

# APA RESOLUTION on Confidentiality and Reproductive Health

FEBRUARY 2023

In March 2022, the American Psychological Association (APA) reaffirmed its “commitment to reproductive justice, including equal access to legal abortion, affordable contraception, comprehensive sex education, and freedom from sexual violence, with a particular emphasis on individuals from marginalized communities.” Since June 2022, when the U.S. Supreme Court issued its decision to overturn *Roe v. Wade*, many states have proposed, enacted, or resurrected a range of laws to prohibit, significantly restrict, or protect reproductive rights and health care. Given the value of psychology relevant to health care discussions and decision-making and given concerns about these new and emerging legal and regulatory requirements, including how they might impact confidentiality in professional practice, the APA hereby issues the following Resolution. The Resolution is informed by the APA Ethics Code, APA policy on reproductive health, and human rights.

**WHEREAS** confidentiality is central to the practice of psychology;

**WHEREAS** the public benefits from confirmation that psychologists do not share information provided to them in confidence in their role as psychologists aside from information they have a duty to report, clearly disclosed in their consent form;

**WHEREAS** psychologists must be able to speak freely with their patients, and patients must know they have confidentiality when speaking with their psychologists, a concept recognized by U.S. Attorney General Merrick B. Garland in asserting that, despite the U.S. Supreme Court’s overturning of *Roe v. Wade*, “under fundamental First Amendment principles, individuals must remain free to inform and counsel each other about the reproductive care that is available in other states”;

**WHEREAS** Standard 4.01 of the APA Ethical Principles of Psychologists and Code of Conduct (Ethics Code) states that psychologists have a “primary obligation... to protect confidential information”;

**WHEREAS** Standard 4.05 of the Ethics Code provides that psychologists may disclose confidential information only with the appropriate consent of the patient, but may disclose confidential information without such consent only as mandated or permitted by law for a valid purpose;

**WHEREAS** Standard 1.02 of the Ethics Code provides, “If psychologists’ ethical responsibilities conflict with law, regulations, or other governing legal authority,” psychologists have the ethical obligation to “clarify the nature of the conflict, make known their commitment to the Ethics Code, and take reasonable steps to resolve the conflict consistent with the General Principles and Ethical Standards of the Ethics Code. Under no circumstances may this standard be used to justify or defend violating human rights”;

**WHEREAS** Standard 3.04 of the Ethics Code states that “psychologists take reasonable steps to avoid harming those with whom they work” and disclosing confidential information without a patient’s consent may harm the therapeutic relationship and the patient;

**WHEREAS** a 1969 Resolution of the APA Council labeled the termination of pregnancy a civil right of a pregnant woman and a 1989 Resolution of the APA Council decried attempts to recriminalize abortion and limit access to reproductive options;

**WHEREAS**, the APA Council passed a Resolution in February 2022 that states, “reproductive justice, including abortion rights, is a human rights issue” and reaffirmed “its denunciation of abortion restrictions and commitment to obtaining reproductive justice”;

**WHEREAS** the APA and APA Services Inc. provide education, consultation, and advocacy for psychologists to engage in ethical, confidential practices in light of abortion laws;

**WHEREAS** the critical importance of maintaining the privacy of information relating to abortion and other sexual and reproductive health care has been reaffirmed by the U.S. Department of Health and Human Services’ Office of Civil Rights (OCR) guidance on Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule and Disclosures of Information Relating to Reproductive Health Care (June 29, 2022), including that “disclosures to law enforcement officials are narrowly tailored to protect the individual’s privacy and support their access to health services”;

**WHEREAS** the Ethics Code does not require that a psychologist follow the law when a conflict arises between the law and the Code, but instead allows “each psychologist [to]. . . weigh the consequences of their decision when navigating these [reproductive justice] issues and attempt to resolve the conflict in ways that are consistent with the APA Ethics Code based on their own circumstances” (FAQ at <https://www.apa.org/ethics/reproductive-rights.pdf>);

**THEREFORE, BE IT RESOLVED** that the APA that the American Psychological Association, in accordance with the APA policy on reproductive rights, and human rights, affirms that a psychologist’s allegiance to the Ethics Code, including ethical standards related to patient confidentiality, should be given the utmost attention and significance especially when psychologists are faced with ethical conflicts with a law requiring the disclosure of confidential information regarding sexual and reproductive health, including birth control; fertility treatment; contemplating, seeking, or having had an abortion; and related issues.

## REFERENCES

- American Psychological Association. (2022). APA resolution affirming and building on APA’s history of support for reproductive rights. Retrieved January 10, 2023 from <https://www.apa.org/about/policy/resolution-reproductive-rights.pdf>
- American Psychological Association. (2021). APA Resolution on APA, psychology, and human rights. Retrieved January 13, 2023 from <https://www.apa.org/about/policy/resolution-psychology-human-rights.pdf>
- American Psychological Association. (2017). Ethical principles of psychologists and code of conduct (2002, amended effective June 1, 2010, and January 1, 2017). <https://www.apa.org/ethics/code/>
- U.S. Department of Health and Human Services, Office of Civil Rights (n.d.). HIPAA Privacy Rule and disclosures of information relating to reproductive health care. Retrieved January 10, 2023 from [https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/phi-reproductive-health/index.html#footnoteref13\\_lcjws5e](https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/phi-reproductive-health/index.html#footnoteref13_lcjws5e)
- U.S. Department of Justice (n.d.). Attorney General Merrick B. Garland statement on Supreme Court ruling in Dobbs v. Jackson Women’s Health Organization. *Justice News*. Retrieved January 10, 2023 from <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-statement-supreme-court-ruling-dobbs-v-jackson-women-s>

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