hypothesize about different consequences**
- **Identify who will be helped and harmed in terms of the most vulnerable**
- **Consult with supervisors and other colleagues**

Ethics and Morals - Definition

Origin

Ethics: Greek word “ethos” meaning “character”.

Morals: Latin word “mos” meaning “custom”.

Where do they come from?

Ethics: Social system—External

Morals: Individual—Internal

Ethics and Morals - Definition

Why we do it?

Ethics: Because society says it is the right thing to do.

Morals: Because we believe in something being right of wrong.

Ethics and Morals - Definition

Acceptability

Ethics: Ethics are governed by professional and legal guidelines within a particular time and place.

Morals: Morality transcends cultural norms.

Ethics and Morals - Definition

What are they?

Ethics: The rules of conduct recognized in respect to a particular class of human actions or a particular group or culture.

Morals: Principles or habits with respect to right or wrong conduct. While morals also prescribe do's and don'ts, morality is ultimately a personal compass of right and wrong.

Ethics and Morals - Definition

Flexible

Ethics: Ethics are dependent on others for definition. They tend to be consistent within a certain context, but can vary between contexts.

Morals: Usually consistent, although can change if an individual's beliefs change.

Ethics and Morals - Definition

The “Gray”

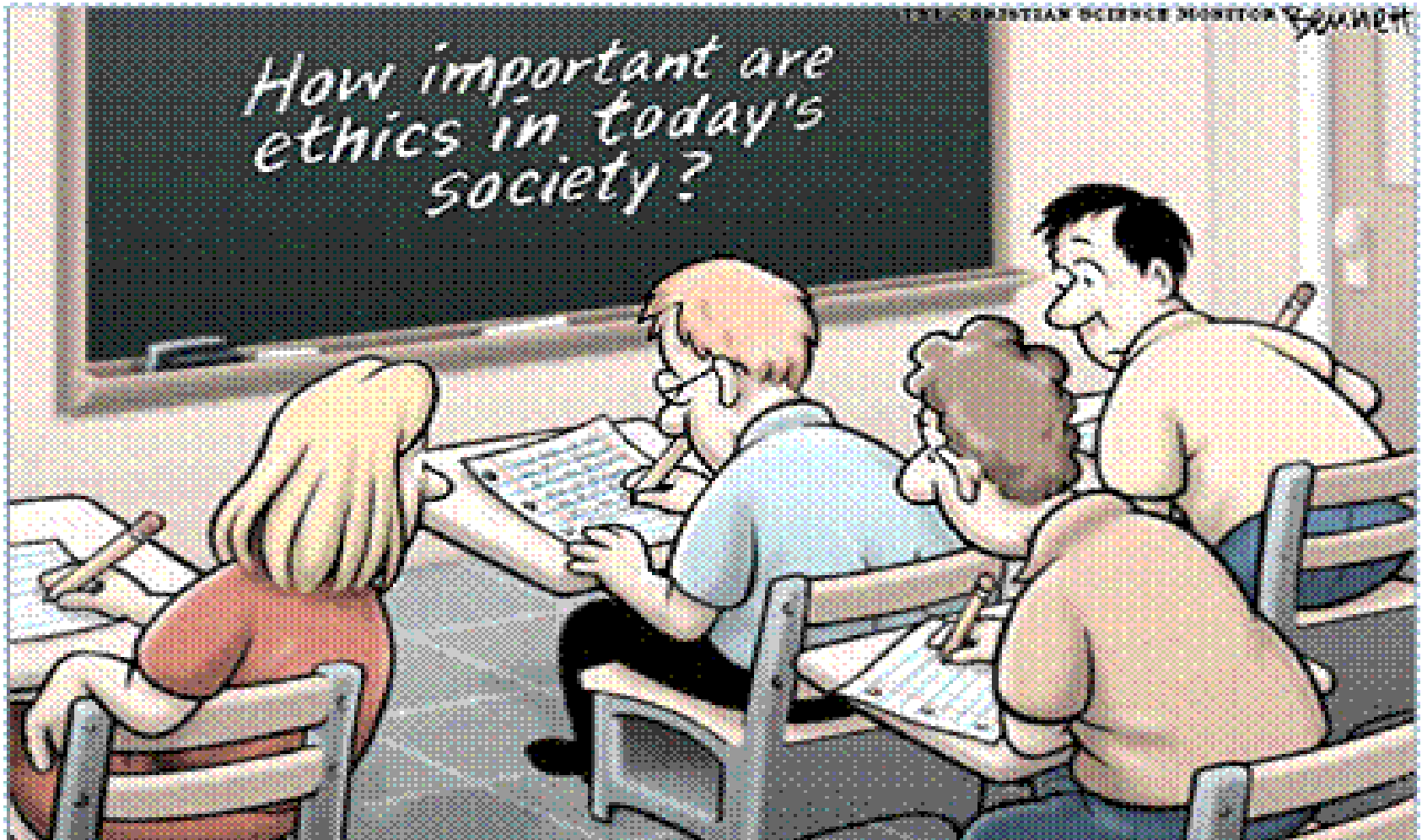
Ethics: A person strictly following ethical principles may not have any moral at all. Likewise, one could violate ethical principles within a given system of rules in order to maintain moral integrity.

Ethics and Morals - Definition

The “Gray”

Morals: A moral person although perhaps bound by a higher covenant, may choose to follow a code of ethics as it would apply to a system. “Make it fit”.

Is Cheating Unethical??



Ethical Responsibilities

- **What ethical responsibilities do you have?**
- **Who do your ethical responsibilities effect?**
- **How does it effect them?**

Ethical Perspectives

- **Ethics is a continuous, active process in which all clinicians must engage.**
- **Standards (codes of ethics) are not cookbooks. They often tell us what to do but not always how to do it.**
- **It is the responsibility of the clinician, not the client, to set the boundary.**
- **Counseling is facilitated by fallible human beings.**

NAADAC, NASW and AMHCA Ethical Principles for Counselors

- **Ethics are based on the core values of service, social justice, dignity and worth of the person, importance of human relationships, integrity, and competence. These standards govern the conduct of a counselor**

NAADAC, NASW and AMHCA Ethical Principles for Counselors

- **The absence of an explicit reference to a specific behavior or situation in the code does not mean that the behavior is ethical or unethical**
- **Lack of awareness or misunderstanding of an ethical standard is not a defense to a charge of unethical behavior**

NAADAC, NASW and AMHCA Ethical Principles for Counselors

- **Ethics are a statement of the counseling professionals' values and a guide for making clinical decisions**
- **Ethical decisions involve the process of self-reflection and awareness of our own values, and cultural, spiritual/religious beliefs and practices**

NAADAC, NASW and AMHCA Ethical Principles for Counselors

- **Personal and professional ethics should not be separate standards**
- **Counselors must act in a way that if their behavior became public there would be no embarrassment to self or agency**
- **Counselors must be able to defend/explain their actions to any competent authority**

Cognitive Strategies to Justify Unethical Behavior

- **Vulnerability/temptation grows when we are tired, afraid, under pressure, or in conflict**
- **Unethical decisions are a result of carelessness, narcissism, anger, or lack of perspective**
- **It's not unethical as long as a managed care administrator or insurance care reviewer requires or suggests it**

Cognitive Strategies to Justify Unethical Behavior

- **It's not unethical if the professional association you belong to allows it**
- **It's not unethical if an ethics code never mentions the concept, term, or act**
- **It's not unethical as long as no law is broken**
- **It's not unethical as long as we can name others who do the same**

Cognitive Strategies to Justify Unethical Behavior

- **It's not unethical as long as we didn't mean to hurt anyone**
- **It's not unethical if we could not or did not anticipate the unintended consequences of our actions**
- **It's not unethical if we can say any of the following:**

Cognitive Strategies to Justify Unethical Behavior

- *“What else could I do?”*
- *“Anyone else would’ve done the same thing.”*
- *“It came from the heart or my soul.”*
- *“I went with my gut.”*
- *“No one ever complained about it.”*
- *“I just knew that’s what the client needed.”*
- *“It worked before.”*
- *“Look. I was between a rock and a hard place.”*
- *“It made sense at the time.”*

Adapted from the section on Language in the chapter on “Ethic and Critical Thinking” in *Ethics in Psychotherapy and Counseling: A Practical Guide*, 3rd Edition (2007) by Ken Pope, Ph.D., and Melba Vasquez, Ph.D., ABPP

Ask yourself

- **Have you ever hugged a client? What type of hug was it?**
- **Have you ever accepted a gift from a client?**
- **Have you ever seen a client when you were tired or distressed?**
- **Have you ever given an indigent client bus fare home?**
- **Have you ever gone to a funeral of a clients loved one or the client themselves?**
- **Have you ever felt sexual attraction to a client?**

Prevention to Avoid Clean-Up

- **Be knowledgeable of ethical codes**
- **Major ethical areas**
- **Utilizing a decision-making model**
- **Consultation – supervision**
- **On-going self-care**
- **Self-reflection**

Ethical Decision Making Model

- **Mary Alice Fisher, Ph.D., 2005**
The Center for Ethical Practice, Inc.
- **ASSESS**
 - Identify the problem and determine whether the matter is an ethical one. Use your Ethics Code and other professional guidelines to identify the specific ethical issues
 - If this involves a clinical issue, describe and clarify the relevant clinical components

Ethical Decision Making Model

- **Consider whether there are any legal requirements, contractual obligations or agency considerations that might influence your decision or limit your options**
- **Consider, as clearly as possible, any relevant personal values (or other personal factors) that might affect your objectivity, introduce bias, or otherwise influence your decision**

Ethical Decision Making Model

- **Evaluate the rights, vulnerabilities, and responsibilities of all parties involved. Determine your relationship (if any) and obligations (if any) to each of these parties**
- **Obtain consultation. Consult with a trusted colleague or supervisor about the ethical, legal and personal issues involved. If needed, obtain a formal consultation with an ethics consultant or with the ethics office of your professional association. If necessary, obtain legal consultation and/or medical consultation**

Ethical Decision Making Model

- **Consider whether members of your team or practice group should be engaging in this decision-making process with you. If so, begin discussing the issue collaboratively**

Ethical Decision Making Model

- **PLAN**
 - **Generate a list of possible decisions/solutions. (At this stage, do not censor; consider and assess all possible courses of action, no matter how wild/crazy/inappropriate they seem.)**
 - **Using this list, eliminate any options that are clearly unethical, illegal, or clinically inappropriate, using the assessment above as a guide**
 - **Enumerate, consider, and weigh the consequences of each of the remaining options**

Ethical Decision Making Model

- **IMPLEMENT**
 - Make a decision. Decide how to best act on (carry out) your decision
 - Carry out the decision you have made
- **EVALUATE**
 - Document your decision-making process and your actions
 - Evaluate the process, your decision, and its outcome

State and Federal Laws that Govern Washington State Counseling Professions and Licensing

- **Chapter 246-809 WAC**
 - Mental health, marriage and family therapy, social workers
- **Chapter 246-810 WAC**
 - Counselors
- **Chapter 246-811 WAC**
 - Chemical dependency professionals and chemical dependency professionals trainees
- **Chapter 388-877 WAC**
 - Behavioral health services administrative requirements

State and Federal Laws Governing Counselors

- **Chapter 71.24 RCW**
 - **Community mental health services act**
- **Chapter 70.96A RCW**
 - **Treatment for alcoholism, intoxication, and drug addiction**
- **Chapter 71.05 RCW**
 - **Mental illness**
- **Chapter 71.34 RCW**
 - **Mental health services for minors**

State and Federal Laws Governing Counselors

- **RCW 18.130.180**
 - Unprofessional conduct
- **RCW 18.130**
 - Regulation of health professions — uniform disciplinary act
- **WAC 246-810-031**
 - Disclosure statement to be provided to clients by certified counselors and certified advisers
- **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

State and Federal Laws Governing Counselors

- **42 C.F.R. Part 2**
 - Federal regulations for confidentiality of alcohol and drug abuse patient records
- **Chapter 70.02 RCW**
 - Medical records – health care information access and disclosure

Diagnostic and Clinical Tools

- **DSM-5**
 - **Diagnostic and Statistical Manual of Mental Disorders – 5th Edition**
- **ASAM**
American Society of Addiction Medicine, Patient Placement Criteria for the Treatment of Substance Related Disorders

Diagnostic and Clinical Tools

- **2012 Edition Confidentiality and Communication: A Guide to the Federal Drug and Alcohol Confidentiality Law and HIPPA**
- **Clinical Supervision and Professional Development of the Substance Abuse Counselor**
 - **TIP 52**
- **Addiction Counseling Competencies: The Knowledge, Skills, and Attitudes of Professional Practice**
 - **TAP 21**

Ethical Practices and Washington Requirements for Counselors

- **Resolving ethical issues**
- **Standards include:**
 - **The counselor shall behave in accordance with legal, ethical and moral standards for work**
 - **Counselors will attempt to resolve ethical dilemmas with direct and open communication among all**
 - **Parties involved will seek supervision and/or consultation as appropriate**

Ethical Practices and Washington Requirements for Counselors

- When counselors have knowledge that another counselor might be acting in an unethical manner, they are obligated to take appropriate action based on state requirements

Department of Health

- OLYMPIA -- The Washington State Department of Health has taken disciplinary actions or withdrawn charges against health care providers in our state.
- The department's Health Systems Quality Assurance Division works with boards, commissions, and advisory committees to set licensing standards for more than 80 health care professions (e.g., medical doctors, nurses, counselors).

Department of Health

- Click on “*Look up a health care provider license*” in the section of the Department of Health website (doh.wa.gov).
- The site includes information about a health care provider’s license status, the expiration and renewal date of their credential, disciplinary actions and copies of legal documents. This information is also available by calling 360-236-4700.
- Consumers who think a health care provider acted unprofessionally are encouraged to call and report their complaint.

Ethical Practices and Washington Requirements for Counselors

- **Supervision and consultation**
- **Standard includes:**
 - **Counselors who supervise others accept the obligation to facilitate the professional development of the trainee. The supervisor will provide accurate and current information, timely evaluations and consultation**

Ethical Practices and Washington Requirements for Counselors

- The counselor who provides supervision to trainees and employees must have completed education and training specific to clinical and/or administrative supervision**
- Supervision is provided at specified intervals and supervision will be documented**

Ethical Practices and Washington Requirements for Counselors

- **The counseling relationship**
- **Standards include:**
 - **Client welfare**
 - **Client self-determination**
 - **Dual relationships**
 - **Groups standards**
 - **Preventing harm**

Ethical Practices and Washington Requirements for Counselors

- **Evaluation, assessment and interpretation of client data**
- **Standards include:**
 - **Scope of competency**
 - **Informed consent**
 - **Screening**
 - **Basis for assessment**
 - **Release of assessment results**
 - **Release of data to qualified professionals**

Ethical Practices and Washington Requirements for Counselors

- **Evaluation, assessment and interpretation of client data**
- **Standards include:**
 - **Diagnosis of mental health disorders**
 - **Unsupervised assessments**
 - **Assessment security**
 - **Outdated assessment results**
 - **Cultural awareness**
 - **Social prejudice**

Ethical Practices and Washington Requirements for Counselors

- **Confidentiality/privileged communication and privacy**
 - **Counselors shall provide information to clients regarding confidentiality and reason for releasing information in adherence to confidentiality laws**

Ethical Practices and Washington Requirements for Counselors

- **Professional responsibility**
- **Standards include:**
 - **Counselors will respect institutional policies and management functions of the agency**
 - **Counselors will uphold the legal and ethical standards of their profession by educating themselves of all federal and state laws that govern their profession**

Ethical Practices and Washington Requirements for Counselors

- Counselors will honestly represent their professional qualification, affiliations, credentials and experience**
- Counselors will practice honesty and congruency in all aspects of practice – accurate billing, accounting of expenses, reporting of interactions with clients, and professional activities**
- Counselors shall treat colleagues with respect, courtesy, and fairness**

Ethical Practices and Washington Requirements for Counselors

- Counselors will seek appropriate treatment for themselves or colleagues**
- Counselors will assure that records are kept in a locked cabinet or room not easily accessible to those not providing the clinical services**
- Counselors will create, maintain, disseminate, store, retain and dispose of records related to research, practice, payment for services, payment of debts and other work in accordance to legal standards that permit/satisfy ethical standards**

Ethical Practices and Washington Requirements for Counselors

- **Cultural competence and social diversity**
- **Standard:**
 - Counselors should understand culture and its function in human behavior and society, recognizing the strengths that exists in all cultures
 - Counselors should obtain education about, and seek to understand the nature of, social diversity and oppression with respect to race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, immigration status, and mental or physical disability

Ethical Practices and Washington Requirements for Counselors

Ethics in the workplace

- The workplace will be maintained in a manner that is safe for clients, colleagues and employees
- Support staff are competent in confidentiality standards and respectful to clients seeking services

Ethical Practices and Washington Requirements for Counselors

- **Communication and publishing works**
 - **Counselors who submit works for publication or prepare handouts for clients, students or for general distribution, shall be aware of and follow copyright laws**
 - **Counselors respect the limits of present knowledge in public statements related to substance related disorders. Statements of fact are based on what has been empirically validated as fact**

Ethical Practices and Washington Requirements for Counselors

- **Policy and political involvement**
 - **Counselors are strongly encouraged to actively engage in the legislative processes, and be involved with educational institutions and the general public to ensure people have access to resources they require for their basic human needs and to promote social justice**

Sec. 108. RCW 18.205.040 and 2008 c 135 s 17

- **Amended to read as follows:**
- **A person who holds a credential as a "certified chemical dependency professional" or a "certified chemical dependency professional trainee" may use such title when treating patients in settings other than programs approved under chapter 70.96A RCW if the person also holds a license as:**

Sec. 108. RCW 18.205.040 and 2008 c 135 s 17

**An advanced registered nurse practitioner under chapter
18.79 RCW;**

A marriage and family therapist,

A mental health counselor,

An advanced social worker, or

**Independent clinical social health worker under chapter
18.225 RCW;**

Sec. 108. RCW 18.205.040 and 2008 c 135 s 17

A psychologist under chapter 18.83 RCW

An osteopathic physician under chapter 18.57

p. 165 2SSB 6312.PL 1 RCW;

**An osteopathic physician assistant under chapter
18.57A RCW;**

A physician under chapter 18.71 RCW;

A physician assistant under 3 chapter 18.71A RCW.

Ethics Training Material Resources

- www.socialworkers.org
- www.naadac.org
- www.aamft.org
- www.centerforethicalpractice.org
- Department of Health Information:
www.doh.wa.gov/licensing/
- Find WAC, state laws and rules: www.leg.wa.gov
- Find federal laws: <http://www.gpoaccess.gov/fr/>
- State Ethics Board: <http://www.ethics.wa.gov/>

Ethical Decision Making Model
Mary Alice Fisher, Ph.D.
The Center for Ethical Practice, Inc.

- **This Ethical Decision Making Model was constructed using principles that are included in existing decision making models from several mental health professions, including the following:**
 - **Forester-Miller, H., & Davis, T. (1996). A Practitioner's Guide to Ethical Decision Making. American Counseling Association**
 - **Knapp, S. & VandeCreek, L. (2006). Practical ethics for psychologists: A positive approach. Washington D.C., American Psychological Association**

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- **Koocher, G.P. & Keith-Spiegel, P. (2008) Ethics in Psychology: Professional Standards and Cases. New York, Oxford U. Press**
- **Mattison, M. (2000) Ethical Decision Making: The Person in the Process. Social Work, 45, 201**
- **Pope, K. S., & Vasquez, M. J. T. (2007). Ethics in psychotherapy and counseling: A practical guide (3rd ed.). San Francisco: Jossey Bass**

Ethical Decision Making Model

Mary Alice Fisher, Ph.D.

The Center for Ethical Practice, Inc.

- **Reigle, J. (1996) Ethical Decision Making Skills. In: Hamric, A.B., Spross, J.A. & Hanson, C.M. (Eds) Advanced Nursing Practice: An Integrative Approach. Philadelphia, W. B. Saunders Company**

The End

**NEVER DO ANYTHING INSIDE
YOUR OFFICE YOU
WOULDN'T FEEL
COMFORTABLE DOING IN THE
HALLWAY!!!!**