Ethical Considerations
And the Treatment of
Substance Use Disorders

Values In Action

Jim Aiello, MA, MEd
Learning objectives

Participants will be able to:

• Define “Ethics”
• Understand the Role of Professional Association and Agency Codes of Ethics
• Examine the relationship between Ethics and the Law
• Understand and appreciate the importance of Professional Boundaries
• Discuss federal, state and agency regulations regarding confidentiality
Learning Objectives (cont.)

- Discuss situations within the treatment environment that may present specific challenges to ethical practice, including ways to reduce such risks.
- Identify ethical issues related to the use of social media
- Apply Ethical Standards to Clinical Record Keeping
- Articulate a simple model for making ethical decisions
A voice from the past

Aristotle once asked his students:

“Who should we hold in higher esteem, the person who, with great effort does the right thing or the person for whom doing the right thing comes easily?”

What do you think?
"We are what we repeatedly do; excellence, then, is not an act but a habit."
- Aristotle.
‘Ethical behavior does not arise solely from habit or obedience to patterns or rules but includes intelligently guiding our actions in harmony with the texture of the situation’

(Luce-Kapler, Sumara, & Iftody, 2010, p. 540)
A couple of ethical theories

**Teleological Ethics**

- Ethical Principles are clear, but actions can be relative
- Seeks to maximize the good and minimize the evil
- The end justifies the means
- Can lead to rationalization
A couple of ethical theories

Deontological Ethics

• Ethical Principles are absolute and we have a duty to follow them
• Ultimate Principles Determine the rightness or wrongness of an action
• Immediate outcomes are not the determining factor
• Can lead to rigidity
So, what do we mean by “ethics”

*Ethics* refers to standards of behavior that tell us how human beings ought to act in their various personal and professional roles.

—*Markkula Center for Applied Ethics (www.scu.edu)*
Ethics is not the same as:

• Personal Feelings
• Religious beliefs
• Law
• Cultural Norms
• Science

Though all of these things can inform ethical thinking
Taken to the Cleaners

• The horns of a dilemma
The Case of the Mall Dentist

• An office worker chipped his tooth at lunchtime on a Friday. The jagged tooth is causing some discomfort. He calls his dentist but is unable to be seen until Monday. He decides to stop at the mall after work and visit the walk-in dental clinic there. The dentist sees him and files down the jagged edge of the chipped tooth. Before sending him on his way, he writes a prescription for percocet, “Just in case you experience any continued pain or discomfort.”

1. Any ethical issues here?
2. If so, how should they be resolved?
Health care ethics based on the 200 b.c. oath of the Hippocratic school

- Autonomy
- Respect for persons
- Confidentiality
- Truth telling
- Nonmaleficence
- Beneficence

Cited as “table 1.1” in The Book of Ethics by Geppert and Roberts, 2008)
Another Case: “I Can’t Feel Your Pain”

“Gary” is admitted to the emergency room for an accident while driving under the influence. He has broken his leg in three places and shattered his elbow. Not only does he have a blood alcohol level of .15 but he admits to the ER physician that he has been abusing Oxycontin. Since he is going to need surgery he want to make sure he gets enough pain medicine afterwards. He says he may need a higher dose due to his drug abuse.
“...Pain”, continued

1. Should this information influence the treatment plan?
2. Are there any other ethically relevant facts the ER doctor and surgeon should consider before the operation?
… more Pain

After the operation the surgeon prescribes an unusually high dose of pain medication. The nurse who is distributing the meds says: “This is ridiculous! No one needs this high of a dose. I’m uncomfortable giving it to him. Besides, it might do him good to experience some pain since he has been abusing drugs.”

1. Any ethical issues here?
2. What should the nurse do?
Professional Associations
Codes of Ethics

- Most Professional Associations, Licensing and Certification Boards have Codes of Ethics.
- They act as a general guide.
- They also spell out the mission and values of that profession.
- When you “sign on” you agree to be measured against the code.
- Sanctions could occur for violations.
Agency Codes of Ethics

• Many agencies have their own Codes of Ethics
• They outline employee behavior that will be encouraged as well as behavior that will not be tolerated
• Violations can lead to disciplinary action or termination of employment
• If your agency has such a code, make sure you read it and ask questions
• If your agency doesn’t have one, it should
What about the law

• Laws are rules applied to specific groups and/or to all citizens and held as binding by the state to ensure social order.

• Laws are necessary to avoid chaos in a community and can protect individuals from each other and even the state itself

• Not all laws are ethical, so ethics and the law sometimes conflict
Personal Values/Ethics “Fit”

• When you decide to formally enter a profession, seek a license or certification, or work for a specific agency, make sure you “fit”

• If your values do not match the values of an agency, don’t accept a job there

• An ethical “hall of famer”
Values Walk

- Marijuana (for recreational use) should be legalized in Pennsylvania
- The death penalty should be eliminated in all cases
- Needle exchange programs should be funded by the government
- Scientists should be allowed to experiment with animals for research purposes
- An alcoholic should be in recovery for at least a year before receiving a liver transplant
Values Walk – continued

- Physician-assisted suicide should be a legal option in cases of terminal illness
- Safe injection clinics should be established in the US as they are in Canada
- Patients diagnosed with severe and persistent mental illness should never be allowed to purchase guns
Our patients

- They are not well
- They see us as powerful
- They are vulnerable
- They have rights
- They can improve their lives
Cultural Competence

- Cultural competence is achieved by identifying and understanding the needs and help-seeking behaviors of individuals and families.
- Practice is driven in service delivery systems by client preferred choices, not by culturally blind or culturally free interventions.
- Culturally competent organizations have a service delivery model that recognizes mental health as an integral and inseparable aspect of primary health care.

National Center for Cultural Competence, 1998
Cultural Competence

Our patients need us to:
• Value diversity
• Conduct self-assessment
• Manage the dynamics of difference
• Acquire and institutionalize cultural knowledge
• Adapt to diversity and the cultural contexts of communities we serve

National Center for Cultural Competence, 1998

• “We don’t see things as they are, we see things as we are.” - Anais Nin
Break
Professional Boundaries
Continuum of professional behavior
Maintaining good professional boundaries

1. Plan interactions with the goal of meeting the therapeutic needs of the patient.
2. Be aware of your own needs, values and attitudes in a professional relationship.
3. Work toward developing cultural competency.
4. Dress and speak in a manner appropriate to your professional role.
5. Limit self-disclosure. If you do reveal personal information make sure it has therapeutic value for the patient.
6. Avoid blurring boundaries by saying or doing things that could be misinterpreted by patients and/or others.
Maintaining good professional boundaries – continued

7. React to patients’ symptomatic behavior in a professional manner. Avoid punitive responses, while holding the patient responsible for his/her words and behavior.

8. Spend the amount of time and effort with each patient that is clinically indicated.

9. Apply the structure of the treatment plan. Good treatment plans make for good boundaries.

10. Respect patient confidentiality, formally and informally.

11. Do not engage in any type of dual relationship with patients, including personal, business, financial, romantic and sexual relationships.

12. Discuss any concerns you have about boundary issues with your supervisor early and often.
The secretary at your agency has worked there for many years and is liked by all the staff. She is a widow with adult children who lives alone. A young man has been coming in for counseling for about six months. His father (who is divorced) drives him to his counseling sessions, sometimes participates in the session, but often waits in the reception area until the session is over. He and the secretary have had many conversations over the months. It is clear that the secretary enjoys these “visits” and other staff members have even taken to kidding her about her “boyfriend”.
The conversations have been friendly but never about any clinical information. One day, several weeks after the young man has attended his last treatment session, the secretary receives a phone call at work from the father. He suggests that he would like to meet her for coffee after work sometime, and that he misses their conversations.

1. What are the boundaries here?
2. What should happen next?
Ethical Guidelines for the Delivery of Peer-based Recovery Support Services, William L. White, MA, et al. (The PRO-ACT Ethics Workgroup)

Privacy, Security and Confidentiality
Confidentiality

It’s simple:

• The identity of a patient in treatment for drug and alcohol problems must be kept confidential, unless the patient gives informed, written consent to release information.

• This protection begins with the first call to the agency to set up an appointment.
Confidentiality

It’s complex:
• Types of consent: what information can you release and to whom can you release it
• Managed Care
• Medical emergencies
• Subpoena’s
• Court Orders
• Crimes committed on the premises
• Duty to Warn
A court ordered client comes to an appointment after skipping his previous session. His counselor tells him that if he misses another session, she will have to report him to his probation officer. At this, the client becomes extremely agitated. He tells her that if she does report him, it will be the last time she reports anybody. “I know when you get off work”, he says, “And I can find out where you live, too.” He then storms out of the agency.
The counselor is aware that this client has a history of violent behavior. She is frightened but decides not to say anything.

1. What are the issues here?
2. Has the counselor done the right thing?
Ethics, the Internet and Social Media

• The gift that keeps on giving

• Email

• Texting

• Search engines

• Social Network Sites

• Keely Kolmes, PsyD.

http://www.drkkolmes.com/docs/socmed.pdf
Acknowledgement:

Slides 41-48 and 50-57 that address ethics and social media are from “New Ethical Dilemmas in the Digital Age”, a presentation of the National Frontier and Rural Addiction Technology Transfer Center, funded by the Substance Abuse and Mental Health Services Administration (SAMHSA). Check out their website: nfar@attcnetwork.org for more information.
Digital Immigrants

... people born before or about 1964 and who grew up in a pre-computer world

(Zur & Zur, 2011)
‘native speakers’ of the digital language of computers, cell phones, video games, and the Internet

(Zur, 2012; Prensky, 2001)
Examples of Social Network Sites

- Facebook
- LinkedIn
- Instagram
- Pinterest
- Virtual Worlds
- Blogs
- Micro Blogs-Twitter
- Counselor List Serves
Social Media Explained

twitter - i’m eating a #donut
facebook - i like donuts
foursquare - this is where i eat donuts
instagram - here is a photo of my donut
youtube - here i am eating a donut
linkedin - my skills include donut eating
pinterest - here’s a donut recipe
spotify - now listening to “donuts”
g+ - i’m a google employee who eats donuts
SNSs are a specific type of social media that allow individuals to:

- construct a public or semipublic profile within a bounded system
- articulate a list of other users with whom they share a connection
- view and traverse their list of connections and those made by others within the system

(Boyd & Ellison, 2007)
Clinicians must be aware that all of their online postings, blogs, or chats may be viewed by their clients and will stay online, in some form, forever.

(Zur et al., 2009)
Ethical Codes and Licensing Boards have not caught up with the TECHNOLOGY Ethics

In some cases ... provide little guidance
Case: “We’d like to know a little bit about you for our files...”

• You are seeing a new client, and after doing the assessment you don’t believe that he has given you the complete picture. You feel you need more information and you consider checking to see if he has a profile on Facebook.
Facebook Warning

You are about to view your ex’s profile.

They are happy with their new life and have moved on.

Viewing their profile will only renew your misery and anguish.

Do you wish to continue?

[YES] [NO]
• Increased Enforcement of the HIPAA Omnibus Rule Beginning September 23, 2013 Makes Stiff Penalties Possible for Managed Care Organizations without Adequate Safeguards for Protected Health Information

Bob Chaput, CISSP, CIPP/US CEO & Founder, Clearwater Compliance LLC
Safeguarding Protected Health Information (PHI) is a foundational requirement for all healthcare organizations, especially those directly responsible for the delivery of quality care, providing access to the right care and doing so in a timely manner. Safeguarding PHI is a matter of patient and member safety.
• When possible, keep PHI off laptops, tablets, smart phones, thumb drives, and other devices with a high risk of loss or theft. When not possible, encrypt, encrypt, encrypt!

• Develop and implement policies and procedures governing the use of employee-owned personal devices.
Love you babe! goodnight!

My love for you is strong I would buy you a casket if I could!

*castle. I promise I meant castle.

Autocorrect why do you have to ruin me so?

Emily?

Hello?
More than one-third of cell phone users

- have sent a text message to the wrong person (38%)
- report that a text they sent was misunderstood by the reader (37%)

(http://www.saurageresearch.com/key-findings-novemberdecember-2009/)
“Traditional Short Message Service (SMS) text messaging is non-secure and non-compliant with safety and privacy regulations under the HIPAA. Messages containing ePHI can be read by anyone, forwarded to anyone, remain unencrypted on telecommunication providers’ servers, and stay forever on sender’s and receiver’s phones.”

(American Academy of Orthopaedic Surgeons, August 2012)
“No it is not acceptable for physicians or licensed independent practitioners to text orders for patients to the hospital or other healthcare setting. This method provides no ability to verify the identity of the person sending the text and there is no way to keep the original message as validation of what is entered into the medical record.”

The Joint Commission November 10, 2011

http://www.jointcommission.org/standards_information/jcfaqdetails.aspx?StandardsFaqId=401&ProgramId=1
Good guidance from the social work code of ethics

• “Social workers should not permit their private conduct to interfere with their ability to fulfill their professional responsibility.” 4.03

• “Social workers should respect clients’ right to privacy. Social workers should not solicit private information from clients unless it is essential to providing services or conducting social work evaluation or research….” 1.07 (a)

• “Social workers should not engage in dual or multiple relationships with clients or former clients in which there is a risk of exploitation or potential harm to the client.” 1.06 (c)
“Nothing that enters cyberspace is ever completely secure”

(Collins, 2007)
Record Keeping - The Purpose

- Communicate patient progress in treatment
- Can improve patient care by helping the clinician think logically about a case
- Reflects the competence of the caregiver
- Helps funding groups verify that the treatment they are paying for is actually occurring
- Serves as a legal record of treatment activities
Record Keeping Follies

The supervisor has announced that the funding agency is coming in for an audit on Monday and she hopes everyone’s charts are in order. You know that you have fallen a bit behind in your record keeping.
Follies… Continued

You come in on the weekend to update your charts. It’s a little confusing but you do your best to make sure you update the record of services and treatment plans. You are a little behind on some progress notes, too, but you mostly remember what happened in the sessions so you write the notes and backdate them.
Record Keeping-
The Ethics

• Do required documentation in a timely fashion
• Insure that the documentation is individualized and distinguishes one patient from another
• Make sure that documentation records the treatment event accurately in terms of time and content, but be concise and discreet
• Treatment plans should relate to assessment information, progress notes should relate to treatment plans
• Avoid “pretending” to keep a record (for example, backdating, guessing, etc)
You and a colleague both run therapy groups at the agency from 7 to 9 once a week. Lately, you have been hearing his group break up at 8:30. At first you just thought they were on break, but then you began to notice that, when your group broke up at 9, nobody else was around. You look at some billing slips and note that your colleague is marking down 2 hours for his group.

1. Issues?
2. What should you do?
Record Keeping (continued)

“O what a tangled web we weave, when first we practice to deceive”
-Sir Walter Scott
Making good ethical decisions

• Learn to recognize ethical issues
• Gather as many facts as you can
• Evaluate your options
• Consult appropriately
• Make a decision
• Test it
• Act
• Reflect and learn

-Markkula Center for Applied Ethics
Resources

- nfar@attcnetwork.org
- http://www.naadac.org/code-of-ethics
- Markkula Center for Applied Ethics, scu.edu/ethics
Thank you for your time and attention!