

ETHICS

INTRODUCTION

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Whether in research or clinical practice, psychometrists are confronted with a variety of situations that require ethical decision-making. The purpose of this chapter is to provide a framework and general understanding of the principles upon which modern ethics are grounded. These principles are used in a variety of health and research fields, so they can be applied to many different settings. The following five ethical principals have been adapted from the American Psychological Association's Code of Ethics.

Five Principles of Ethics

Beneficence and Non-maleficance

Psychometrists strive to benefit those with whom they work and take care to do no harm. In their professional actions, psychometrists seek to safeguard the welfare and rights of those with whom they interact professionally and other affected persons, and the welfare of research subjects.

Fidelity and Responsibility

Psychometrists establish relationships of trust with those with whom they work. They are aware of their professional and scientific responsibilities to society and to the specific communities in which they work. Psychometrists uphold professional standards of conduct, clarify their professional roles and obligations, accept appropriate responsibility for their behavior, and seek to manage conflicts of interest that could lead to exploitation or harm.

Integrity

Psychometrists seek to promote accuracy, honesty, and truthfulness in the science, teaching, and practice of psychology. In these activities psychometrists do not steal, cheat, or engage in fraud, subterfuge, or intentional misrepresentation of fact.

Justice

Psychometrists recognize that fairness and justice entitle all persons to access to and benefit from the contributions of psychology and to equal quality in the processes, procedures, and services being conducted. Psychometrists exercise reasonable judgment and take precautions to ensure that their potential biases, the boundaries of their competence, and the limitations of their expertise do not lead to or condone unjust practices.

Autonomy and Respect for People's Rights and Dignity

Psychometrists respect the dignity and worth of all people, and the rights of individuals to privacy, confidentiality, and self-determination. Psychometrists are aware that special safeguards may be necessary to protect the rights and welfare of persons or communities whose vulnerabilities impair autonomous decision-making. Psychometrists are aware of and respect cultural, individual, and role differences, including those based on age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, and socioeconomic status and consider these factors when working with members of such groups. Psychometrists try to eliminate the effect on their work of biases based on those factors, and they do not knowingly participate in or condone activities of others based upon such prejudices.

Informed Consent

In both clinical and research settings, the concept of informed consent is vital to disclosing the risks and benefits associated with a procedure or set of procedures. The main purpose of informed consent is to ensure that the researcher or practitioner adhere to and uphold the five principles of ethics in their particular activity. The informed consent process consists of the following elements, which explain:

- (1) the purpose of the research, expected duration, and procedures;
- (2) their right to decline to participate and to withdraw from the research once participation has begun;
- (3) the foreseeable consequences of declining or withdrawing;
- (4) reasonably foreseeable factors that may be expected to influence their willingness to participate such as potential risks, discomfort, or adverse effects;
- (5) any prospective research benefits;
- (6) limits of confidentiality;
- (7) incentives for participation; and

- (8) whom to contact for questions about the research and research participants' rights. They provide opportunity for the prospective participants to ask questions and receive answers.

The Institutional Review Board (IRB) is the entity charged with ensuring research is conducted ethically and responsibly and in accordance with the specified protocol. Most of all, an IRB's main responsibility is ensuring that the rights and safety of research participants are maintained during the course of a study. All research that carries more than minimal risk to a participant must be approved and monitored by an IRB. Most universities have their own IRB's, however private and non-profit facilities must have their research approved through one of the many independent IRB's. All IRB's in the United States fall under the jurisdiction of the Office of Human Research Protections (OHRP), which is overseen by the United States Department of Health and Human Services (DHHS).

Security, Confidentiality, and Privacy

The concepts of security, confidentiality, and privacy are closely intertwined. However, they each represent different ideas and, quite often, are used interchangeably by mistake. This section will show how these concepts are differentiated from each other, but how they are also closely related in both clinical and research settings.

Privacy refers to the freedom and ability of an individual to control the use and dissemination of information that relates to him or herself.

Confidentiality is a tool for protecting privacy. Sensitive information is accorded a confidential status that mandates specific controls, including strict limitations on access and disclosure. Those handling the information must adhere to these controls. An individual's personal and health information include those that were supplied by the individual and those observed by the practitioner during the course of the delivery of care.

Security is the measure that an organization has employed to protect the confidentiality of the patient information. In essence, privacy of an individual's health information depends on the level of confidentiality maintained by organizations, which in turn depends on the security measures implemented by them. Security protects both the system and the information contained within it from unauthorized access, misuse, and accidental damage

References

American Psychological Association Code of Ethics.

<http://www.apa.org/ethics/code2002.html>

National Committee on Vital Health Statistics

<http://ncvhs.hhs.gov/app4.htm>

The National Information Infrastructure Advisory Council, "Common Ground: Fundamental Principles for the National Information Infrastructure," March 1995.

<http://www.ntia.doc.gov/reports/telemed/privacy.htm>

The Office of Human Research Protections

<http://www.hhs.gov/ohrp/sachrp/index.html>

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Practice Quiz

_____ refers to measures taken by an organization to protect the confidentiality of patient information.

- a) privacy
- b) security
- c) autonomy
- d) fidelity

Correct answer is B

Which of the following is the process that involves explaining the risks and benefits of a research study or medical procedure to an individual?

- a) informed consent
- b) intent to treat
- c) full disclosure
- d) debriefing

Correct answer is A

_____ refers to an individual's freedom and ability to control the use and dissemination of information that relates to or is about them.

- a) autonomy
- b) security
- c) privacy
- d) justice

Correct answer is C

Which of the following entities is charged with ensuring that research is conducted ethically and responsibly and that the rights and safety of research participants is maintained?

- a) FDA
- b) IRB
- c) DHHS
- d) OHRP

Correct answer is B

Which of the following refers to an individual's ability to make decisions for themselves based on their own desires and best interests?

- a) independence
- b) confidentiality
- c) justice
- d) autonomy

Correct answer is D

ETHICS

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What is Ethics?

Ethics pertains to a set of principles of correct conduct with respect to the rightness and wrongness of actions and to the goodness and badness of motives, similar to rules or (professional) morals.

Why is Ethics Important?

Ethics offers a guide for professional behavior and characteristics to avoid, providing structuring for decision-making and analysis, a reminder to protect human subjects, and a way to balance the benefit vs. risk to both patients and research participants.

Ethical Responsibilities of Psychometrists:

Though some psychometrists may feel that ethical responsibility is not their issue, but that of the supervising licensed psychologist, those very same psychometrists would be well advised to think otherwise. Psychometrists, just like all other health care workers have an ethical (and sometimes legal) obligation to those they serve, just like the psychologists do. These obligations apply not only to the examinee but also extend to the family of the examinee, the facility/agency/employer, society, the profession and to self.

There are four areas this chapter will focus on: Confidentiality, Competence, Continuing Education and examinee's rights and welfare.

"The aim of ethics is to render scientific-i.e., true, and as far as possible systematic – the apparent cognitions that most men have of the rightness or reasonableness of conduct, whether the conduct be considered as right in itself, or as the means to some end conceived as ultimately reasonable."

– Henry Sidgwick, *The Methods of Ethics*, 1874

Ethics vs. Morality:

Another way to look at ethics is to compare it to morality, though they are not the same. Morality is distinctive from ethics in that it deals with thoughts and behaviors viewed from the perspective of "right" and "wrong," while ethics is an expression of moral institutions focused on applying them in such a way as to convince others of the rational validity of those institutions. Morality has an impulsive quality while ethics tries to side with rationalized decision-making.

Ethical vs. Legal:

Issues are often more likely to be unethical vs. illegal in psychometric issues. For example, sexual relations between a psychometrist and examinee are *unethical* but not illegal. For the Certified Specialist in Psychometry Exam (CSPE), questions about ethics are not concerned with something being legal or illegal, the issue is ethical vs. unethical.

In the USA, every state has ethical guidelines that affirm confidentiality must be breached in cases of suspected child abuse. This is an **ethical** requirement but not necessarily a *legal* requirement.

When faced with the decision as to follow either state law or a code of ethics, it is recommended to follow which ever is *more restrictive*. Better to err on the side of caution.

Confidentiality

Confidentiality is an *ethical* duty to protect examinees from unauthorized disclosures of information given in the normal course of the clinical environment. Most ethical complaints arise out of questions of confidentiality.

Confidentiality refers to an ethical obligation to protect the privacy of examinees – in most circumstances. There are times when examinees automatically waive their right to confidentiality, as in cases of suspected child abuse.

Confidentiality encompasses a great deal more than simply the assessment content but also requires treating the fact of an assessment as confidential. In the normal course of psychometry, in general, you are not to acknowledge you have ever had a professional contact with an examinee. Even the fact that you may not have performed an assessment of an examinee should be kept confidential.

Tip! *The rule of thumb is to not release ANY information about any examinee unless there is a compelling reason to do so AND you have a written release.*

As mentioned above, the most frequent complaint or violation of ethics is a violation of confidentiality in the professional handling of examinee information. Basically, professional handling of confidential information means that the contents will never be divulged in a careless, casual or irresponsible way, discussed or revealed in social conversations or casual inquiries.

The sharing of an examinee's information is to be revealed only if it is *in the best interests of the examinee and with the examinee's full knowledge and informed*

consent and does not pose ethical difficulties for the professional. The problem arises when information is shared between professionals. It is not unusual for medical facilities to transfer medical records from one facility to another – even without obtaining a Release of Information (ROI)! Though the intent is well intended to allow professionals to quickly obtain information the fact remains that ROIs are required, except in order to maintain continuity of care (see HIPAA).

Breaching Confidentiality:

Confidentiality is not absolute. There are times when confidentiality is waived by the examinee.

In research confidentiality can be waived when identifiable information is removed from all documentation making it impossible to identify the examinee. Such methods of disguise are also allowable in disclosing information to others.

In general, disclosures without ROIs is mandated by law when there is an imminent danger to self or others.

When can Confidentiality be breached?

Mandates of breaches of confidentiality:

- Examinee is believed to be a danger to self.
- Examinee is believed to be a danger to someone else*.
- Psychometrist believes that child abuse has occurred by the examinee.
- Psychometrist believes that abuse of an older adult* has occurred by the examinee.
- Psychometrist believes that abuse of a vulnerable person* has occurred by the examinee.

* - *there must be an identifiable victim.*

- **Danger to Self** – Danger to self most often tends to be a case of the examinee wanting to harm themselves such as commit suicide. Suicide is illegal in many states. If the psychometrist believes the examinee is in danger of harming themselves it is incumbent upon the psychometrist to intervene by breaching confidentiality and take appropriate action to ensure the safety of the examinee. Failure to act is not only unethical but may even result in legal action against the psychometrist, psychologist, and the facility.

In cases of potential suicide, the psychometrist should establish a “suicide prevention contract” with the examinee, contact the examinee’s family/friends, or have the examinee seen in the local emergency room. Others suggestions include calling the local crisis clinic, or better yet have the examinee talk to the crisis clinic or suicide prevention hotline. When calling the family/friends, provide only as little information as necessary in order to protect the examinee.

In cases of danger to self, the ultimate responsibility is the welfare of the examinee regardless of confidentiality. Breaching confidentiality is necessary to protect the examinee – and is both ethically and legally permitted.

- **Danger to Others** – Danger to others typically involves the examinee's desire to harm someone other than themselves. The most famous of these cases is the Tarasoff Case (see below). It is incumbent on the psychometrist to warn the intended victim &/or the authorities. In such cases there must be an identifiable victim.

Duty to Warn – the Tarasoff Case:

Probably the most well known case of ethics in the USA is that of the Tarasoff Case.

Historical Background of the Tarasoff Case:

On October 27, 1969, Prosenjit Poddar killed Tatiana Tarasoff. Both had been students at the University of California at Berkeley. They had met a year earlier at a folk dancing class. After a kiss on New Year's, Poddar became convinced they had a serious relationship. Tarasoff told him she was involved with other men and not interested. Poddar became depressed, neglecting his studies and health, speaking disjointedly and often weeping. He talked to a friend about blowing up her room, and was eventually convinced to go to student health. He started therapy with a psychologist on staff, Dr. Lawrence Moore. In August, during his ninth session, Poddar confided to Dr. Moore that he was going to kill Tarasoff when she returned from summer break. Dr. Moore subsequently informed the campus police that he felt Poddar was dangerous and that he should be hospitalized involuntarily. The police picked up Poddar, but after questioning felt he had "changed his attitude" and released him after he promised to stay away from Tarasoff. The psychiatric director, Dr. Harvey Powelson, learned of the situation and instructed his staff not to pursue further attempts to hospitalize Poddar. Poddar stopped seeing Dr. Moore. In October, he went to Tarasoff's house and stabbed her to death with a kitchen knife. He then called the police and asked to be handcuffed.

The California Supreme Court heard the case twice, in 1974 and 1976. The court found the police could be held liable in the first hearing, but not in the second. In contrast to the police, the therapist was consistently held liable because of the "special relation that arises between a patient and his doctor or psychotherapist." Amicus arguments filed by therapist organizations contended that therapists are unreliable at being able to predict dangerousness. Mentioned was one study of 989 people who were considered dangerous by psychiatrists who said they should be maintained in maximum security hospitals, but who were discharged to civil hospitals for legal reasons, 20% returning to the community after one year. In the course of the year, only 7 of 989 had threatened or committed an act requiring maximum-security hospitalization. The court recognized their ruling would lead to unnecessary warnings, but concluded that "once a therapist does in fact

determine, or under applicable professional standards reasonably should have determined, that a patient poses a serious danger of violence to others, he bears a duty to exercise reasonable care to protect the foreseeable victim of that danger."

Many states followed California's lead and now have expectations of a "duty to warn" potential victims.

[Source: <http://www.emotrics.com/people/milton/practice/privacy/tarasoff.html>, retrieved 7/1/08]

What the Tarasoff Case essentially developed into is that all medical and mental health professionals, including psychometrists, have a **duty to warn** (protect) those who are at risk of danger by an examinee (client, patient, etc.). The duty includes contacting the intended victim, their family, police or taking other steps to safeguard the intended victim. In order to meet these criteria, there must be an **identifiable victim**. And to document the steps taken, including attempts to consult with the supervising licensed psychologist &/or applicable facility administrator if applicable. It is well within the scope of practice for the psychometrist to contact the authorities directly in cases of imminent danger.

As such, the Tarasoff case is not absolute since the requirements include having a specific victim in mind vs. reporting how they obtain alcohol or street drugs. Other exceptions may include an examinee that reveals they killed someone a decade ago but was never questioned by police, states their spouse wants to kill a co-worker, or even if the examinee makes a comment that they are "mad enough to kill someone." In this last example, please make sure you question if there is an intended victim because if there is then the duty to warn is enforced. In the first exception, it would be advisable to encourage the examinee to talk to police. In all instances you are required to document what was said and what actions were taken.

- **Child Abuse** – In all USA states there are mandates that professionals are required to report suspected cases of child abuse – this applies to psychometrists as well. If a psychometrist does not report the suspected child abuse this can lead to legal action against the psychometrists, their facility and the supervising licensed psychologist. But by reporting the suspected abuse the state can grant immunity from civil or criminal liability when the psychometrist has made the report in good faith. Child abuse has no time limitation as long as the victim was a minor at the time of the abuse, and the psychometrist still has an obligation to file a child abuse report.

If the psychometrist learns of a case of child abuse and this occurs while the psychometrist is outside their professional capacity, it is at the psychometrist's discretion to make a report – just like any other public citizen. In such cases, it is advised to call the national Child Protective Services hotline or the local office and discuss your concerns in confidence.