
The Ethical Decision Matrix

Strategies for Ethical Mental Health Practice

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SMART Recovery,
Smart Recovery- Family and Friends
Chronic Pain Support Group

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Oklahoma Counseling Institute

OklahomaCounselingInstitute.org



Objectives

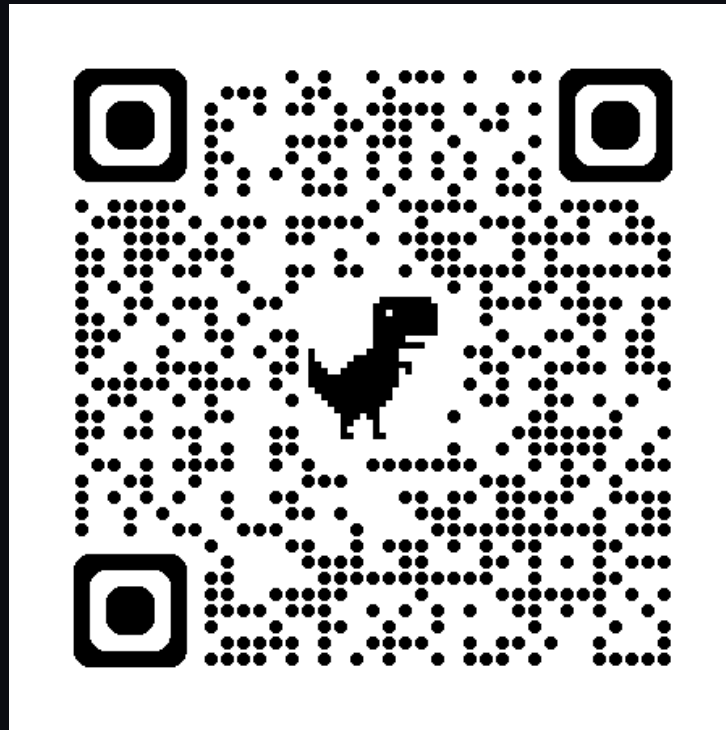
Differentiate between criminal, civil, and administrative law and how each influence mental health practice.

Identify the most common licensing board complaints and civil malpractice lawsuits against mental health professionals.

Evaluate the influence of personal values, organizational policies, ethical codes, licensure regulations, and legal requirements when making ethical decisions in clinical practice.

Explore the influence of self-disclosure and the importance of appropriate boundaries.

Discuss self-care strategies to avoid unethical practice and burnout.



OklahomaCounselingInstitute.org/northcare

Is it ethical to...?

Ethics vs. Law

Ethical
Code

Criminal
Civil

Administrative

Mental health practice is influenced by several factors

Laws

Licensure Board Rules

Professional ethics codes

Organizational policy

Best Practices

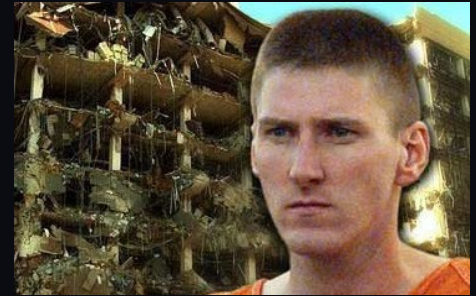
Personal and client values



Do your due
diligence

Criminal Law and Civil Law

Criminal



Civil



Administrative Law



Laws we will address today...

Confidentiality- HIPAA

Mandated reporting of child abuse/ neglect

Duty to Warn

HIPAA

Health Insurance Portability and Accountability Act of 1996

U.S. Department of Health and Human Services Office for Civil
Rights - hhs.gov/Hipaa

Purpose of HIPAA is to protect client Information from fraud and theft

Identifies “Protected Health Information” (PHI)

HIPAA

List of Protected Health Information

- 1.Names (other than first name and last initial)
- 2.All geographical identifiers smaller than a state
- 3.Dates (other than year) directly related to an individual
- 4.Phone Numbers
- 5.Fax numbers
- 6.Email addresses

<https://www.hipaajournal.com/what-is-considered-protected-health-information-under-hipaa/>

HIPAA

List of Protected Health Information

- 7. Social Security numbers
- 8. Medical record numbers
- 9. Health insurance beneficiary numbers
- 10. Account numbers
- 11. Certificate/license numbers
- 12. Vehicle identifiers (including serial numbers and license plate numbers)

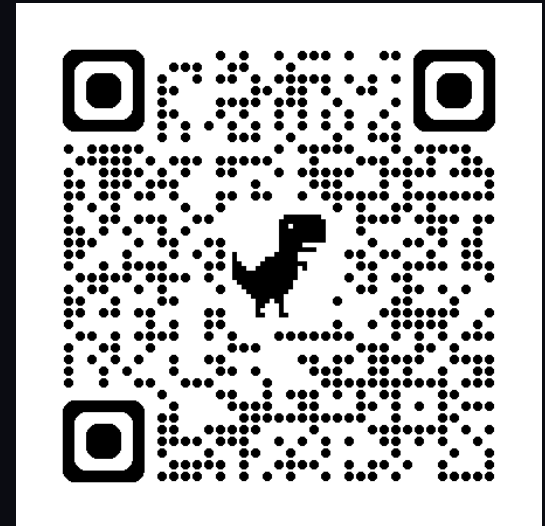
<https://www.hipaajournal.com/what-is-considered-protected-health-information-under-hipaa/>

HIPAA

List of Protected Health Information

- 13. Device identifiers and serial numbers;
- 14. Web Uniform Resource Locators (URLs)
- 15. Internet Protocol (IP) address numbers
- 16. Biometric identifiers, including finger, retinal and voice prints
- 17. Full face photographic images and any comparable images
- 18. Any other unique identifying number, characteristic, or code except the unique code assigned by the investigator to code the data

What do you
do if you
violate
HIPAA?



<https://www.hhs.gov/hipaa/for-professionals/breach-notification/index.html>

When must we break
confidentiality?

Mandated Reporting of Child or Vulnerable Adult Abuse and Neglect

Who are mandated reporters in
Oklahoma?

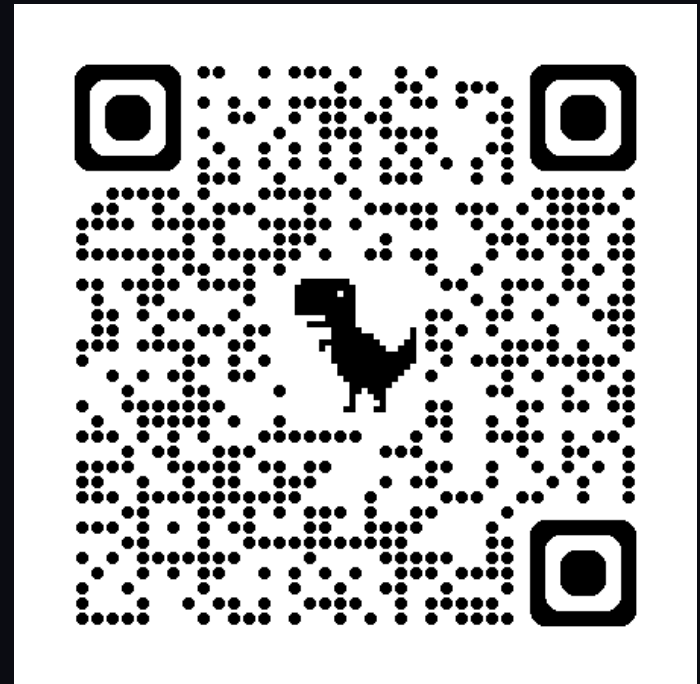
Who is a Vulnerable Adult?

Is an incapacitated person, or because of a physical or mental disability, including Alzheimer's disease or other dementias, is substantially impaired in the ability to:

- Provide adequately for their own care or custody
- Manage their property or financial affairs effectively
- Meet essential requirements for mental or physical health or safety
- Protect themselves from abuse, verbal abuse, neglect, or exploitation without assistance from others

Child Abuse and Neglect

What should be
reported?



<https://www.childwelfare.gov/resources/definitions-child-abuse-and-neglect-oklahoma/>

Mandated Reporting of Child Abuse and Neglect

Failure to Report

“C. Any person who knowingly and willfully fails to promptly report suspected child abuse or neglect or who interferes with the prompt reporting of suspected child abuse or neglect may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor”

If had “prolonged knowledge” (6 months) and failed to report- **felony**.

Title 59, Chapter 34, Section 1376

Duty to Warn

- (1) communicates a threat of death or serious bodily injury to the reasonably identified person,
- (2) notifies an appropriate law enforcement agency in the vicinity where the patient or any potential victim resides,
- (3) arranges for the patient to be hospitalized voluntarily, or
- (4) takes appropriate steps to initiate proceedings for involuntary hospitalization pursuant to law,

Civil Law

Top 3 Reasons for Lawsuits due to Ethical Misconduct by Counselors

1. Inappropriate sexual relationship with client, client's partner or family members- 39%
2. Practicing outside area of competence- 15%
3. Breach of confidentiality- 12%

Malpractice/ Negligence
Breach of Contract

Civil Lawsuit

Malpractice/ Negligence

A “special relationship” was established during which the therapist acted or failed to act in a way that is reasonably prudent, so that their actions or inactions caused physical, emotional, or financial damages to the client.

The counseling relationship

When is a “special relationship” established?

When does the counseling relationship end?

Civil Lawsuit

How does the court decide what is “reasonably prudent” ?

Code of Ethics

Licensure Rules

Standards of Practice (i.e. “Best Practice”, “Practice Guidelines”)

Other professionals

Practice Guidelines

American Mental Health Counselors Association-

<https://www.amhca.org/events/publications/practiceguidelines>

American Counseling Association-

<https://manifold.counseling.org/projects/project-collection/practice-briefs>

American Psychological Association-

<https://www.apa.org/practice/guidelines>

American Marriage and Family Therapy-

<https://www.aamft.org/web/web/Professional-Development/Professional%20Resources.aspx>

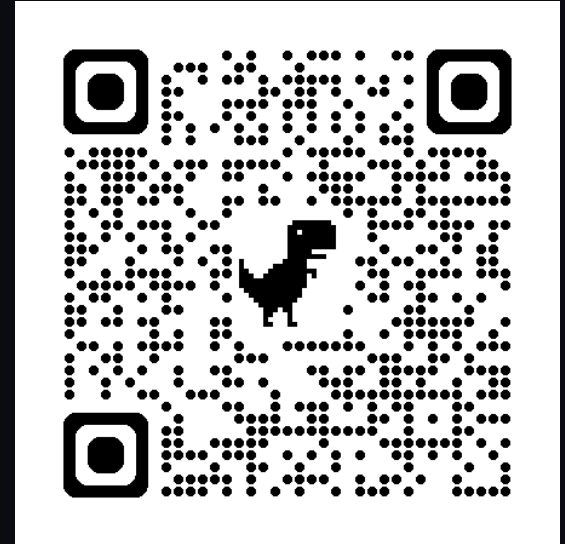
National Association of Social Workers-

<https://www.socialworkers.org/Practice/Practice-Standards-Guidelines>

American Psychiatric Association-

<https://www.psychiatry.org/psychiatrists/practice/clinical-practice-guidelines>

SAMHSA Evidenced Based Practices Resource Center- <https://www.samhsa.gov/libraries/evidence-based-practices-resource-center>



“Reasonably Prudent”

Are the procedures used by the counselor within the realm of accepted professional practice?

Did the counselor fail to follow procedures which resulted in harm to the client?

Did the counselor fail to warn others about a violent client?

(cont)

“Reasonably Prudent”

Did the counselor fail to explain possible negative consequences of the treatment?

Did the counselor use techniques outside their level of competence?

Competence

How does a counselor prove his or her competence?

Education

Training

Supervised experience

State and national professional credentials

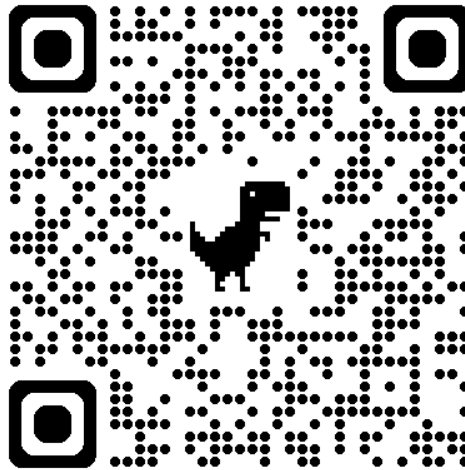
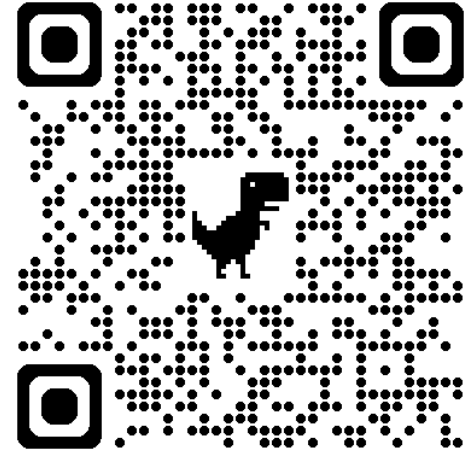
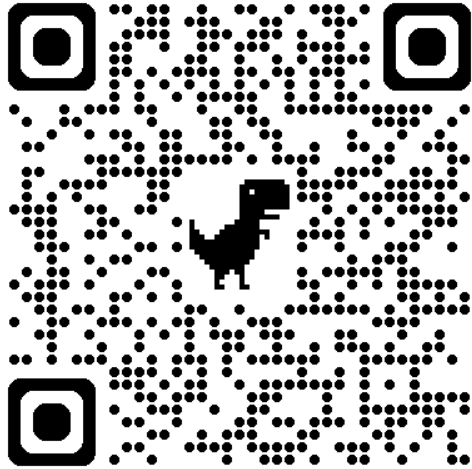
Appropriate professional experience

Boundaries





Case Studies



A Common Pathway to Sexual Misconduct and Abuse

Boundary Crossings

A deviation from professional behavior that seems harmless in nature and is presented as meeting the special needs of the patient/client.

Examples:

- **Accommodating the patient/client** with a convenient appointment time not available to other clients.
- **Taking on tasks beyond the job description**, such as delivering prescriptions or providing transportation to appointments.
- **Sharing personal information**, such as a home address or personal cell phone number, to facilitate contact with the patient/client.
- **Reducing fees** or refraining from billing the patient/client.

Boundary Violations

An action that furthers the provider's agenda rather than the patient's/client's interest, and which often becomes habitual.

Examples:

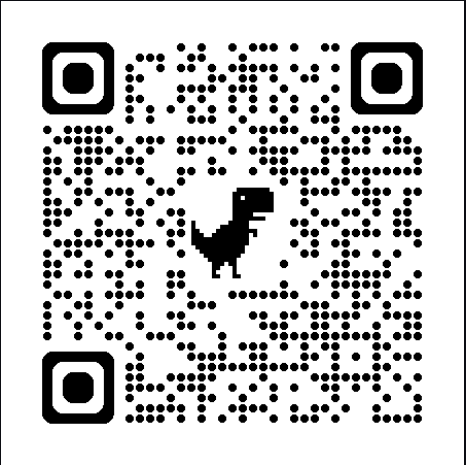
- **Scheduling appointments after clinical hours** and/or offering longer encounters.
- **Connecting on social media** for non-clinical purposes.
- **Socializing** outside of the clinical setting.
- **Prying** into personal affairs.
- **Asking the patient/client for professional advice**, e.g., on financial or legal matters.
- **Borrowing money** or requesting other favors.
- **Prolonging clinical relationships** when a referral is indicated.
- **Keeping secrets** with the patient/client.
- **Posting encounter-related information** on social media outlets.

Sexual Misconduct and Abuse

Any behavior that is overtly sexual in nature or may reasonably be interpreted by the patient/client as sexual.

Examples:

- **Flirting** or undue touching.
- **Disclosing sexual fantasies** or otherwise engaging in seductive, demeaning or harassing behaviors.
- **Non-consensual contact**, especially with the breasts, buttocks or perineal area.
- **Coercing the patient/client**, e.g., forced nudity or providing care in exchange for sexual favors.
- **Making and distributing sexually explicit images** or recordings of the patient/client.
- **Assaulting the patient/client**, i.e., committing rape, sodomy or any other form of sexual violence.



Warning Signs of Boundary Drift

Strong or unusually personal feelings toward a client

Making repeated exceptions for one client

Sessions regularly running long

Off-hours contact

Frequent gifts between client and therapist

Overprotecting or rescuing the client

Increasing personal self-disclosure

Informal or out-of-office contact

Physical contact

Self Disclosure



Self Disclosure

Potential Benefits

- Can strengthen the therapeutic relationship and increase connection with the therapist
- May help clients feel understood, validated, reassured, or normalized
- Can make the therapist appear more human, genuine, and approachable
- May encourage clients to open up and disclose more themselves
- Can help clients gain insight or a different perspective
- May reduce excessive power differences and create a more collaborative therapeutic relationship
- Can provide hope, or encouragement when the therapist's experience is directly relevant
- In some circumstances, complete non-disclosure may feel distant, rigid, or uncollaborative to the client

Hill, C. E., Knox, S., & Pinto-Coelho, K. G. (2018). Therapist self-disclosure and immediacy: A qualitative meta-analysis. *Psychotherapy*, 55(4), 445–460.

<https://doi.org/10.1037/pst0000182>

Pinto-Coelho, K. G., Hill, C. E., Kearney, M. S., Sauber, E. S., Sarno, E. L., Baker, S. M., Brady, J., Ireland, G. W., Hoffman, M. A., Spangler, P. T., & Thompson, B. J. (2018). When in doubt, sit quietly: A qualitative investigation of experienced therapists' perceptions of self-disclosure. *Journal of Counseling Psychology*, 65(4), 440–452. <https://doi.org/10.1037/cou0000288>

Self Disclosure

Potential Risks

- Can shift the focus from the client to the therapist
- May create role confusion or blurred boundaries
- Can make the client feel responsible for taking care of the therapist
- Excessive or highly intimate disclosure may weaken the therapeutic relationship
- Unresolved therapist experiences can introduce countertransference into treatment
- Therapists may mistakenly assume, “My experience was like the client's experience”

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Self Disclosure

Potential Risks

- A disclosure intended to normalize may instead make the client feel misunderstood or minimized
- Poorly timed disclosure can produce discomfort, negative reactions, or decreased openness
- Disclosure of strongly held personal values may unintentionally influence or pressure the client
- Increased disclosure can sometimes reflect therapist distress rather than client need

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Self Disclosure

Therapist distress can influence therapist behavior. Increased or unintentional self-disclosure may sometimes be a signal that the therapist should examine their own level of distress and seek consultation or support.

Luo, X., Aafjes-van Doorn, K., Békés, V., Prout, T. A., & Hoffman, L. (2024). Therapist self-disclosure in teletherapy early in the COVID-19 pandemic: Associations with real relationship and traumatic distress. *Clinical Psychology & Psychotherapy*, 31(1), e2915.
<https://doi.org/10.1002/cpp.2915>



Self Disclosure

Self-disclosure appears more likely to be helpful when it is:

Purposeful — What therapeutic goal does this serve?

Client-centered — Whose need is being met?

Relevant — Does it directly relate to the client's concern?

Brief — What is the minimum amount necessary?

Low to moderate in intimacy

Based on resolved rather than unresolved material for the therapist

Appropriate for this particular client

Well timed — Why this client, and why now?

Monitored — How did the client respond?

Followed by returning the focus to the client

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Danzer, G. (2019, May 8). *CEUcast 4: Self disclosure with Graham Danzer* [Interview transcript]. CEUcast.

A photograph of a long, empty conference room. A large, light-colored wooden table runs down the center of the room. On either side of the table are several black office chairs. Each chair has a gooseneck microphone in front of it. There are also papers and pens on the table. The room has a high ceiling with recessed lighting and large windows on the left side. The text "Licensure Boards- Administrative Law" is overlaid in the center of the image.

Licensure Boards- Administrative Law

Board Complaints

Confidentiality Violations
Dual Relationships
Fraudulent Billing

Board Complaints

Confidentiality Violations

Dual Relationships

Fraudulent Billing

Board Complaints

Confidentiality Violations

LPC- “maintain confidentiality of information about the client unless the client gives written authorization or disclosure is otherwise authorized or required by law or court order”. OAC 86:10-3-3(b)(2)

LMFT- OAC 86:15-3-2

LADC/CADC- “Treatment information, communications, and client identity are privileged/confidential; disclosure is limited by consent and state/federal exceptions”. OAC 86:10-3-3(b)(2)

LCSW- “Respect privacy and hold information obtained through professional services in confidence, subject to consent and specified legal exceptions”.
OAC 675:20-1-5(e)

Consultation

- Share the question before sharing the case.
- Disclose only information relevant to the consultation.
- Use the least amount of information necessary.
- Do not assume removing the name makes the client anonymous.
- If identifying information is necessary, determine whether written authorization or another legal basis for disclosure is required.

The consultant needs enough information to understand the dilemma—not enough information to identify the client.

Board Complaints

Confidentiality Violations

Dual Relationships

Fraudulent Billing

The counselor did not know the client before



Prior Association

LPCs shall not undertake to provide counseling to any person with whom the LPC has had any prior sexual contact or familial, social, financial, business, professional, close personal, or other non-therapeutic relationship with a client...within the previous...

five (5) years.

Oklahoma LPC Rules 86:10-3-3 (d)
Oklahoma LMFT Rules 86:15-3-1(d)

Dual Relationship

means a familial, social, financial, business, professional, close personal, sexual or other non-therapeutic relationship with a client, or engaging in any activity with another person that interferes or conflicts with the LPC's or LPC Candidate's professional obligation to a client.

If the dual relationship cannot be prevented or eliminated and the LPC cannot readily refer the client to another counselor then the counselor will:

- (1) Fully disclose the circumstances of the dual relationship to the client and secure the client's written consent to continue providing counseling;
- (2) Consult with the other professional(s) to understand the potential impairment to the LPC's professional judgment and the risk of harm to the client of continuing the dual relationship.

Sex with a current or former client?

NEVER- LPC, LMFT, LADC, LCSW.

Oklahoma LPC Rules 86:10-3-2 (h)
Oklahoma Social Work Rules 675:20-1-4 (d)
Oklahoma LADC Rules 38:10-3-2

What do you do if you find out another counselor had sex with their client?

The LPC must report to the board within...

30 days.

Provide the name of the LPC, or Candidate, and any known facts.

Must maintain client confidentiality unless a release has been signed by the client.

Sexual Relations with Supervisees

LPCs shall not engage in sexual contact with supervisees

...and shall not supervise persons with whom they have had a sexual relationship within the previous five (5) years.

LPCs shall not engage in sexual contact with supervisees they have supervised within the previous five (5) years.

Board Complaints

Confidentiality Violations
Dual Relationships
Fraudulent Billing

What to do with Board Complaints/ Investigations...

Contact your professional liability insurance carrier

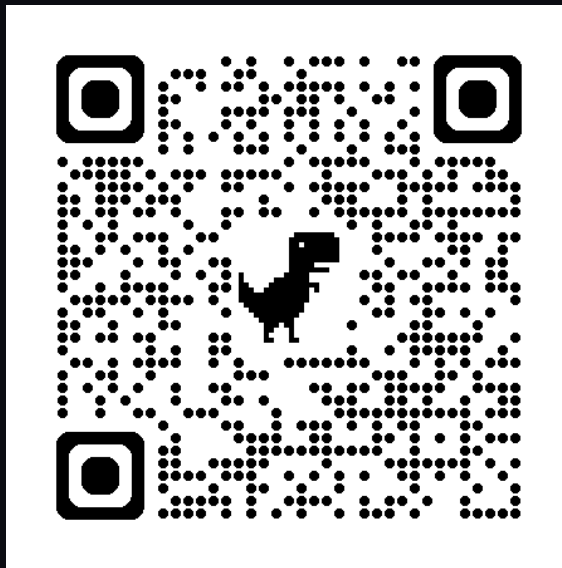
Get an attorney

The Counselor and the Law: A Guide to Legal and Ethical Practice (seventh edition), Wheeler and Bertram

Values



Values Card Sorter

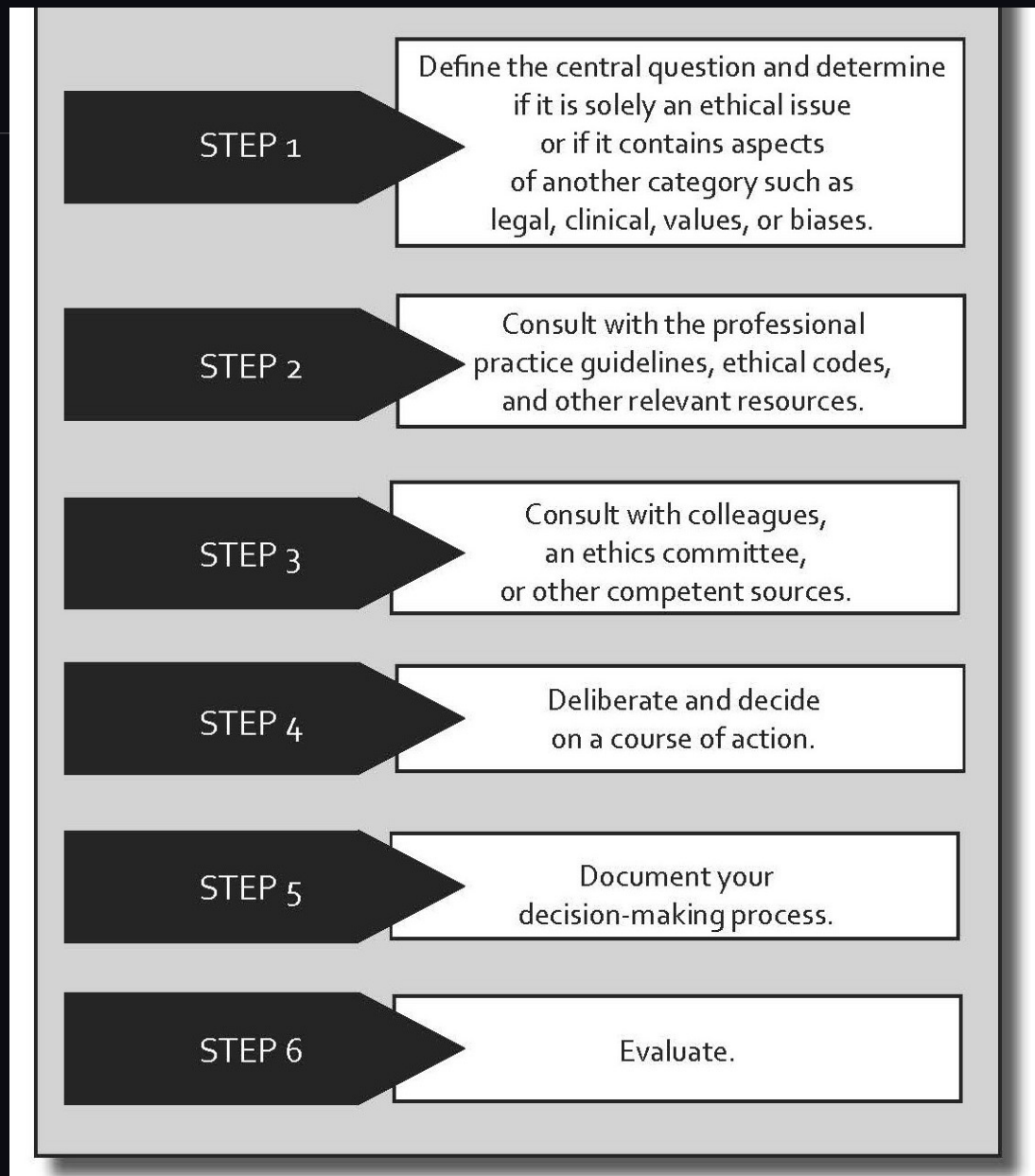


Ethical Principles of the American Counseling Association

Ethical Principle	Definition	Opposite Value
Autonomy	Respecting a person's right to make their own choices and direct their own life.	Control / Coercion
Nonmaleficence	Avoiding actions that cause harm.	Harm / Recklessness
Beneficence	Acting to promote the good, welfare, and well-being of others.	Neglect / Indifference
Justice	Treating people fairly and equitably.	Unfairness / Discrimination
Fidelity	Keeping commitments, honoring trust, and being dependable in professional relationships.	Betrayal / Disloyalty
Veracity	Being truthful and honest with others.	Dishonesty / Deception

Conflict between personal and professional values may lead to unethical behavior

Teaching Ethical Decision Making: Helping Students Reconcile Personal and Professional Values
Irene Mass Ametrano Journal of Counseling & Development , April 2014 , Volume 92, 155-161



The Central Question _____

Category	Conflict? (Yes, No)	Details
Federal Law		
State Law		
Licensure Rules		
Ethical Codes		
Organizational Policies		
Contract Obligations		
Best Practices		
Personal Values		
Client Values		
Other _____		

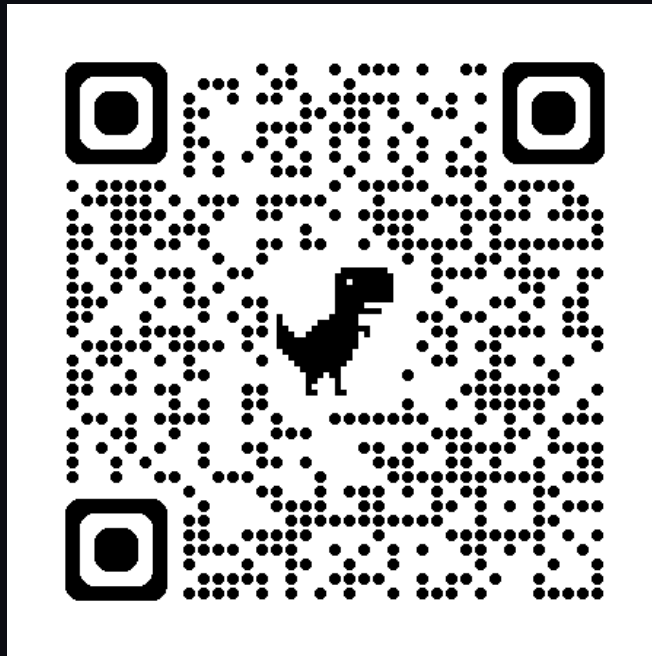
Consulted With _____ Date _____

Decision _____

Self Care



ProQOL



Well Established

The ProQOL is the most widely used measure of the positive and negative aspects of helping in the world

The ProQOL has proven to be a valid measure of compassion satisfaction and fatigue

It has been used for over 15 years

The measure was developed with data from over 3000 people

Compassion Satisfaction

Compassion Fatigue

Burnout

Secondary Trauma

Burnout

“Cumulative process marked by emotional exhaustion and withdrawal associated with increased workload and institutional stress, NOT trauma-related”.

American Institute of Stress

<https://www.stress.org/military/forpractitionersleaders/compassion-fatigue/>

Burnout	Secondary Trauma, Indirect Trauma
Cumulative, usually over long period of time	Immediate and mirrors client/patient trauma
Predictable	Less predictable
Work dissatisfaction	Life dissatisfaction
Evident in work environment	Permeates work and home
Related to work environment conditions	Related to empathic relationship with multiple client's/patient's trauma experiences
Can lead to health problems	Can lead to health problems
Feel under pressure	Feel out of control
Lack of motivation and/or energy	Symptoms of post-traumatic stress disorder similar to client / patient
No evidence of triggers	Often have triggers that are similar to the client's/patient's triggers
Remedy is time away from work (vacation, stress leave) to recharge or positive change in work environment (this might mean a new job)	Remedy is treatment of self, similar to trauma treatment

Adapted from <http://www.philadelphiaaces.org/resources/toolkit-incorporating-trauma-informed-practice-aces-professional-curricula#overlay-context=resources/slide-deck-incorporating-trauma-and-aces-information-curricula>

Self Care

P. E. R. M.A. H

Positive Emotions
Engaged Experiences
Healthy Relationships
Meaning (Purpose)
Accomplishment (Mastery)

Health- McQuaid and Kern



Martin Seligman

University of Pennsylvania

The PERMA Model of Well-Being

Positive Emotion

Positive emotions are an essential part of our well-being. Happy people look back on the past with gladness; look into the future with hope; and they enjoy and cherish the present.

Relationships

Everyone needs someone. We enhance our well-being and share it with others by building strong relationships with the people around us - family, friends, coworkers, neighbours.

Accomplishment

Everyone needs to win sometimes. To achieve well-being and happiness, we must be able to look back on our lives with a sense of accomplishment: 'I did it, and I did it well'.

Engagement

When we focus on doing the things we truly enjoy and care about, we can begin to engage completely with the present moment and enter the state of being known as 'flow'.

Meaning

We are at our best when we dedicate time to something greater than ourselves. This might be religious faith, community work, family, politics, a charity, a professional or creative goal.

Health

McQuaid and Kern

From Martin Seligman's *Flourish*, 2011

Positive Emotions

What emotions would I like to experience more often in my life?

How can I facilitate experiencing that emotion?

Positive Emotions

Engagement

Flow- **Mihaly Csikszentmihalyi**

Clear goals — You know what you are trying to accomplish.

Immediate feedback — You can tell fairly quickly whether what you are doing is working.

A balance between challenge and skill — The activity is difficult enough to require your full attention, but not so difficult that you feel overwhelmed.

Relationships

Who do I need to make an effort to spend more time with?

Meaning

How am I meeting my values?

What am I doing that gives
me a sense of purpose?

Accomplishment

What are my “wins”?

Health

What ways am I improving my
health?

Questions, Comments

?

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