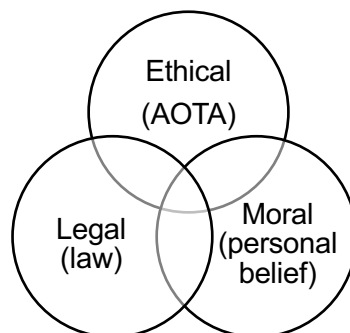


Ethics in Fieldwork

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Ethical, Legal and Moral Reasoning...



Ethics

- Ethics is a branch of philosophy that attempts to assist us in deciding what is right and wrong in human conduct (**RATIONAL ARGUMENT**)
- **ETHICAL REASONING** takes place when there is a need to provide moral reflection on a specific action or behavior. What should you do or not do?
 - **AND THERE MAY BE NO GOOD ANSWER BUT, MAYBE THERE IS A BETTER BETWEEN TWO**
- **Professions** have ethical codes or principles they enforce.

Rentmeester, C. A. (2006). What's Legal? What's Moral? What's the Difference? A Guide for Teaching Residents. *The American Journal of Bioethics*, 6(4), 31-33.

Morality

- Personal Belief System.
- May be shared by a group (Religions).
- May and does guide how law is written.
- Suggest what should be done.
- *Decisions are not necessarily based on legal consequences, but on personal beliefs of what should or should not be done.*
 - **Conscientious Objector or Civil Disobedience**

Rentmeester, C. A. (2006). What's Legal? What's Moral? What's the Difference? A Guide for Teaching Residents. *The American Journal of Bioethics*, 6(4), 31-33.

Legal Reasoning

- Comes from the executive, legislative, and judicial branches of government
- In the US, law is derived from the People (or in health care, insurance companies!)
- It is open to interpretation: flexible and changeable
 - What is permitted today may not be tomorrow
 - But for our purposes, today is today!
 - Sometimes these things conflict!
- **Legal reasons suggest/identify what should be done, and consequences if they are not... (legal runs the jails)**

Rentmeester, C. A. (2006). What's Legal? What's Moral? What's the Difference? A Guide for Teaching Residents. *The American Journal of Bioethics*, 6(4), 31-33.

Illegal – Don't do this

- Abuse of drugs or alcohol
- Conviction of a felony
- Conviction of a crime of moral turpitude
- Conviction of a crime related to the practice of the profession for which one holds a license
- Practicing without a prescription or referral (if required by the state's practice act)
- Apply electrical modalities without proper training (for OT in some states)
- Obtaining a license using fraud or deception
- Gross negligence in practicing one's profession
- Breaching patient confidentiality
- Failing to report a known violation of the licensure law by another licensee
- Making or filing false claims or reports
- Accepting kickbacks
- Deceptive advertising
- Exercising undue influence over patients or clients
- Failing to maintain adequate records
- Failing to provide adequate supervision
- Practicing under another's name
- Failure to perform a legal obligation
- Practicing medicine
- Performing services not authorized by the patient
- Performing experimental services without first obtaining informed consent
- Practicing beyond scope of practice
- Failing to comply with continuing education requirements
- Inability to practice competently
- Sexual relations with a patient

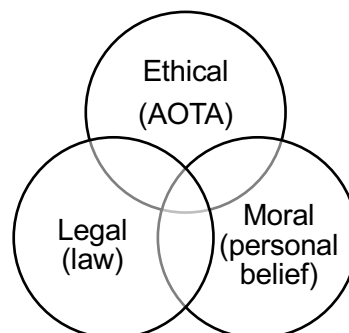
Kornblau, B. and Starling, S. (2000). *Ethics in Rehabilitation: A Clinical Perspective*. Slack Books, New Jersey.

• Providing unnecessary services

Medicare Fraud – don't do this either

- Making false claims for payment
- Making false statements for payment
- Billing for visits never made
- Billing for non-face-to-face services
- Paying or receiving kickbacks for goods and services
- Soliciting for, making an offer for payment, paying, or receiving payment for referrals.
- Kornblau, B. and Starling, S. (2000). Ethics in Rehabilitation: A Clinical Perspective. Slack Books. New Jersey.

Sometimes there are conflicts between ethical, legal and moral reasoning...



Profession \prə-'fe-shən\, noun

Etymology: Latin, public declaration, from *profitēri*

Date: 13th century

- 1 : the act of taking the vows of a religious community
- 2 : an act of openly declaring or publicly claiming a belief, faith, or opinion : protestation
- 3 : an avowed religious faith
- 4 **a** : a calling requiring specialized knowledge and often long and intensive academic preparation **b** : a principal calling, vocation, or employment **c** : the whole body of persons engaged in a calling

Profession. (2010). In Merriam-Webster Online Dictionary. Retrieved February 2, 2010, from <http://www.merriam-webster.com/dictionary/profession>

AOTA Codes of Ethics...

| 2005 | 2010 | 2015 |
|------------------------------|------------------------------|------------------------------|
| Beneficence | Beneficence | Beneficence |
| Non-Maleficence | Non-Maleficence | Non-Maleficence |
| Autonomy/ Confidentiality | Autonomy/ Confidentiality | Autonomy/ Confidentiality |
| Duty | Social Justice | Justice |
| Procedural Justice | Procedural Justice | Veracity |
| Veracity | Veracity | Fidelity |
| Fidelity | Fidelity | |

"As gatekeepers of the profession, clinical supervisors will continue to be heavily involved with ethical standards for practice. The most instrumental approach to this responsibility is to be well-informed and personally and professionally sanguine. Both are accomplished by continually putting ethics in the foreground of discussion, contemplation, and practice. In this case, perhaps more than any other, a supervisor's primary responsibility is to model what they aspire to teach."

Bernard and Goodyear, 2004, p. 72

Bernard, J. & Goodyear, R. (2004). Fundamentals of Clinical Supervision. Pearson

Sanguine:

▪(adj.): Cheerfully optimistic, hopeful, or confident.

BENEFICENCE

Principle 1. Occupational therapy personnel shall demonstrate a concern for the well-being and safety of the recipients of their services.

Principle 1. (BENEFICENCE)

Why take Fieldwork Students?

- Fresh Ideas and Learning
- License and NBCOT CEU's
- Potential Employees
- Benefits the profession
- Resources for projects you might not otherwise get to.
- Your legacy...

Principle 1. (BENEFICENCE)

- Provide quality services
 - Make sure student has education and experience to carry out treatments
- Best interest of the client, student, and profession at heart.

NONMALEFICENCE

Principle 2. Occupational therapy personnel shall refrain from actions that cause harm.

Principle 2. (NONMALEFICENCE)

- Client and Student Safety
- Non-exploitive Therapeutic Relationships
- Promote Professional behavior.
 - We are models
- Ensure we have a diverse workforce
 - Be receptive to students who have accommodations

ADA and Fieldwork students

- Students must be found to be eligible for ADA accommodations
- Typically, a College or University's Office of Disability Services decides what accommodations are reasonable
 - Student's health care provider determines what accommodations are necessary via letter
 - Office of Disability Services writes a letter that determines accommodations (askjan.org)
 - Student placement made, then a site is approached about accommodations
 - Site Determines if it is reasonable
 - AFWC ensures accommodations carried out

Site Job Descriptions and Weekly Objectives

- Job Descriptions for fieldwork sites are important
 - Clarify what your particular site requires
 - Might need to involve HR personnel when there are issues
 - "I need to know before you say no!"
- Weekly objectives clarify expectations
 - Most frequent change to weekly objectives
 - Extend time to meet a certain objective

Case Examples

Hospital setting. Tenth week.
Student goes to evaluate a patient alone without reading chart (Doctor looking at it).
S/OT has patient sit EOB.
Nurse walks in and asks why TLSO is not on...

What do you do?

- Ethical principles involved?
- What does the student do?
- What does the FW Educator do?
- What issues is the student having?
- How do you help the student resolve these issues?
- Does the student continue with fieldwork?

AUTONOMY

Principle 3. Occupational therapy personnel shall respect the right of the individual to self-determination, privacy, confidentiality, and consent.

Principle 3: Autonomy

■ FERPA

1. Student must consent to have records released or performance discussed
2. This applies both the fieldwork educator and the university.

■ HIPAA

1. Student has same HIPAA protection as patients.
2. Student may choose not to disclose disability (no accommodation).

Social Media

JUSTICE

Principle 4. Occupational therapy personnel shall promote fairness and objectivity in the provision of occupational therapy services.

Principle 4. JUSTICE

- Understand and stay updated on laws, and association and facility policies...
- Maintain timely records of professional activity.
- Understand student billing.
- Contracts.

What are your legal obligations as a supervisor?

- Contract with employers
- Defined in state law, insurance contracts, and national standards.
- Primary legal issues: malpractice, liability, duty to warn, protect, and report, due process; confidentiality and informed consent.

VERACITY

Principle 5. Occupational therapy personnel shall provide comprehensive, accurate, and objective information when representing the profession.

Principle 5. VERACITY

- Represent credentials and qualifications truthfully.
- Disclose any potential conflicts of interest.
- Refrain from any form of communication that contains false, fraudulent, deceptive, or unfair statements or claims.

Liability – Vicarious and Direct:

1. Vicarious Liability – one assumes the liability for the actions of another. (supervisor is not directly negligent)

Respondent Superior: assume the liability for those you supervise.

⇒ Poor Judgment (Breach of Duty) is not necessary for Vicarious Liability

Principle 5 Veracity

- Identify and fully disclose errors.
- Tell the truth and avoid deception.
- Supervisors must respect the confidentiality they have with their students
 - Seek others' opinions to help with the student and supervisor's learning.

Due process

- Students have the right to...
 1. Clear Performance Expectations.
 2. Orientation to policies of the institution.
 3. Appeal their evaluation.

FIDELITY

Principle 6. Occupational therapy personnel shall treat clients, colleagues, and other professionals with respect, fairness, discretion, and integrity.

Principle 6. FIDELITY

- Maintain professional communications towards and about peers.
- Encourage and ensure that other Occupational Therapists maintain these ethical standards and be familiar with procedures to follow if they are not.

Case Example

Your student appears lethargic and uninterested and her performance gets worse as the clinical progresses. She doesn't seem to notice obvious safety issues in the environment. She has not disclosed any mental health diagnosis to you, but you suspect some underlying depression.

What do you do?

- What ethical principles are involved?
- What do you do?
- What do you not do?

Case Example

Tim is your student. Melissa, an SLP who works in the same hospital system that you work in, but she is outpatient and you are inpatient. Tim did a great training on OT's role in Cognition and Melissa asked Tim for his number and would like to meet to discuss Scope of Practice Issues regarding cognition. Tim asks for advice. He thinks she has alternative motives. What do you do?

What do you do?

- What ethical issues are involved?
- What do you do?
- What do you advise Tim to do?

Learning Objectives

- Discuss ethical obligations for using Evidence-Based Practice using AOTA's Code of Ethics as a framework

Why Evidence Based Practice? Ethically speaking...

"The ultimate question we, as clinicians, are challenged to answer is: What, among the many things that could be done for this patient, ought to be done? This is an ethical question."

(Rogers, 1983 Slagle Lecture)

Ethical Issues in Evidence-Based Practice

- **The state of the evidence**
 - May be missing, not well controlled for validity or reliability, different populations, diagnoses, small effect size or low power, etc.
 - We, as practitioners, must be able to effectively appraise the evidence
- **Consumer autonomy**
 - Patient and family participation in treatment planning process.
 - Client-centered practice

Ethical issues

- Consensus statement on Clinical Judgement in Health Care Settings from AOTA, APTA and ASHA
 - "Clinicians are ethically obligated to deliver services that they believe are medically necessary and in the client's best interest, on the basis of their independent clinical reasoning and judgment as well as objective data."
- (Slater, 2015)

AOTA Code of Ethics

- **Beneficence:** Occupational Therapy personnel shall demonstrate a concern for the well-being and safety of the recipients of their services
 - C. Use, to the extent possible, evaluation, planning, intervention techniques, assessments, and therapeutic equipment that are evidence-based, current, and within the recognized scope of occupational therapy practice.
 - (AOTA, 2015)

Thank You!
Quick Break

References

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