

Psychology 460 Counseling & Interviewing

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Today's Quotation

- People who do not understand themselves have a craving for understanding.

– ~Wilhelm Stekel



Ethical Issues in Counseling



Ethics & Aristotle

- A common belief encompassing ethics is that someone (counselor) will do right thing or make right decision that is in best interest of the client
- This belief is not new; in fact, Aristotle concluded that ethics provided guidelines for virtuous action
- In his rule of the Gold Mean, Aristotle defined ethical choice as one that falls between two extremes
- For example, Aristotle believed that trust is the virtue that lies between suspicion and foolish faith (McGuire, 1996)



Ethics, Morality & Laws

- Over last decade, ethical issues faced by counselors has received increased attention in counseling literature (Bradley, Kottler & Lehrman-Waterman, 2001; Corey, Corey & Callanan, 2003; Herlihy & Corey, 1996; Remley & Herlihy, 2001)
- with many of these ethical issues resulting in legal concerns (Austin, Moline & Williams, 1990; Benke, 1998; Cottone & Tarvydas, 1998; Hansen & Goldberg, 1999; Welfel, 2002)



Ethics, Morality, & Laws

- **Ethics** refers to the beliefs that individuals (counselors) hold about "what is right"
- **Ethical Conduct** refers to the behaviors exhibited by the counselor
 - Good ethical conduct is grounded in sound moral principles, understanding the ethical codes, and having the desire to do "what is right"
- **Laws and Ethical Codes** regulate the work of counselors
 - Laws enforced by government define minimum standards acceptable to society
- **Morality** refers to proper ethical conduct and involves an evaluation of conduct based on some standard expectations often influenced by cultural, religion, etc.



Ethics, Morality, & Laws

- Professional Codes of Ethics refers to the Codes developed by professional associations to provide guidelines for practice by counselors and mental health professionals
- These Codes are designed to protect the counselor, client & public
- Preliminary Considerations
 - Counselors constantly encounter ethical decisions and/or dilemmas
 - IMPT that counselors not only be familiar with various Codes,
 - but in addition counselor should know main areas/issues that have been problematic for counselors

What are the Components of Ethical Behavior?

- The components of good ethical behavior include:
 - Understanding & implementing ethical codes.
 - Doing what is best for the client
 - Practicing the four core virtues – prudence, integrity, respectfulness, and benevolence (Meara, Schmidt & Day, 1996)
 - Realizing importance of intuition, integrity, & honest self-evaluation in ethical decisions
 - Placing client welfare as paramount

What are the Components of Ethical Behavior?

- Moral Principles
 - Decision-making process for counselor must involve several components
 - Kitchener (1984) identified five moral principles that are viewed as foundations of components that make up ethical decision-making
 - These guiding moral principles described by Kitchener (1984) & adopted by other researchers (Corey, Corey, and Callanan, 1998; Forester-Miller & Davis, 1996) include the following:
 1. Autonomy
 2. Nonmaleficence
 3. Beneficence
 4. Justice
 5. Fidelity

What are the Components of Ethical Behavior?

- Moral Principles
 - 1. Autonomy
 - Concept in which clients' freedom of choice is stressed
 - Counselor should encourage client to make decisions that are consistent with his/her values & encourage client to act/think in autonomous ways
 - While client encouraged to take responsibility for his/her actions & evaluate effects of his/her actions on others, counselor is also encouraged to consider whether client is capable of making sound choices
 - If client incapable of making sound decisions & choices, then counselor encouraged to assist client as much as possible in cooperatively evaluating actions that client takes

What are the Components of Ethical Behavior?

- Moral Principles
 - 2. Nonmaleficence
 - Refers to concept of "do no harm"
 - This moral principle reflects a two-fold concept of not inflicting intentional pain on others + refraining from actions that risk harm to others
 - 3. Beneficence
 - Refers to counselor's responsibility to contribute to welfare of client by preventing harm & being proactive in attempting to benefit the client

What are the Components of Ethical Behavior?

- Moral Principles
 - 4. Justice
 - Refers to the principle of providing equal treatment for all clients
 - 5. Fidelity
 - Involves honoring commitments;
 - Counselor must guard client's trust & therefore not threaten therapeutic relationship

What are the Components of Ethical Behavior?

- ALTERNATIVE OF PRINCIPLE-BASED ETHICAL REASONING
- Virtue Ethics
 - Principle ethics is incomplete & flawed
 - Application of ethical issues runs risk of becoming too intellectual & too disconnected from the actors, the psychologists making the decisions



What are the Components of Ethical Behavior?

- ALTERNATIVE OF PRINCIPLE-BASED ETHICAL REASONING
- Virtue ethics focus on the ideal rather than the obligatory & on the character of the agent or professional rather than on the solving of specific ethical dilemmas
 - **Prudence**: cautious, planful, & know when one does not know
 - **Integrity**: stable & coherent value system over time
 - **Respectfulness**: in terms the consumer not the psychologist defines
 - **Benevolence**: the desire to do good



What to do if the Code is silent on an issue?

- Although ethics codes speak to various issues, counselor must recognize that these codes tend to be broad, & thus they do not cover all ethical issues faced by counselors



What to do if the Code is silent on an issue?

- Perhaps, Corey, Corey & Callanan (2003) capture the theme that ethical codes do not solve all problems when they write:
 - Ethics codes offered by most professional codes are broad & general not precise & specific
 - Your own ethical awareness & problem-solving skills will determine how you translate these general guidelines into professional day-to-day behavior
 - Ethical codes are necessary, but not sufficient, for exercising ethical responsibility
 - It is essential that you be aware of the limitations of such codes (p. 6)



What to do if the Code is silent on an issue?

- Similarly, Welfel (2002) concludes that ethical codes are not cookbooks for all ethical problems for in fact, the codes are silent on many ethical issues
- Conclude that while ethical codes are necessary for good ethical practice, they are **not** sufficient



What to do if the Code is silent on an issue?

- Given the need & requirement that counselors exercise good ethical behaviors, a salient question arises:
 - What should the counselor do if the ethical code does not speak to a particular ethical issue?



Ethical Decision Making

- When ethical code does not contain information on a particular issue, counselor is still responsible for making correct ethical decision
- In absence of a clear answer in ethical code, counselor should implement an ethical decision-making model
- Cottone & Claus (2000) describe nine decision-making models
- These models are grounded in Kitchener's (1984) five ethical principles
- Although all the nine models are good models, they are too long to discuss here
- Instead a series of 8 procedural steps have been identified by Corey (Corey, Corey, & Callahan, 2004; Corey, Corey, & Haynes, 2003) to help you think through ethical problems



Decision-Making Model

- **The eight steps are:**
 - 1. Identify the problem or dilemma
 - 2. Identify the potential issues
 - 3. Look at relevant ethics codes for general guidance
 - 4. Consider applicable laws & regulations, & determine how they may have bearing on an ethical dilemma
 - 5. Seek consultation from more than one source to gain multiple perspectives on dilemma
 - 6. Brainstorm various courses of action
 - 7. Enumerate consequences of various decisions
 - 8. Implement the course of action
- Although there is no cookbook approach to ethical decision-making, the implementation of a decision-making model provides a means by which the counselor can implement a "standard of care" in making an ethical decision



Decision-Making Model

- While **model not absolute**, it **does** help to **present a format for balancing risks & benefits of a course of action**
- Although ultimate decision is made by counselor, model provides a means for counselor to **consult** with others & **reflect** on the process, thereby at least **minimizing likelihood of an arbitrary decision**
- By **implementing a model**, counselor is **able to select an action that includes rights, responsibilities, & welfare of client**
- **If legal action** should occur, the **implementation of a model** will help the counselor **show that a "standard of care" was employed**



The Bottom-Line

- Ethical Decision Making
- The principles that underlie our professional codes
 - Benefit others, do no harm, respect other's autonomy, be just, fair and faithful
- The role of ethical codes – they:
 - **Educate us about responsibilities, are a basis for accountability, protect clients, are a basis for improving professional practice**
- Making ethical decisions
 - Identify the problem, review relevant codes, seek consultation, brainstorm, list consequences and decide



Putting the Client's Needs before Your Own

- Ethically, counselors need to be aware of their
 - **own needs,**
 - **areas of unfinished business,**
 - **potential personal conflicts and defenses and**
 - **how this may effect the clients**
- Responsibilities to work actively toward expanding our own self-awareness and recognize areas of prejudice & vulnerability
- Personal power is an effective quality of the therapist
- **Counselor's need to nurture**



Right of Informed Consent

- Informed consent is an ethical & legal requirement & is an integral part of therapeutic process
- Providing clients w/information they need to make informed choices tends to promote the active cooperation of clients in their counseling plan (i.e., buy-in)
- By educating clients about their rights & responsibilities, you are both empowering them & building a trusting relationship



Right of Informed Consent

- Some aspects of informed consent process include:
 - General **goals of counseling**,
 - **Responsibilities of counselor toward client**,
 - **Responsibilities of clients**,
 - **Limitations of & exceptions to confidentiality**,
 - **Legal & ethical parameters** that could define relationship,
 - **Qualifications & background of practitioner**,
 - **Fees** involved,
 - **Services client can expect**,
 - **Approximate length of therapeutic process**



Right of Informed Consent

- Further areas might include:
 - **Benefits** of counseling,
 - **Risks** involved,
 - **Possibility that client's case will be discussed** with therapist's colleagues or supervisors
- **Challenge** of fulfilling spirit of informed consent is to **strike a balance** between **too much** information & giving **too little**



Client's Rights

- Clients **need enough information about the counseling process** to be able to make **informed choices**
- **Educate** clients about **their rights and responsibilities**
- **Confidentiality is essential but not absolute**
 - Exceptions:
 - The client poses a danger to others or self
 - A client under the age of 16 is the victim of abuse
 - The client needs to be hospitalized
 - The information is made an issue in a court action
 - The client requests a release of record



Multicultural Issues

- *Biases* are reflected when we:
 - Neglect social and community factors to focus unduly on individualism
 - Assess clients with instruments that have not been normed on the population they represent
 - Judge as psychopathological – behaviors, beliefs, or experiences that are normal for the client's culture



Dual Relationships

- Some helpful questions:
 - Will my dual relationship keep me from confronting and challenging the client?
 - Will my needs for the relationship become more important than therapeutic activities?
 - Can my client manage the dual relationship?
 - Whose needs are being met -- my client's or my own?
 - Can I recognize and manage professionally my **attraction** to my client?



Confidentiality

- **Confidentiality is the cornerstone and a *sine qua-non* of the patient-psychiatrist relationship**
- In the American Medical Association's *Code of Ethics*, the importance of confidentiality is consistent with the mission "to advocate for our patients, physicians, and the public health."



Confidentiality

- One can imagine situations where there is a great deal of pressure on the medical professional to ignore confidentiality
- For example, suppose you were a psychologist and one of your clients confessed that they intended to murder their spouse
 - What would you do?
 - Should you inform the police?
 - The spouse?
 - **Do you have a duty to warn?**
 - **Do you have a duty to protect?**

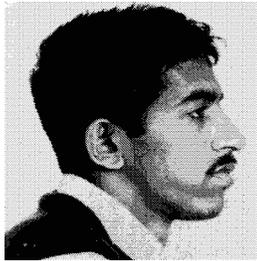
Confidentiality

- **Tarasoff Case (v. University of California)**



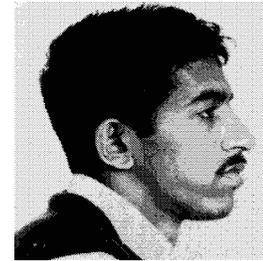
Confidentiality

- **Tarasoff Case (v. University of California)**
- Prosenjit Poddar was born into the Harijan ("untouchable") caste in Bengal, India. He came to UC Berkeley as a graduate student in September 1967
- He dated a fellow student, **Tatiana Tarasoff** briefly, but she was not interested in a serious, exclusive relationship
- During the summer of 1969 Tatiana went to South America.
- Portrait courtesy James Hooper



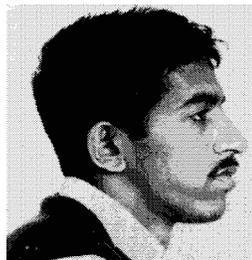
Confidentiality

- **Tarasoff Case (v. University of California)**
- Prosenjit felt betrayed, became depressed, & went to a psychologist at UCB's Univ. Health Service
- Poddar confided his intent to kill Tatiana. Dr. Moore requested that the campus police detain Poddar, writing that, in his opinion, Poddar was suffering from paranoid schizophrenia, acute and severe.
- Portrait courtesy James Hooper



Confidentiality

- **Tarasoff Case (v. University of California)**
- The psychologist recommended that defendant be civilly committed as a dangerous person. Poddar was detained, but shortly thereafter released, as he appeared rational.
- Dr. Moore's supervisor, Dr. Harvey Powelson, then ordered that Poddar not be subject to further detention.
- Portrait courtesy James Hooper



Confidentiality

- **Tarasoff Case (v. University of California)**
- Poddar then befriended Tatiana's brother, even moving in with him.
- In October, after Tatiana had returned, Poddar stopped seeing his psychologist.
- Neither Tatiana nor her parents received any warning of the threat.
- Several months later, on October 27, 1969, Poddar carried out the plan he had confided to his psychologist, killing Tatiana Tarasoff by stabbing her with a kitchen knife.



•Portrait courtesy James Hooper

Confidentiality

- **Tarasoff Case (v. University of California)**
- Tarasoff's parents then sued Moore and various other employees of the University.
- **Poddar's** original sentence was overturned, and he was allowed to avoid a second trial by agreeing to return to India.
- Some report he is married and living happily in India.
- Portraits courtesy [James Hooper](#)



Confidentiality

- **Tarasoff Case (v. University of California)**
- Resulting court opinions formed the basis for general acceptance of the notion that **treating professionals have a duty to protect known intended victims.**
- Tarasoff v. Regents, 17 Cal. 3d 425, 551 P.2d 334, 131 Cal. Rptr. 14 (1976)
- Portraits courtesy [James Hooper](#)



Confidentiality

- Why is it important?
- How does it relate to General Principle A:
 - Beneficence (“strive to benefit”)
 - Nonmaleficence (“take care to do no harm”)
- If Confidentiality is the cornerstone & a *sine qua non* of patient-psychiatrist relationship, how can one violate this ethical standard?
- In what circumstances is breaching the sanctity of confidentiality necessary?

Tarasoff Issue

- Tarasoff v. Regents of the University of California
 - If a patient poses a significant risk of violence to another party, the therapist “bears a duty to exercise reasonable care to protect the foreseeable victim of the danger?”
 - States differ re: breadth of requirements (e.g., identifiable victim vs. scope of danger)

Tarasoff: Key Points

- Belief that therapist has some special knowledge, which, when coupled with the “special relationship” of therapist & client, gave rise to the duty to protect
- *Tarasoff case* & the line of cases that have followed do not stand for the proposition that psychotherapists have a duty to **warn** a known, intended victim but instead that they **ALSO** have a duty to **protect** the intended victim

Tarasoff: Key Points

- A therapist's liability either to client for slander or defamation or to person warned for intentional infliction of emotional distress is extremely unlikely under the doctrine of “qualified privilege”
- Elements of this doctrine are:
 - Good faith,
 - A legitimate interest or duty to be furthered by the statement
 - A statement limited in its scope to that purpose,
 - A proper occasion, and
 - Communication in a proper manner and to proper parties **only residence**

Tarasoff: Subsequent Cases

- Some cases have recognized a duty to warn all foreseeable victims, not just those who are clearly identifiable
- Legislative & regulatory activity has attempted to clarify & define this duty across numerous states



Dealing with Tarasoff Issues

- **Thorough documentation:**
 - The standard by which the breach of a *Tarasoff* duty will be judged is the standard of the reasonable professional in the community under the circumstances
 - Thorough records are critical to document that the therapist understood the nature of the situation and that reasonable steps were taken in light of the facts
- **Consultation with other professionals**
 - A therapist is not liable for a negative outcome unless his or her actions fall below the expected standard of care



Dealing with Tarasoff Issues

- Keeping current on the state of the art in handling violent patients and in evaluating dangerousness
- Informed consent and obtaining permission of the client to warn the intended victim



Tarasoff & HIV

- Unclear how the duty to protect applies in such cases
- May wish to consider less intrusive means of diffusing the risks before making an exception to confidentiality if level to risk or foreseeability of harm issues allow (e.g., having client present when partner notified, including as part of therapy; having partner voluntarily divulge; partner notification programs)



Child Abuse

- All fifty states have mandatory reporting requirements
- Research indicates that despite mandatory reporting, a variety of factors influence clinician reporting including perpetrator's level of admission re: allegation, clinician view of impact of report on therapeutic relationship, child characteristics
- Need to inform parents (Racusin & Felsman, 1986; Renninger, Veach, & Bagdade, 2002)



Child Abuse

- Clinician performance on a knowledge measure suggests
 - knowledge deficits (e.g., statute of limitations) & a tendency to overreport



Dimensions of Confidentiality

- Other circumstances that dictate when information **MUST** legally be reported by counselors:
 - When therapist believes client under 16 is victim of incest, rape, child abuse, or some other crime
 - When therapist determines that client needs hospitalization
 - When information is made an issue in a court action
 - When clients request that their records be released to themselves or to a third party

