

ETHICS ROUNDS

Letter from a reader regarding a minor client and confidentiality

Learning Objective: Examine how the Ethics Code applies to disclosures of confidential information in the treatment of adolescents

As psychologists engage in the process of synthesizing clinical and legal perspectives, both psychologists and their clients may benefit most when psychologists begin from their strengths: Their background, training and expertise as clinicians.

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Dear "Ethics Rounds,"

I am a psychologist with a child and adolescent psychotherapy practice. I have been treating a very intelligent and capable 14-year-old girl for about three months. She was originally referred for treatment of depression in the context of the onset of school failure; previously she had succeeded academically and socially at school. After two months of therapy, she has disclosed an almost daily pattern of marijuana use and reliance upon some occasional shoplifting to support her use. I have shifted my therapy to focus upon her marijuana use, its triggers and relapse prevention. She has days of abstinence but continues to struggle. Last week I suggested that we inform her caregivers about this issue, particularly since she had asked for some ideas about how to better support abstinence. She absolutely refused any such suggestion. She claimed that "confidentiality" prevented my disclosing this information and, quite to my surprise, claimed that as a "substance abuse treatment" she was entitled to prevent any discussion of the content of her treatment.

Is she right?

Dr. D, Massachusetts

Dr. D appears to feel at the mercy of a substance abusing 14-year-old. This is not good.

The practice of clinical psychology is enormously challenging. As clinicians, we must keep in mind the complexity of both psychic and social realities, since both contexts—psychological and social—have a profound impact upon our work. Fortunately, our clinical training teaches us to remain mindful of multiple perspectives simultaneously. Those trained in family and group therapy, for example, must keep in mind that every member of a family or group has a unique set of values and concerns and that successful therapy depends on being able to respect and see the value and legitimacy, as well as the shortcomings, of each. Psychologists engaged in couples work, mindful that each person in the couple brings to treatment both health and neurosis, will use each partner's healthy and neurotic aspects in a productive therapy. Individual therapists are mindful of the complexity of their clients' psychic lives, both the elements and forces within their clients' psyches that have yet to be reconciled or integrated with one another, and those from without that impinge upon their clients' experiences. Whatever our modality and theoretical orientation, psychologists are

trained to hold onto and keep present before them multiple perspectives, values, concerns and challenges. Success in our work depends on our ability to do so.

On a societal level, we are mindful that our clinical work takes place in a larger context, with laws and regulations. Legal considerations will affect whether our clients have the ability to consent to treatment, whether a communication triggers a mandated report or a duty to protect a third person, and how we respond to a demand to disclose confidential information when we receive a subpoena or a court order. A question then arises: What is a helpful way to think about the relationship between the clinical and the societal/legal perspectives, both of which are central to how we structure and conduct our treatments? Let us think through this question in relation to Dr. D's letter from the vantage of our expertise as psychologists.

I would encourage Dr. D to focus first on clinical considerations and let the legal questions follow from her clinical assessment. To begin with her clinical thinking does not in any manner diminish the importance of Dr. D's understanding and acting consistently with the relevant law. Rather, given that Dr. D's strength is as a clinical psychologist, her perspective as a clinician must be front and center in her determination of how to proceed. At the present time, Dr. D is at risk of getting this equation backward and of evaluating the relationship between the legal and clinical perspectives in a manner that may place the treatment and possibly her client at risk. As an example, it would be possible for Dr. D and her client to end up in a struggle that focuses obsessively on whether Dr. D may legally disclose this information, a struggle that could significantly distract from Dr. D's ability to conduct a competent and helpful treatment.

I would ask Dr. D about the process of informed consent and what was said about confidentiality at the outset of the treatment. While Dr. D's letter does not provide information about those initial discussions, it will be important to understand what her client and her client's caregivers were given to understand about how confidentiality would work in the treatment and whether any questions or concerns were voiced at that point or after. Second, I would want to understand the client's relationship to her caregivers, what role her caregivers currently have in the treatment, the client's fantasies about how her caregivers would react to this information, and whether Dr. D has any data that would be consistent or inconsistent with her client's fantasies. Third, I would want to explore with Dr. D why she believes the client is providing her such detailed and potentially incriminating information, and how these disclosures fit into Dr. D's sense of the client's relationship to her substance abuse. Fourth, I would ask Dr. D whether she believes that she can conduct this treatment in a competent fashion without her client having additional help and support from available adults or, posed in a slightly different way, how long the treatment in its current form could continue until Dr. D would be able to answer that question. A better understanding of these issues—and psychologists who work with teenagers and substance abuse would certainly suggest additional considerations—will provide the clinical foundation from which Dr. D will move forward.

Once Dr. D assesses what is in her client's best clinical interests, she will place that clinical determination in the context of her jurisdiction's laws and regulations. Part of this process may well involve consulting with an attorney, who can inform Dr. D about her jurisdiction's age of consent, laws and regulations that govern substance abuse treatment, and mandatory abuse and neglect reporting laws. A challenge for Dr. D will then be to synthesize the clinical and legal perspectives in a manner that adheres to the law and best serves her client.

The range of possible outcomes is broad and any outcome will call for considerable clinical skill. At one end of the spectrum, Dr. D may practice in a jurisdiction that gives her discretion whether to disclose her client's information, in which case Dr. D will make a determination about what is best for the treatment. At the other end of the spectrum, Dr. D may discover that her client has the prerogative to keep this information confidential. Note that in either case, for purely clinical reasons, legal considerations aside, Dr. D may feel that the client should decide for herself whether to accept Dr. D's assessment of the need for additional help or seek treatment from another psychologist. Helping her client work through that decision will require a great deal of clinical skill and tact on Dr. D's part.

In the process of coming to an appropriate clinical and legal course of action, Dr. D will hold onto multiple perspectives, as her training in psychology has taught her. I would encourage Dr. D to begin this process with her clinical thinking. Starting with her background, training and expertise as a psychologist will allow Dr. D to move forward from her strengths and will place her back in charge of the treatment, an outcome that both she and her client are likely to welcome.

ETHICS ROUNDS

The titles we use

Learning Objective: Explore the ethical aspects of titles psychologists use in training and post-licensure.

The titles we choose can play an important role in establishing relationships of trust by accurately informing potential clients of our degrees and qualifications.

Print version: page 70

Recently "Ethics Rounds" received two letters regarding titles. The first letter concerns titles that graduate students sometimes use:

Dear "Ethics Rounds,"

I am director of an organization of graduate students, and notice that some students sign their correspondence "PhD Candidate" or "PsyD Candidate." I have also seen "ABD" after names. What are the ethical implications of using such titles?

The second letter comes from the chair of a state psychological association ethics committee, who writes about a debate in his state:

Dear Ethics Rounds:

...Is it an unethical practice for psychologists in states...which do not license subspecialties in psychology to represent themselves in advertising and other ways (e.g., letterhead, signature lines, telephone communications with potential clients or referral sources) as a "licensed (fill in the blank) psychologist"? Some common examples include: Licensed Clinical Psychologist; Licensed Child Psychologist; Licensed Forensic Psychologist; Licensed Neuropsychologist; etc.

It is my understanding (although I do not know this to be a fact) that some states license subspecialties within psychology such that in those states it may be accurate to describe oneself as a "licensed clinical psychologist" and so on. In states such as [my own], however, which do not license subspecialties, many psychologists describe themselves a "licensed (fill in the blank) psychologist." While some argue that referring to oneself in this manner is acceptable because it merely conveys information relevant to the psychologist's area of specialized training and expertise, others argue that it constitutes misrepresentation of the psychologist's credentials....[A]t least one consumer has complained about the practice...

Recently I sat down for coffee with a journalist who writes for a newspaper distributed widely in the United States and abroad. I was expressing my dissatisfaction with how APA had been portrayed by him and others on a topic that had garnered national and international media attention. I was particularly annoyed by how APA had been compared—unfairly and inaccurately, in my opinion—with psychiatrists on this topic, a point that I impressed upon him at length. After listening carefully and patiently, the journalist replied,

"Dr. Behnke, I understand what you're saying. But if you walked out onto the street and began asking people the difference between a psychologist and a psychiatrist, I would be surprised if more than half the people you stop could accurately describe that difference." While I believe this journalist overstated his point, I also believe that there was something important in what he was telling me.

The vast majority of us are highly engaged in our professional lives and have been so since the beginning of our graduate studies. Psychology is more a vocation than a job. By virtue of our being immersed in our work and in our field, it can be easy to lose our perspective and forget that others, sometimes those who come to seek our services, may understand very little about what we do and what training and credentials are necessary for our work. Often it falls upon us to educate them.

APA views the manner in which psychologists convey their training and credentials as having an explicitly ethical aspect. The ethical component stems from recognizing that the psychologist-client relationship is *fiduciary* in nature. Because the relationship is built upon trust, honesty and openness are integral parts of the relationship. Our honesty and openness also make important information available for our clients' consideration and thus enhance our clients' ability to make more fully informed and autonomous choices about their treatment. The Ethics Code therefore makes honesty and openness about our training and credentials part of our ethical obligations. As an example, the Ethics Code emphasizes the importance of informing clients whether an individual has completed training:

10.01 Informed Consent to Therapy

(c) When the therapist is a trainee and the legal responsibility for the treatment provided resides with the supervisor, the client/patient, as part of the informed consent procedure, is informed that the therapist is in training and is being supervised and is given the name of the supervisor.

As another example, the Ethics Code emphasizes the importance of accuracy and transparency in conveying our credentials:

5.01 Avoidance of False or Deceptive Statements

(a) Public statements include but are not limited to paid or unpaid advertising, product endorsements, grant applications, licensing applications, other credentialing applications, brochures, printed matter, directory listings, personal resumes or curricula vitae, or comments for use in media such as print or electronic transmission, statements in legal proceedings, lectures and public oral presentations, and published materials. Psychologists do not knowingly make public statements that are false, deceptive, or fraudulent concerning their research, practice, or other work activities or those of persons or organizations with which they are affiliated.

(b) Psychologists do not make false, deceptive, or fraudulent statements concerning (1) their training, experience, or competence; (2) their academic degrees; (3) their credentials; (4) their institutional or association affiliations; (5) their services; (6) the scientific or clinical basis for, or results or degree of success of, their services; (7) their fees; or (8) their publications or research findings.

The authors of these two letters to "Ethics Rounds" are struggling with how a particular practice fits with our sensibilities and obligations as ethical psychologists. A similarity between the two letters is that while the meanings and implications of the titles queried about in each are likely apparent to people in the field, they are very likely not apparent to those outside the field. Whether a particular title is misleading therefore requires asking "Misleading *to whom?*"

"PhD Candidate" is a recognized status within academic departments that indicates what degree requirements the student has completed and what remains to be done. "ABD" is not an official status, but is shorthand for where a student stands in an academic program. "PhD Candidate" and "ABD," because they convey information in a clear and succinct manner to those who are familiar with academic programs, can be useful when communicating with colleagues within academic communities. To people outside academic communities or who have never been in a doctoral program, however, these terms may be obscure at best in terms of what they are intended to convey. Many of the people who seek clinical services from psychologists in training will have little or no familiarity with academic culture or nomenclature. Like beauty, clarity is in the eyes of the beholder. The Ethics Code directs us to look through the eyes of the beholder.

The same analysis can be applied to the second letter. "Licensed psychologist" conveys in a straightforward manner that the state has granted an individual a psychology license. When a word such as "child" or "forensic" or a prefix such as "neuro" is placed between "licensed" and "psychologist," the implication is that the state recognizes a status in addition to the status of psychologist. If the state does not recognize any such status, the title can easily mislead someone unfamiliar with the state's licensing law. Note the difference between "licensed forensic psychologist," and "licensed psychologist, with a forensic practice." The latter does not imply that the state recognizes a special forensic expertise or that this psychologist has achieved a level of state recognition over and above that of being a psychologist. "Licensed psychologist, with a forensic practice" implies rather that the psychologist is licensed by the state *and* has a particular area of specialty.

The Ethics Code envisions a relationship of trust between psychologists and their clients. Providing relevant information in a straight-forward and transparent way can be essential to that trust and enhances our clients' autonomy by promoting more fully informed and autonomous choices. The Ethics Code explicitly recognizes the importance of how we present ourselves to our clients, and it is most in keeping with the Ethics Code when we present our credentials—often among the first pieces of information a client receives about us and the services we provide—in an ethically sensitive manner that paves the way for a clinically productive relationship.

ETHICS ROUNDS

APA's Ethical Principles of Psychologists and Code of Conduct: An ethics code for all psychologists...?

Learning Objective: Comprehend how the APA Ethics Code may be applied across a broad range of psychologists' activities.

As psychology continues to grow and develop, challenging the relevance of APA's Ethics Code to particular areas of our field may prove a worthwhile exercise.

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A year or so ago, I was contacted by a psychologist on a mission. Dr. Joel Lefkowitz wanted to debate whether the Ethical Principles of Psychologists and Code of Conduct—APA's Ethics Code—is sufficiently relevant to industrial and organizational (I/O) psychology. Dr. Lefkowitz felt it a mistake to assume that the Ethics Code could adequately address the ethical dilemmas of APA's many divisions (56 at last count), and wanted the issue confronted head-on at the next meeting of Div. 14, the Society for Industrial and Organizational Psychology (SIOP). I appreciated Dr. Lefkowitz for wanting to include the APA Ethics Office in the debate and so readily agreed when he invited me to Dallas for SIOP's 21st annual conference this past May.

The resolution was framed in a simple and straightforward manner: "The APA Ethics Code is inadequate for I/O psychology." I felt the ensuing debate was a success, not because a clear winner emerged but rather because each of the panelists made an important contribution to how a division representing an area of psychology might approach this question. As moderator, Dr. Lefkowitz set the context by reflecting on what it means to belong to a "profession." He suggested that members of a profession set standards of conduct through an ethics code that expresses the profession's goals, values and ideals. This concept of profession had motivated Dr. Lefkowitz to assemble a panel to debate whether APA's Ethics Code adequately meets the needs of I/O psychology.

Arguing on the affirmative side of the proposition—that APA's Ethics Code is *not* adequate for I/O psychology—Drs. Jerald Greenberg and Robert McIntyre addressed the need for "more guidance to do the right thing" and emphasized the close tie between a field's identity and that field's code of ethics. Arguing the negative side of the proposition—that the APA Ethics Code is adequate for I/O psychology—Drs. Rodney Lowman and Deirdre Knapp described ethics as a developmental process, encouraged I/O psychologists to participate when the time comes for the next revision of the Ethics Code, and pointed out that the current code contains provisions that speak explicitly to organizational psychology. During the course of the debate, the group developed and elaborated a metaphor to help think through whether there is a problem in applying the APA Ethics Code to I/O psychology and, if so, how the problem is best addressed.

The metaphor builds upon the aspirational nature of ethical principles in the Ethics Code and the enforceability of the code's ethical standards. Standards, as opposed to principles, provide the basis for an ethics action. Ethical principles are the ceiling to which psychologists aspire; ethical standards are the floor that psychologists do not go below. The metaphor places ethical principles, which are written at a high level of abstraction, up with the moon and the stars, as Principle A, Beneficence and Nonmaleficence, demonstrates in

its first sentence: "Psychologists strive to benefit those with whom they work and take care to do no harm." Ethical principles capture lofty ideas that, by definition, are lofty.

In contrast to ethical principles, enforceable standards are at a lower level of abstraction, at the level of clouds in the metaphor. Standards put the principles such as "Do good and do no harm" into practice. In many instances, the standards indicate how we do good and avoid harm—for example, by ensuring that we are competent when we provide services or that we obtain proper informed consent. While standards are at a greater level of specificity than the principles, standards nonetheless leave significant room for professional judgment and discretion in how psychologists apply the standards in our day-to-day work—between the clouds and the ground where we practice, there is a gap.

The gap between the clouds and the ground is apparent by examining specific standards, as Ethical Standard 3.05, Multiple Relationships, illustrates:

3.05 MULTIPLE RELATIONSHIPS

...A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist....

While this ethical standard states that psychologists refrain from engaging in multiple relationships that impair the psychologist's "objectivity, competence, or effectiveness," the standard does not identify specific relationships that meet this test. Note that an ethics code could never identify every impermissible multiple relationship: Because of the complexity of what psychologists do, such a code would be virtually limitless. Nor would such a code be desirable, insofar as it would remove the judgment and discretion that define a profession.

In the metaphor, the gap between the clouds and the ground—between the standards and our day-to-day practices—is filled by our professional judgment and discretion. As professionals, we bring the standards down to earth. As a profession, then, we need to ask: How wide do we want that gap to be? We can narrow the gap by writing more elaborate and specific ethical standards, which will provide more guidance but leave less room for our professional judgment and discretion. In the alternative, the larger the gap between the clouds and the ground, the less elaborate and specific our standards will be and the more room we will have to exercise professional judgment and discretion.

Applying the metaphor to the debate resolution, we ask where in this framework there is a problem and how the problem is best addressed. Perhaps, for example, the principles, which are at the highest level of abstraction (Beneficence and Nonmaleficence, Fidelity and Responsibility, Integrity, Justice, Respect for People's Rights and Dignity), are not the right principles for I/O psychology. Drawn largely from the biomedical ethics literature, the principles may not adequately speak to I/O psychology and so may need to be re-examined in the next Ethics Code revision.

In the alternative, the size of the gap between the clouds and the ground may need adjusting. A call for more guidance suggests a desire for more specific standards. It is important to recognize, however, that greater specificity in the standards—bringing the clouds closer to the ground—will result in less room to exercise our professional judgment and discretion, so that what we gain in terms of guidance we pay for in terms of the ability to determine what the standards mean in our practices. To the extent that more ethical

guidance is needed, the best alternative to more specific standards may be efforts such as Dr. Lowman's, where I/O psychologists with expertise in ethics write commentaries on how the Ethics Code applies in practice. Commentaries on the code are excellent mechanisms to bring the code down to earth and show how psychologists use their training, expertise and professional judgment to apply the ethical standards.

The debate that Dr. Lefkowitz organized brings ethics into the center of our awareness. His manner of framing the debate resolution focuses us on the values that imbue our professional lives and presses us to think through how those values are best brought to life in our work. Debates that question the very relevance of the Ethics Code present challenges, but may also provide some of the best opportunities to put into words what it means to be an ethical psychologist.

ETHICS ROUNDS

Gossiping about patients

Learning Objective: Grasp a way of analyzing ethical questions that may arise at the boundaries of psychologists' professional and personal lives.

Psychologists talk about patients for many reasons that can be beneficial; gossip is not among them.

Print version: page 70

Recently I had conversations with two colleagues that touched upon the same topic: gossip about patients. In these separate conversations, which coincidentally occurred within the same week, each colleague described a distinct feeling of discomfort from being in a social context and hearing a treating psychologist talk about a patient.

In one instance the patient is a mental health professional whose personal and professional life intersects in more than peripheral ways with those of my colleague—a fact known to the psychologist who disclosed the information over dinner. In the second instance the setting is a small university town and the gossip concerned distinctive features of the patient's life, which left my other colleague wondering whether she might encounter and recognize this patient at some point in the community. Both colleagues found the incidents unsettling yet were unsure of how best to respond.

Psychologists share information about patients for many reasons and in many contexts. We disclose information about our patients in supervision, in consultations and in case presentations. When done properly these disclosures benefit our patients and improve our clinical skills. They can be an essential part of our growth as clinicians. The APA Ethics Code provides a process for how to disclose information in these contexts:

4.05 Disclosures

(a) Psychologists may disclose confidential information with the appropriate consent of the organizational client, the individual client/patient, or another legally authorized person on behalf of the client/patient unless prohibited by law.

(b) Psychologists disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose such as to (1) provide needed professional services; (2) obtain appropriate professional consultations; (3) protect the client/patient, psychologist, or others from harm...

4.06 Consultations

When consulting with colleagues, (1) psychologists do not disclose confidential information that reasonably could lead to the identification of a client/patient, research participant, or other person or organization with whom they have a confidential relationship unless they have obtained the prior consent of the person or

organization or the disclosure cannot be avoided, and (2) they disclose information only to the extent necessary to achieve the purposes of the consultation.

4.07 Use of Confidential Information for Didactic or Other Purposes

Psychologists do not disclose in their writings, lectures, or other public media, confidential, personally identifiable information concerning their clients/patients, students, research participants, organizational clients, or other recipients of their services that they obtained during the course of their work, unless (1) they take reasonable steps to disguise the person or organization, (2) the person or organization has consented in writing, or (3) there is legal authorization for doing so.

As clinicians, there are circumstances outside of formal relationships and contexts when we disclose information about patients for a useful purpose. Every clinician, at some point in his or her career, will struggle with managing intense feelings toward a patient or client, sometimes referred to as the countertransference. A colleague who understands the nature of the work can be enormously helpful; it's the person whom we encounter with a smile (or wince), roll our eyes and say, "You'll not believe what my four o'clock told me today." That communication can strike an outsider as disrespectful. But between colleagues who are trained in this work it can elicit an empathic response and may serve as an invitation for a clinical observation or suggestion. The laughter, anger, sadness, frustration and sense of poignancy our patients evoke in us are part of our lived experience as clinicians. Sharing these feelings, and the incidents that go with them, can help us synthesize and integrate our experiences and grow into more mature and skilled psychologists.

There is an important distinction between these kinds of communications and gossip. First, in these sorts of communications the identity of the patient is almost always irrelevant—the communication is about a dynamic or about the clinician's experience rather than any person's identity. It isn't important who the patient is. With gossip, identity is very often central. Communications shared with individuals who know the patient's identity often veer more toward gossip and risk exposing the patient without any reasonable expectation of benefit.

Second, communications with a legitimate purpose are made professional to professional—that's the point. The communication is to another trained clinician who has a context and an expertise that allows the recipient to hear the material and respond in a particular way. Gossip often happens in the presence of non-clinicians or, even when made to a clinician, the identity of the recipient as a clinician is not particularly relevant to the communication.

Third, communications with a clinical or professional purpose or utility generate one set of feelings in the recipient. Gossip generates another. The recipient of gossip may be titillated, feel special or may simply wish the author of the gossip to stop talking about the patient in this manner or altogether. In the other instance, the recipient will hear the communication as primarily about the treatment or the clinician's experience, not about the person of the patient, which allows for and promotes a different kind of response, ideally one that will benefit the treatment.

Fourth, space and time can be revealing. Social gatherings and public places, such as restaurants, provide relaxed atmospheres where work is set aside, especially in the evening hours. These settings invite gossip, which is a quintessential human social activity. The likelihood that mention of a patient will quickly devolve into gossip rises dramatically when we move away from work-related contexts and working hours.

Fifth, gossip is impossible to defend. If a patient learns that we have gossiped, there is no explanation, only an apology. If a patient inadvertently overhears us sharing an intense reaction—“blowing off steam”—an apology may be in order, but the apology will have a different tenor, and may be placed in the context of an explanation or even discussion of the clinician’s experience of the treatment at that moment in time. (“Yes, I was very frustrated at the end of our last session...”)

The distinction between the two categories of communication is not always entirely clear. When uncertain, it can be helpful to ask, “Why am I sharing this particular information, about this patient, with this person?” Hesitation over whether we would be willing to share our response to these questions with our patient, or a colleague whom we respect were the need to arise, can be a sign that we are closer to gossip than we’d likely prefer.

Gossip about patients is destructive because it exploits. It exploits the willingness of patients to share intimate aspects of their lives and their psyches with us, which is why gossip is troubling from an ethical perspective. Only by accident will a patient ever benefit from being gossiped about; almost by definition the purpose of gossip about patients is entertainment or prurient interest. My friends described a feeling of discomfort upon hearing a colleague gossip about a patient. Such a feeling can be a cue that all is not ethically well.

I was describing this column to a colleague who replied, “You’ll not be much fun at cocktail parties.” That comment captures something important: We can be so focused on ethics that we lose our humanity. We must also be mindful, though, that we have fiduciary relationships with our patients, relationships of trust. Trust is based on respect—if not of the person, then at least of the relationship. Treating patient communications with care is a way of showing respect. Gossip is care-less.

Our Ethics Code is relational. Our principles and our standards describe how we relate to other persons in the very special role we have as psychologists. Having information revealed carelessly violates a basic tenet of the relationship—in the same way we would feel violated were a close friend to take something private and intimate we had shared in the context of the friendship and tell it at a social gathering. I don’t think keeping such intimate confidences will make us any less fun at cocktail parties. I am certain, though, that respecting intimate confidences will make us much better friends.

ETHICS ROUNDS

Ethics and the Internet: Requesting clinical consultations over listservs

Learning Objective: Gain insight into how the Ethics Code may be applied in the context of novel technologies, such as the Internet.

Exploring the advantages and the challenges of obtaining clinical consultations on listservs deepens our understanding of ethics and the Internet.

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Recently two postings on APA listservs caught my attention. In one posting, a psychologist was requesting treatment recommendations for a minor with an unusual source of psychic distress. The condition was likely the cause of considerable shame for the child, and perhaps embarrassment for the family as well. In the listserv request, the psychologist had described the family constellation, age of a sibling, and facts about the family's recent history relevant to the child's current experience. The second posting was a response to a listserv request for a consultation regarding a child's placement. The response was highly directive, calling the current placement for a child with a particular genetic disorder "inappropriate" and recommending another specific placement, in answer to a request for consultation that was very brief and provided no data other than age, current placement and disorder. Both postings offer an opportunity to consider the ethical aspects of using listservs to obtain clinical consultations.

Ethics is a developmental process. As time goes on, new ethical challenges face psychology and as a professional association we come together and think through how our principles apply in these new situations. In the absence of significant and clear harms, it can be beneficial to allow an area of psychology to emerge and develop, and so to allow the ethical questions and challenges to crystallize, before stepping in and setting guidelines or standards. For this reason, I believe the Ethics Code Task Force (ECTF) was wise to resist calls during the previous Ethics Code revision process (1996–2002) to elaborate standards regarding the Internet. Rather, the ECTF recommended language that made clear that the Internet could be part of a psychologist's professional life:

This Ethics Code applies to these activities across a variety of contexts, such as in person, postal, telephone, Internet, and other electronic transmissions. These activities shall be distinguished from the purely private conduct of psychologists, which is not within the purview of the Ethics Code (*Ethical Principles of Psychologists and Code of Conduct*, 2002).

At the time the code was being revised, when use of the Internet remained quite limited for many in our field, the ECTF's statement—that the Internet falls within the purview of the Ethics Code when used as part of a psychologist's professional life—was an important first step in developing this area of our ethics. As psychologists' use of the Internet has increased dramatically, we are now in a better position as a profession to begin examining the emerging ethical issues. The two postings that caught my eye suggest fruitful areas for our attention.

First and perhaps most important are the benefits the Internet offers to psychology. Listservs, as one example, are powerful tools with the ability to create large and immediate communities of colleagues who are then able to provide support and information across a staggering range of issues and professional challenges. The most cursory glance at a psychological association or division listserv will show how much helpful information is shared among colleagues each day. Our discussion of ethics must be placed in the context of how the Internet has the capacity to change our professional lives for the better.

The question then arises regarding the proper uses of the tools the Internet offers. Put most sharply in regard to the postings describing above: What are the ethical aspects of requesting a clinical consultation over a listserv? Two points seem important to consider in thinking about this question.

First, a consultation, by its very nature, is a *dynamic* process. A consultation involves two or more professionals engaging around a particular matter where questions, concerns and issues emerge that are addressed and discussed as recommendations are formulated. A consultation is a professional activity that requires competence in the areas consulted upon, as well as the ability to define the boundaries of the question posed and the opinions or recommendations offered. Both the consultant and the consultee should be aware that they are engaged in a professional activity, that is, the process of obtaining and providing a consultation, with that fact explicitly acknowledged by the psychologists involved.

Second, communications made during clinical consultations are governed by confidentiality, as set forth in Ethical Standard 4.06:

4.06 Consultations

When consulting with colleagues, (1) psychologists do not disclose confidential information that reasonably could lead to the identification of a client/patient, research participant, or other person or organization with whom they have a confidential relationship unless they have obtained the prior consent of the person or organization or the disclosure cannot be avoided, and (2) they disclose information only to the extent necessary to achieve the purposes of the consultation...

Psychologists treat the relationship between consultant and consultee as a confidential relationship, and disclose information in the consultative process "that could reasonably lead to the identification of the client/patient" only if necessary and then only to the extent required for the consultation.

What can we glean from these two points—the first, about the nature of a consultation, the second, about confidentiality in the consultation process—that may inform our thinking about the ethical aspects of obtaining clinical consultations over a listserv? Several issues arise in thinking through the degree to which listservs allow the kind of dynamic process that is central to a clinical consultation. Consider, for example, whether the psychologist requesting the consultation is aware of the competence of those listserv members who choose to respond. Generally, psychologists choose consultants for their expertise and would hesitate to act on a recommendation of a consultant whose qualifications to address the relevant issues were uncertain.

Consider as well the degree to which exchanges on a listserv lend themselves to providing and obtaining the information necessary for a clinical recommendation, while maintaining the bounds of confidentiality. A good recommendation will have a solid foundation in the facts of a case; it takes surprisingly few facts to identify an individual or a family. Obtaining

a client's consent for consultation conducted on an individual basis allows the psychologist to tell the client that the consultant, like the psychologist, is bound by confidentiality. Listservs are another matter entirely. The vast majority of listservs offer no more confidentiality than one could assume if giving a talk at the local library. It seems likely that most clients, if properly informed, would not want their confidential communications disclosed in such a setting.

A third consideration is ensuring that psychologists have an adequate basis for the opinions or recommendations offered as the result of a consultative process (See Ethical Standard 9.01, Bases for Assessments). Ensuring an adequate basis for an opinion or recommendation entails examining both whether the available data support what the consultant concludes, as well as clarifying the limits of what one can say based upon the data provided. Given the limits upon the extent to which a dynamic process can unfold over a listserv, and the strictures of confidentiality about what information can be provided in such a forum, clinical consultations given over listservs will likely entail significant limitations regarding the opinions or recommendations offered. As a result of these limitations, it is highly likely that a frequent recommendation will be to obtain a clinical consultation.

These points do not, of course, detract from the substantial benefits which listservs offer that entail little ethical analysis. Listservs can be enormously helpful in seeking referrals, and in identifying professionals with specific expertise in a given area or literature relevant to a clinical question. Listservs can also be very useful in identifying important clinical considerations for a given condition or disorder and in calling attention to unique complexities and important competencies in certain treatments. When postings on listservs move the focus from more general issues to discussing details of a specific individual's clinical situation, the ethical issues become significantly more complex. Our ethical scrutiny of how we use the Internet therefore rises correspondingly.

Author's note: For a discussion of requests for forensic consultations over listservs, see Joel Dvoskin's column, "Internet Consultation," in the summer 2006 newsletter of the American Psychology-Law Society.

ETHICS ROUNDS

Reflections on media ethics for psychologists

Learning Objective: Comprehend how the Ethics Code applies to emerging areas of the field, such as media psychology.

The media provide wonderful opportunities to educate the public, but also present psychologists with unique ethical challenges to consider.

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We can fruitfully view our ethics from a developmental perspective. As our field grows and evolves, we confront new ethical dilemmas and challenges that then become part of revising the Ethics Code, now in its 10th edition since it was first published in the early 1950s. A history of our Ethics Code will show how that as specific areas of the field emerge and develop over time, such as industrial and organizational psychology, the ethical aspects of this work crystallize and are incorporated into the code.

One would be hard-pressed to find an area of psychology growing more quickly than media psychology, which has experienced a veritable explosion in interest among APA members over the past two decades. With this increased level of interest, which goes in both directions—the public's appetite for psychology seems insatiable—come both opportunities and ethical challenges. Calls to the APA Ethics Office have reflected some of the dilemmas that psychologists interacting with the media have encountered. These challenges range from the relatively straightforward, as when a psychologist is asked to write a newspaper column regarding a specific disorder or local mental health-related event, to the more complex as when a psychologist consults on location to a reality TV program. Below are four questions, culled from calls to the Ethics Office, that may be helpful to you in thinking through the ethical aspects of a media request.

What is my role and the nature of my relationship with the individuals and groups involved?

A request to write a column or appear on a radio or television program may place a psychologist in the role of an expert informing the public. Such a request may provide an excellent opportunity to educate and can reflect favorably on psychology and the individual psychologist. Generally the request comes from a specific source and there is relatively little complexity in assessing one's ethical obligations, which will consist primarily of performing in a competent fashion and of taking care not to leave the impression that a psychologist-patient relationship is created.

Different contexts may call for more complex ethical analyses. As examples, after 9/11, numerous psychologists received requests to be filmed conducting therapy with clients who had been affected by the terrorist attacks. More recently, reality TV programs have approached psychologists and raised the possibility of showing actual therapy sessions in progress; an HBO program, "In Treatment," which features actors in both therapist and patient roles, shows the high level of public interest in psychotherapy. Other reality-based programs have asked psychologists to assess or consult with potential or current contestants.

In each of these cases, the multiple individuals and entities involved may be under the impression that they are the psychologist's primary client and hence owed the psychologist's primary ethical obligations. It is important for psychologists in these instances to think through how the different ethical obligations are weighed and balanced against one another, especially when there is reasonable likelihood that competing obligations may conflict. It is likewise important that psychologists engage in a process of informed consent and clarify how conflicts will be resolved and whose information will be kept confidential.

What degree of control will I have over the final product?

There is a wide range in the degree of control that psychologists exercise over what is ultimately published or placed on air. Psychologists who write columns that are published in a newspaper or read on the radio, for example, may have a high degree of control, subject only to an editor. In other instances, psychologists may have very little control over what the public ultimately views. It is valuable for psychologists who interact with the media to locate themselves on this continuum. Psychologists should be aware of the possibility that they are under the impression of having greater control than they actually do. A friendly TV producer, for example, may consult extensively with the psychologist at the initial stages of a project but be nowhere to be found once the taping is complete and the editing has begun.

The less control that a psychologist has, the more caution is in order. Research into what other projects a producer has done can help assess how responsibly the producer is likely to handle sensitive material. Establishing relationships with a producer over time can increase the level of trust and confidence. At the first encounter with a producer or program, be mindful that the influence you exert over the final product may be exceedingly limited. How you and your work are represented may therefore be in the hands of someone whom you know very little. Remember that the manner in which you are represented will reflect not only on you as an individual, but also on the profession as a whole.

How do the interests of the individuals and groups involved with the project align?

Principle A in the *Ethical Principles of Psychologists and Code of Conduct* (2002) is Beneficence and Nonmaleficence: Do good and do no harm. Do not assume that those in the media with whom you work share this ethical principle and be aware of possible areas of tension between your goals and other participants' goals for the project.

For example, there can be a certain tedium to a psychotherapy, as we slowly and carefully explore an individual's psychological challenges and dynamics. TV programming may gravitate toward the fast-paced and even sensational, thus distorting the nature of the work and casting participants in the programming in a light that neither feels good nor accurately portrays a therapeutic relationship. In the reality TV context, psychologists may be used in a very particular way, namely, to help demonstrate that a producer has exercised due diligence in the participant selection and rejection process.

As you consider whether to engage in a media project, think through how success in the project will be defined by the various individuals and entities involved and explore how you fit into these definitions. Pay particular attention to how vulnerable individuals with whom you interact fit into this analysis. Put simply, ask yourself, "Who may get hurt if this project goes badly, and in whose interest does it lie to make sure that doesn't happen?"

What am I able to say based upon the limits of the available data?

Psychologists are frequently asked to comment on individuals and events that have garnered the public's attention. Ethical Standard 9.01, Bases for Assessments, makes clear that psychologists offer opinions "on information and techniques sufficient to substantiate their findings" and that "psychologists provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions." Standard 9.01 cautions psychologists to remain within the bounds of their data. This cautionary note can be invaluable when an interviewer is pressing a psychologist to make definitive statements regarding a particular individual in the public eye whom the psychologist has neither interviewed nor met. Statements such as, "I can speak only from information that has been published in the media," or "What we know generally about such situations is that ..." can be helpful in ensuring that our interactions with the media are consistent with the Ethics Code.

The media offer many wonderful opportunities to educate the public about all that psychology has to offer. Along with these opportunities, working with the media presents ethical challenges that psychologists do well to consider before embarking on a media project. The lure of a camera or a microphone can be seductive and sometimes clouds a psychologist's better judgment about where ethical pitfalls may lie. APA's Public Communications and Ethics offices are always available to consult with psychologists about their questions and concerns, and happy to offer ourselves as a resource in helping you enter this expanding domain in a competent and ethical manner.