

Ethical Dilemmas: Striving for “Win-win”

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4 SORORITIES FOUNDED AT LONGWOOD UNIVERSITY

- Kappa Delta—October 23, 1887
- Sigma Sigma Sigma—April 20, 1898
- Zeta Tau Alpha—October 15, 1898
- Alpha Sigma Alpha—November 15, 1901



<http://www.longwood.edu/greek/46605.htm>

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DISCLOSURES

Financial

- Lissa is receiving an honorarium from ArkSHA for this presentation
- Lissa is an employee of Longwood University

Nonfinancial

- Lissa teaches Ethics and Professional Issues at Longwood University
- Lissa served as the ASHA VP of Standards and Ethics in SLP (2014-16)

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LEARNING OBJECTIVES Participants will ...

- Describe a multi-step ethical decision-making model
- Describe the 4 principles (and corresponding rules) of the ASHA Code of Ethics
- Apply an ethical decision-making model to various ethical dilemmas to construct a positive solution

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Why should we be ethical?



- Prevent harm
- Provide high quality patient care
- Protect the public
- Treat clients and colleagues fairly
- Be truthful
- Do the right thing
- Demonstrate integrity

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As licensed professionals, who serve the public, we have a **duty** to conform to certain standards.



Commons.wikipedia.com

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We are obliged to maintain **fidelity**, a faithfulness to our commitments.



www.Misstep.org (via google images)

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We are obliged to implement justice to be fair in the distribution of benefits and risks.

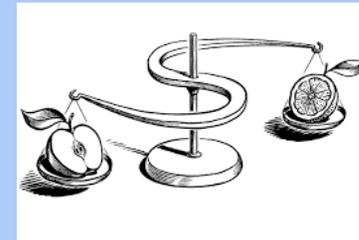
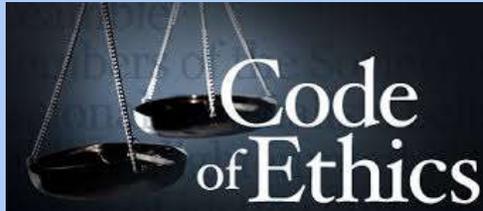


Image from nytimes.com

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Professional codes of ethics are a profession's "contract with society."



maysom.com (via google images)

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Persons served and co-workers deserve to be treated with respect.

"To give and show respect is to show special regard for someone or something."

• George Pozgar, 2013.

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Our behavior is expected to exhibit beneficence, our actions should benefit others.



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visitmuncie.org (via google images)

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We should adhere to concept of nonmaleficence.



• www.beyondmed.com (via google images)

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Misconduct may be either
intentional or **negligent**.



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Ethical dilemmas arise when one has to decide between equally undesirable alternatives. Without question, the best decisions individuals make are guided by ethical considerations.”

Allan O. Diefendorf, 2004

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Ethical Decision-making

- Purpose is to create an outcome that resolves the situation and prevents future problems.



Image from wizardsofthought.com

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Think “win-win”
(with thanks to Covey’s *7 Habits Of Highly Effective People*)

- A “Win-Win” solution focuses on finding a solution that works for all
 - Mutual benefit
 - Cooperative not competitive

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What is the outcome you want?

- Ideally –
 1. Resolves situation
 2. Changes behavior
 3. Prevents future challenges

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Ethical Decision-making Approach

- Step 1: Identify the ethical issue
- Step 2: Gather information to explain the situation
- Step 3: Consult resources
- Step 4: Brainstorm solutions to resolve and prevent
- Step 5: Select action

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FIRST: IDENTIFY THE ETHICAL ISSUE

- What ethical/moral principle is at issue?
 - Beneficence
 - Nonmaleficence
 - Duty
 - Fidelity
 - Justice
 - Patient and clinician autonomy



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REVIEW THE CODE OF ETHICS

- A **framework and focused guide** for professionals in support of day-to-day decision-making related to professional conduct
- Partly obligatory and disciplinary and partly **aspirational** and descriptive

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ASHA CODE OF ETHICS 2016

Preamble

- The preservation of the highest standards of integrity and ethical principles is vital to the **responsible discharge of obligations** by audiologists, speech-language pathologists, and speech, language, and hearing scientists who serve as *clinicians, educators, mentors, researchers, supervisors, and administrators.*

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<http://www.asha.org/Code-of-Ethics/>

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ASHA Code OF Ethics is Applicable to:

- a member of ASHA holding the Certificate of Clinical Competence (CCC)
- a member of the Association not holding the CCC
- a nonmember of the Association holding the CCC
- an applicant for certification, or for membership and certification

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FOUR PRINCIPLES OF ETHICS

- I. responsibility to **persons served** professionally and to research participants, both human and animal;
- II. responsibility for one's **professional competence**;
- III. responsibility to the **public**; and
- IV. responsibility for **professional relationships**.

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PRINCIPLE I: Responsibility To The Persons Served

- Use every resource, including referral, to ensure high quality service is provided
- Shall not discriminate
- Shall not misrepresent credentials of persons under supervision
- Shall not delegate tasks that require unique skills
- Provide services competently
- Shall not guarantee results

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- Maintain and secure records
- Shall not reveal professional or personal information without authorization
- Shall accurately bill for services and products dispensed
- Seek professional assistance if affected by substance abuse, addiction, or health-related conditions, or, when appropriate, withdraw from practice
- Shall not discontinue services without reasonable notice
-

PRINCIPLE II: Professional Competence

- Engage in only those aspects of the professions that are within the scope of practice and individual competence
- Engage in lifelong learning
- Shall not permit staff to provide services or conduct research that exceed competence ...
- Ensure any technology and instrumentation is in working order and properly calibrated

PRINCIPLE III: Responsibility To The Public

- Shall not misrepresent credentials, competence, education, ...
- Shall not participate in a conflict of interest
- Shall not refer based on personal interest
- Shall not misrepresent research, diagnostic information, services, results of service, products dispensed
- Shall not defraud in connection with payment, reimbursement, grants, research
- Shall adhere to professional standards in statements to the public

PRINCIPLE IV: Responsibility to the Professions

- Shall work collaboratively in the profession and with other professions
- Exercises independent judgement
- No knowingly permit anyone supervised from violating Code of Ethics
- Shall not engage in dishonesty, fraud, deceit, misrepresentation
- Shall not engage in any form of harassment
- Reference sources appropriately
- Shall not discriminate in relationships

EMBED YOURSELF IN THE CODE OF ETHICS



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STEP 2: Get the story straight

- Many ethical dilemmas stem from a lack of facts and/or failure to explain the problem
- Ask yourself ... what is the major issue?
- What information **am I missing?**



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Too many people have full opinions, with half the facts.

Tony Gaskins, Jr.

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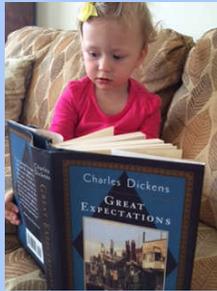
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“There is a principle which is a bar against all information, which is proof against all arguments, and which cannot fail to keep a man in everlasting ignorance – that principle is contempt prior to investigation.” William Paley

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STEP 3: CONSULT RESOURCES



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What policies and procedures would you investigate?



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DISCUSS WITH A TRUSTED COLLEAGUE

- Former faculty
- Colleagues
- Supervisors



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CREATE YOUR OWN PERSONAL "BOARD OF DIRECTORS"



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REVIEW ASHA'S ETHICS RESOURCES AND PRACTICE PORTAL

- <http://www.asha.org/Practice/ethics/>
- <http://www.asha.org/practice-portal/>

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REVIEW INSTITUTIONAL POLICIES

- "What the American Founding Fathers understood was that institutions were built for human imperfection, not human perfection."
 - Condoleza Rice, Secretary of State, 2017
George W. Bush Administration

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POLICIES AND PROCEDURES

- Personnel
- Harassment
- Use of funds
- Timelines
- Documentation
- Caseload
- Use of technology



Photo from Creative Commons

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CONSULTATION – A KEY STEP

- Discuss situation with trusted, knowledgeable professional who can ...
 - Explain laws, regulations, policy
 - Listen objectively
 - Provide feedback and suggestions



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CONSULTATION RESOURCES

- ASHA staff
- Ethics
- Schools
- Health care
- Reimbursement
- State agency representative
 - Education, licensure, Medicaid
- NEA representative in your district
- Union (if applicable)
- Sometimes ... an attorney

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STEP 4:

Brainstorm potential courses of action
What is the solution you are looking for?

- Explore the widest range of options possible
- Brainstorm a host of alternatives
- Avoid falling back on old alternatives
- Keep any far-fetched ideas, using these to trigger other more practical approaches
- Search for a “Win-Win” whenever possible



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Three questions:
What could we do?
What should we do?
How do we explain it?

James Rosenstein
Harvard

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There rarely is a zero-risk option.

Bupp and Hasselkus, 2012



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A long habit of not thinking a thing wrong gives it the superficial appearance of being right.
Thomas Paine

Options

Doing nothing is making a decision to take a particular course of action



OPTIONS

Discuss and Resolve

- With colleague
- With supervisor
- With agency compliance officers



Resolution may involve (re)training on policies and procedures, continuing education

OPTIONS

Report

- Supervisor
- ASHA Board of Ethics
- State Licensure Board
- State Board of Education
- Medicare
- State Medicaid
- Private Insurance



QUESTIONS TO ASK YOURSELF ...

- Do you know everything you need to know to take action?
- Would someone say you have a vested self-interest in taking this action?



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Step 5: Select and Implement Action

Ideally – a “win win”
approach



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ETHICS ISSUES RAISED TO THE ASHA BOARD OF ETHICS

Bupp, 2012

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1. Documentation Lapses
2. Employer demands
3. Use and supervision of support personnel
4. Clinical Fellowship Mentoring/Student Supervision
5. Client Abandonment
6. Reimbursement for services
7. Business competition ethics
8. Practitioners with impairment
9. Affirmative Disclosures

Documentation lapses

- A clinician at a home health facility submits documentation for more clients than can be seen during the day, given the driving distance between houses.

EMPLOYER DEMANDS

- An SLP at a skilled nursing facility has a high productivity level, which causes significant stress. To ensure she meets this level she has begun writing treatment notes during the session while giving the patient and unskilled task. She is delighted to have a graduate student placed with her, so that she can see two clients simultaneously.

USE OF SUPPORT PERSONNEL

- An SLP in private practice has a number of contracts with preschools to provide speech-language services, including a contract with a bilingual preschool.
- The SLP hires an SLPA who is bilingual and places him at the bilingual preschool. The SLPA is on site without supervision 80% of the time.

CLINICAL FELLOWSHIP

- The SLP who agree to serve as a CF mentor has numerous responsibilities and has not responded to the CF's inquiries as to when she will be on-site to observe her provide services.
- As the CF searches the ASHA web site for information, she finds a page to verify an individual's Certification status. Using this, the CF learns that the mentor's certification lapsed at the end of the prior calendar year.

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CLIENT ABANDONMENT

One of your colleagues in the clinic where you work minimally enjoys her work and has always talked about the “the job of her dreams” – an acute care hospital. One Wednesday, she lets you know she just got “THE OFFER” and will be starting the following Monday.

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REIMBURSEMENT – MISUSE OF CODES

The owner of the private practice where you work has appeared stressed recently. You notice that new assessments have not been purchased.

You have been serving a child with language delay who has had one bout with otitis media a year before starting services. The parents have a modest income and would not be able to pay for weekly therapy out of pocket.

The billing clerk tells you she is billing under a hearing loss code.

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6. BUSINESS ETHICS – GIFTS

- You have been working with a young man who has made significant progress following a traumatic brain injury.
- You are fortunate to work on a fantastic team and you've developed a close relationship with the family.
- The family has offered a weekend trip to their cottage in the mountains to the OT, PT, and you.

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