CAUTION:
CONTROVERSIAL LEGAL CASES
WILL BE DISCUSSED

3.5 Hours in Two Sections

Client Welfare, Therapist Responsibility
When Therapist Values
And Diversity Ethics Codes Conflict

FOR YOUR INFORMATION
Oh No! EPPP Step 2
www.asppb.net/

Skills-based EPPP for initial psychology licensure
Currently under development – Further information above

- **Step 1** measures the foundational **knowledge** required for the independent practice of psychology
- **Step 2** provides an examination of the **skills** one needs to practice independently as a psychologist
- **Step 2** assessed by the “ASPPB Competencies Expected of Psychologists at the Point of Licensure”
- **Step 2** will be validated by the 2016 Job Task Analysis
  - Skills include relational skills, intervention and assessment skills, ethics, systems thinking, and professionalism
Standard 3.04 Avoiding Harm

(a) Psychologists take reasonable steps to avoid harming their clients/patients, students, supervisees, research participants, organizational clients, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.

ADDITION

(b) Psychologists do not participate in, facilitate, assist, or otherwise engage in torture, defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person, or in any other cruel, inhuman or degrading behavior that violates 3.04(a).

Keep Watch: AB2407

• Health services plan must cover patient services provided by telehealth at the same rates as in-person services

• Note: Texting, chat, email may be acceptable however, they will not be covered under this AB
Ethics and Critical Thinking  
Pope & Vasquez, 2011, p. 16

The club of ethically perfect therapists – those with flawless ethical judgment and fallacy-free ethical reasoning – is snobbishly exclusive. So far, no one has qualified for membership.

CE vs Competence

• CE – refresher of what you already know

• Competence – Learning new skills

• Hopefully this workshop has both
REMINDER - TERMINOLOGY

What is the Difference

CONFIDENTIALITY
ETHICS term
Agreement with client
Keep session material private

PRIVILEGE
LEGAL term
Court, subpoenas
Release of records

Ethics Committees

- General Counselors
  - American Counseling Association (ACA) Code of Ethics
- Psychologists
  - APA / State ethics committee
- MFTs
  - AAMFT / State Code
- LCSWs
  - NASW / CSWA
- Addiction Counselors
  - NAADAC
Does Therapy Work?

• Psychotherapy as an effective intervention
  – **80%** of population who get therapy are “better off” than those who do not (Wampold, 2010)
  – **5% - 10%** of therapy clients end up feeling worse (Lambert, 2010)
  • Core reason for ethical standards of practice

EXAMPLE VIGNETTE

Seventeen year old Archie tells his therapist at the fourth session that the claim he made of sexual abuse by his stepfather is not true. He now reports he fabricated the story because he wanted his mother to leave his stepfather who has treated his mother badly. Archie made the statements about abuse to his coach, who reported the statements to authorities. As a result, Archie began seeing his therapist, Annette, who was informed of the abuse report when she began individual counseling with Archie.
Practice Vignette
Welfel, 2013, p. 13

SEVERE DILEMMA

- Potential harmful consequences no matter what therapist does
- Reference to Ethics Codes does not resolve issue
- Ethics Codes provide guidance regarding Archie’s confidentiality
- Therapist needs more information
- What are the limits of confidentiality?
  - Danger to self or other; Child abuse; Elder/Dependent abuse

Five Virtues for Ethical Practice
Five Virtues for Ethical Practice

1. **Integrity**
   - Acting consistently upon deeply held personal values
   
   "Nothing is at last sacred but the integrity of your own mind."
   
   *Ralph Waldo Emerson, poet (1803-1882)*
   
   Awareness of own values
   
   • Monitoring counter-transference reactions

---

2. **Prudence**

Act with discernment, honesty, **sensitivity** and selectivity
Five Virtues for Ethical Practice

3. **Trustworthiness**
   
   - Follow through on promises and commitments
   
   “I don’t need a certain number of friends, just a number of friends I can be certain of.”
   
   Alice Walker (1944) Pulitzer prize winning author

4. **Compassion**
   
   Deep concern with another’s welfare and sympathy with his/her pain
Five Virtues for Ethical Practice

5. **Respectfulness**

Attitude that recognizes others’ concerns and respects their dignity

The six most important words in psychology are…

| CONSULT | DOCUMENT |
| CONSULT | DOCUMENT |
| CONSULT | DOCUMENT |
Question:
Do Courts Make Law?

TWO ELEMENTS OF LAW

STATUTE
Legislative Process
Codified thereafter

CASE LAW
Higher court’s ruling
Becomes precedent

Multicultural Competence
Welfel, 2013;

“Multicultural competency is a subset of clinical competency.”
(p. 66)
Professional & Personal Values

Competing Rights and Conflicting Values

- Ethical issue for supervisors and supervisees
- Four legal cases that started it all
- Extremely CONTROVERSIAL topic

Competence
Understanding the feelings of individuals that are ethnically and culturally different from oneself

Theory Assumes
Empathy toward others increases when the other is similar to oneself

Ethnoultural Empathy
Multicultural Personality Questionnaire
Van der Zee et al, 2013.

**Multicultural Personality Questionnaire (MPQ)**

- Personality assessment questionnaire
- **FIVE SPECIFIC FACTORS MEASURED**
- It measures and evaluates behavior when interacting with people of cultures different from oneself
- MPQ use:
  - To predict how easily people adjust to other cultures
  - How easily one feels comfortable with other cultures

---

**Five Personality Factors assessed by the MPQ**

1. **Cultural Empathy Factor**

- Capacity to identify with feelings, thoughts, behaviors of people from cultures different from one’s own

**HIGH SCORES**
More easily identify with other cultures

**LOW SCORES**
Have difficulty identifying with other cultures
Multicultural Personality Questionnaire
Van der Zee et al, 2013.

**Five Personality Factors assessed by the MPQ**

2. **Open-mindedness Factor**
   - Assesses capacity to be open and unprejudiced
   - Does one understand the rules and values of others

<table>
<thead>
<tr>
<th>HIGH SCORES</th>
<th>LOW SCORES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open, unprejudiced attitude toward others and to new ideas</td>
<td>Characterized by attitude and tendency to stereotype and judge</td>
</tr>
</tbody>
</table>

3. **Social Initiative Factor (1)**
   - Assesses tendency to approach social situations actively and take initiative
   - Determines degree one interacts easily with people from cultures other than one’s own
Five Personality Factors assessed by the MPQ

3. Social Initiative Factor (2)

**HIGH SCORES**
- Active in social situations and takes initiative
- Tends to be out-going when in another culture
- Able to take chances & risks

**LOW SCORES**
- Less inclined to take initiative
- More reserved and stays in the background
- Less able to take chances and risks

---

Five Personality Factors assessed by the MPQ

4. Emotional Stability Factor

- Degree people remain calm under stress
- Impediments differ among cultures due to;
  - Political system, lack of means and resources, finances
- How one adjusts to adversity

**HIGH SCORES**
Remain calm in stressful situations

**LOW SCORES**
Strong emotional reactions to stress
Five Personality Factors assessed by the MPQ

5. Flexibility Factor

- Ability to adjust to new, unknown situations
- Modify strategies to suit client’s culture

**HIGH SCORES**
- Perceive new and unknown situations as challenges
- Can change behavioral patterns in response to new, unexpected circumstance of another culture

**LOW SCORES**
- Perceives unknown situations as threats
- Tends to stick to trusted behavioral patterns
- More difficulty adjusting oneself to new cultural circumstances
Multicultural Personality Questionnaire
Van der Zee et al, 2013.

Multicultural Personality Questionnaire
For more information please see:
Multicultural Personality Questionnaire: Development of a Short Form
HYPERLINK
http://www.tamas.com/sites/default/files/MPQ.pdf

Van der Zee, Van Oudenhoven, Ponterotto, Fietzer

Dr. Derald Wing Sue
Columbia University

We can all be awkward
We all want to understand each other
We all want and need competence
We will all make blunders

“The importance is how you recover, not how you cover up.”
Competing Rights and Conflicting Values

- Ethical issue for supervisors and supervisees
- Four legal cases that started it all

Value Neutrality
“In contrast to rights as a citizen, when a person is enacting the role of a counselor ...the counselor is required to follow the ethical guidelines even if the guidelines conflict with personally held beliefs and values.” p. 41
Bracketing

“Managing personal values so they do not contaminate the counseling process...” (p. 70)

Bracketing

“Setting aside personal values that are not in line with the legitimate counseling goals of the client.”

• Suspending personal values...
  • Without giving them up
• Awareness of impact upon client
• Trainee’s constitutional rights...
Freedom of Speech

- The right, guaranteed by the First Amendment to the U.S. Constitution, to express beliefs and ideas without unwarranted government restriction.

Bracketing Example

Student therapist Bill tells his supervisor if a couple comes to him in conflict, his goal would be to keep them together. He reports if the couple refuses to work on staying together, he would refer them to another therapist because his belief is that once married, they should respect the sanctity and permanence of marriage.
Bracketing Example

• Couple enters therapy to work on amicable separation
• Imposition of therapist’s beliefs upon couple is inappropriate
• Supervisor helps student therapist identify personal values
• Work done on “bracketing” values that are not congruent with couple’s needs

What Are Appropriate Referral Situations for Licensed Professionals

• Lack of therapist’s competence
• Therapist’s impairment
  • Illness or emotional stress
• Referral should be a “last resort”
  • After consultation, research, education
  • After personal reflection
Referral and Discrimination

- Lack of competence should not be used as excuse to discriminate
- Unethical to refer based on personal values that are incongruent with ethics codes

“The needs of the client are put before the needs of the therapist… referral, discrimination and abandonment cannot be made on the basis of personal beliefs.”

Distinguishing the Difference

Paprocki, 2014; Shiles, 2009

Competence vs Discrimination

Competence
- Transgender counseling
- Very specialized methods
- Gender reassignment

Discrimination
- Referring gender issue due to disgust or rejection
- Patient abandonment
Distinguishing the Difference  
Bieschke, 2014

**Referral vs Reassignment**

**Referral**
Supervisor is responsible for assigning clients to trainees and ensuring proper client care. Trainee may NOT make decision to refer

**Reassignment**
Supervisors exercise judgment about when client-trainee relationship is not serving the client. ONLY supervisor may reassign client

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**Professional & Personal Values**

**Practice Vignette**
Therapist Monica has been working with Ledonna on other issues for several years when she reports she is unexpectedly pregnant. She wants to explore all her options with Therapist Monica because she is unsure what to do. Therapist Monica does not believe in terminating a pregnancy and thinks she would have to end treatment with Ledonna if she made this choice. She feels it is her responsibility to discourage abortion first.
Professional & Personal Values

Practice Vignette Ethical Issues

• Inappropriate imposition of therapist’s values upon client’s decision making
• Lack of objectivity is therapist’s issue
  • Not client’s issue
• Advice giving is inappropriate
• Responsibility to seek consultation
• Potential patient termination
  • Due to disapproval

Professional & Personal Values
Paprocki, 2014; Shiles, 2009

Discriminatory Referrals

The overuse of client referral often involves discriminatory practices that are rationalized as ways to avoid harming the client and ‘practicing beyond one’s level’ and have gone unnoticed and unchallenged.
Value **IMPOSITION:**

- Direct attempt to influence client to adopt therapist’s:
  - Values
  - Attitudes
  - Beliefs
  - Behaviors
- Either actively or passively

---

**Example:** Addiction treatment

- Belief in “higher power”
- Attempt to influence client to accept therapist’s version of “higher power”
  - Client's values take precedence
**Professional & Personal Values**  
Corey et al., 2015

**HANDLING** Conflict of Values

**Example:** Addiction treatment

- Not an automatic referral
- Work through issues successfully
- Explore therapist’s part of conflict
- Consult with colleague

---

**Conflict of Values**

“Vulnerable clients need understanding and support rather than judgment... therapy is about working with clients within the framework of their value system.”
“Value Neutrality” not completely possible

- Personal values influence clients
- “Our task is not to approve or disapprove of clients’ values but to help them explore and clarify their beliefs.”

“Value Neutrality” not completely possible

- Vital to be open minded
- Not to teach moral values
- Emphasis is on client’s problems… not on therapist’s problems with the client
Professional and Personal Values

See Ethics Codes:
- APA 1.02
- ACA H.1.b
- CAMFT 1.4
- AAMFT 6.1
- NASW 1.02

Conflict in Personal & Professional Values
Welfel, 2013

Personal and Professional Values are at Odds
- Examples:
  - Duty to share message of religion
  - Right to life vs. right to choose
  - Death with dignity
- Confront conflict openly and honestly
Conflict in Personal & Professional Values
Welfel, 2013, p. 23

Personal and Professional Values
• Commit to professional values that do not negate personal beliefs
• It is unacceptable and unethical is to feign agreement in order to impose personal beliefs on clients

Professional & Personal Values
Corey et al., 2015; Bieschke, 2015; Paprocki, 2014; Forrest, 2012

Mandatory to Clarify Own Beliefs:
• Therapist cannot help the client explore his/her own beliefs without understanding one’s own beliefs
• Trainees are allowed a “developmental” approach to gain competency
  – Openness to diverse populations
  – Dealing with conflicts when religious beliefs conflict with diversity ethics requirements
## Dualing Ethics Codes

<table>
<thead>
<tr>
<th>DISCRIMINATION</th>
<th>SCOPE OF COMPETENCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>• MH professionals do not discriminate based upon sexual orientation or against any population</td>
<td>• MH professionals do not practice outside of their competence</td>
</tr>
<tr>
<td>• MH professionals promote social justice</td>
<td>• MH professionals do not treat clients outside of their scope of competence</td>
</tr>
</tbody>
</table>

### Controversy within the Profession

Cox, 2013; Paprocki, 2014; Wise et al, 2015

**Controversy in supervising trainees/interns:**

- Are Christian counselors who cannot affirm same-sex relationships experiencing religious discrimination due to their values?
- Are they discriminating against others?
- Are they being asked to practice outside their competence?
- Must they gain competence?
Controversy within the Profession
Cox, 2013; Paprocki, 2014; Wise et al, 2015

The current status
See “Values Statement” (CCPTP)

http://www.ccptp.org/ccptp-model-training-values-statement-addressing-diversity
Controversy within the Profession
Bruff vs North Mississippi Health Services, Inc.

2001 Controversial Case
• Sandra Bruff was employed by a group practice in Mississippi
• Bruff contended her religious beliefs would not allow her to counsel “homosexual clients on relationship-related topics”
• She considered it her right to refer such cases to others in the practice

Controversy within the Profession
Bruff vs North Mississippi Health Services, Inc.

2001 Controversial Case
• Group attempted to accommodate Bruff with another position where such conflicts were less likely to occur
• Bruff was eventually terminated when no position could be found that prevented her from possible treatment of a person in a same-sex relationship
• She sued the group practice, claiming she was discriminated against because of her religion
Controversy within the Profession
Bruff vs North Mississippi Health Services, Inc.

2001 Controversial Case
• An appeals court ruled in favor of the defendants, finding Bruff’s request would “create an undue hardship on the group practice”
• Court found asking an employer to accommodate such referrals may not be a legally defensible position
• Bruff’s inflexible position resulted in hardship to her colleagues

Controversy within the Profession
Walden vs. Centers for Disease Control an Prevention (CDC) (2010)

2010 Controversial Case
• 2007 employee for CDC sought counseling at company EAP for same-sex relationship issues
• Walden, an EAP counselor, told client her needs conflicted with the therapist’s values
2010 Controversial Case

- Walden referred client to another counselor
- Client filed complaint against Walden

Even though new counselor was satisfactory, she “felt judged and condemned” and claimed her “nonverbal communication also indicated disapproval.”

2010 Controversial Case

- Walden’s employer instructed her to “refer future clients without mentioning her religious objections or personal values.”
- Employer objected to her general practice of disclosing her judgment rather than simply referring LGBTQ clients
Controversy within the Profession
Walden vs. Centers for Disease Control an Prevention (CDC) (2010, p. 9)

2010 Controversial Case
• Walden refused the instruction and was laid off
• She failed to seek work in other positions within the company
• Walden claimed termination entailed religious discrimination

Controversy within the Profession
Walden vs. Centers for Disease Control an Prevention (CDC) (2010, p. 9)

2010 Controversial Case
• Court ruled against her basing decision on:
  • “The manner in which Walden handled the situation”
  • Rather than her religiously based refusal to provide same-sex relationship counseling
Controversy within the Profession
Walden vs. Centers for Disease Control and Prevention (CDC)
(2010, p. 9)

2010 Controversial Case
Legal Conclusion:
“When counselors take such rigid positions, it appears that courts will likely uphold the right of employers to terminate their employment.”

Controversy within the Profession
Cox, 2013. p. 3

Current Issue:
Diversity Values Among Counselors
• Religious beliefs based upon interpretation of scripture
  There is an “ethical responsibility to separate those feelings from one’s role as a counselor.”
• Student therapists report feeling “discomfort”
Distinguishing the Difference
Paprocki, 2014; Shiles, 2009

Non-competence vs Discrimination

**Non-competence**
Lack of competence “acculturation model” to gain competence and resolve personal conflict during training

**Discrimination**
Lack of “comfort” reported by trainees. Critical issue is client welfare
See next slide….

Competence versus Conscience
Clay, 2015

Linda Forrest, Ph.D.
University of Oregon
- Chair of APA working group
- Focused upon diversity, competence and the conscious clause
  “We need to be pro-competence, not anti-religion.”
“Conscientious Objector” began in civil war

- A conscientious objector is an "individual who has claimed the right to refuse to perform military service" on the grounds of freedom of thought, conscience, or religion. (Wikipedia)
- Has more recently moved into mental health arena
- Especially with regard to training student therapists

"Our position is that the training of [psychotherapists] requires that students become competent to deal with a wide cross section of future client populations and that trainees are not in the position of dictating which populations they will or will not see."

Balance in Training and Diversity
Student Training Requires Balance

Production of competent, well-rounded professionals

Respect for student trainee’s beliefs and developing identity

Competence versus Conscience
Clay, 2015

Suggestions for Student Therapists

• Consultation with like-minded therapists who share similar beliefs
• Graded exposure through role-plays, demonstrations, and co-therapy experiences
• Increase supervision
  – Closer monitoring of session recordings, more frequent meetings

Paprocki, M. (2014)
ETHICS & BEHAVIOR, 24(4), 279–292
Suggestions for Student Therapists

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Paprocki, M. (2014)
ETHICS & BEHAVIOR, 24(4), 279–292

Suggestions for Student Therapists

- Peer group discussions of values conflicts
- Help supervisees develop skills to hold conflicting attitudes/values simultaneously
- Consultation with partners in the religious community
  - Helps gain insight/perspective on student’s value conflict

Paprocki, M. (2014)
ETHICS & BEHAVIOR, 24(4), 279–292
Controversy within the Profession
Cox, 2013

Christian Counselors Who Cannot Affirm
Same-Sex Relationships:

Four _controversial_ differing points of view:

1. Do not provide counseling to same-sex population if therapist has beliefs against same-sex relationships
   - Refer to colleague despite ethics code requirement for non-discrimination
   - *This has been the standard of care*....
   - Best interests of this client

2. ALL therapists should be obligated to _affirm_ same-sex orientation
   - Put aside own belief system for sake of client
   - *This is the current trend*...
   - Remediation to bracket central religious beliefs
Definition of “Affirm”
Merriam Webster

- To state as fact
- Assert strongly and publicly
- To support or encourage

Controversy within the Profession
Cox, 2013

Christian Counselors Who Cannot Affirm Same-Sex Relationships:

Four **controversial** differing points of view:

3. Therapists with negative attitudes about same-sex relationships should not provide counseling services to sexual minorities
   - Considered a breach of diversity ethics
Christian Counselors Who Cannot Affirm Same-Sex Relationships:

Four controversial differing points of view:

1. Therapists should leave counseling profession
   - Or work in setting where ethics code is not required to practice
   - Refusal to work with same-sex clients is a breach of diversity ethics codes

   This is considered harsh and extreme in some locations, but not all…

Four Lessons from these Two Cases

Behnke, 2012

Lesson One

• The court reaffirmed that training programs are responsible for ensuring that trainees are familiar with professional ethics codes
• Schools may adopt policies that prohibit discrimination consistent with ethics codes
Proper Terminology – LGBTQIA
    or LGBTQ Plus

L – Lesbian
G – Gay
B – Bisexual
T – Transsexual
Q – Questioning
I - Intersex
A - Asexual

Suggestions
• NEVER attempt to change orientation
  • Provide strategies to deal with client’s feelings
• LGBTQ clients often have strong religious faith but encounter exclusion
  • “Reparative” therapy is illegal in California for minors

Working with Culturally Diverse
Sue & Sue, 2016
Conversion Therapy Ban

Use of conversion therapy on minors is banned in the states of Vermont, California, New Jersey, Illinois and Oregon, as well as the District of Columbia.

- Ohio
- Oregon
- Florida
- Illinois
- Washington
- New York
- Pennsylvania
- Vermont
- New Jersey
- Washington, DC
- California

☐ Ban on conversion therapy for minors on the basis of sexual orientation and gender identity
☐ No ban on conversion therapy for minors on the basis of sexual orientation
Empathic Morality
Elliott, 2011

Perspectives: Empathic Morality

Both / And (mature)
Therapist retains personal beliefs and values while accepting client’s personal beliefs and values

Either / Or (splitting)
There is only one correct point of view and therapist cannot ethically accept alternative views held by others

Suggestions
• Use person- or client-centered attitude
• Lack of authenticity will be apparent
• Communicate empathy and genuineness
• “Unconditional positive regard and empathy are inseparable.” p. 43
Preparation Professional Psychologists to Serve a Diverse Public: Addressing Conflicts between Professional Competence and Trainee Beliefs

Hyperlink to APA Recommendations

Suggestions for Graduate Programs
1. ALL documents should stress required adherence to DIVERSITY ethics codes

Paprocki, 2014 suggests
- Develop set of “core values” for profession
- Respect for differences
- Flexible, open to new ideas
- Willing to learn about others
- Open to introspection and self evaluation
Conflicts with Values and Ethics
Tyson, 2010

Suggestions for Graduate Programs
2. Prior to interview for admission, ethics code is sent to each interviewee
   • Discuss diversity questions
   • Student agreement or disagreement with diversity issues being raised in ethics codes

Conflicts with Values and Ethics
Tyson, 2010

Suggestions for Graduate Programs
3. New student orientation should include discussion of adherence to diversity ethics codes
   • Signed informed consent between student and graduate program
   • Adherence to ethics code with regard to counseling diverse clients
Conflicts with Values and Ethics
Tyson, 2010

Suggestions for Graduate Programs
4. Integrated discussion including diversity and **pluralism**

A condition in which many cultures coexist within a society while maintaining their cultural differences

Conflicts with Values and Ethics
Tyson, 2010

Suggestions for Graduate Programs
5. Faculty demonstrate adherence to diversity ethics code
   • During formal and informal settings
   • Presentation of issues in all classes
   • Remind students that educators function as “gatekeepers to the profession”
   • Ultimate duty: protection of the public
**Legal Framework and Values Discrimination**

Two precedent setting cases
2. Jennifer Keeton: Keeton v Anderson (2011)
   • Led to significant changes in Codes of Ethics
     – ACA
     – AAMFT

**Freedom of Speech**

*First Amendment Rights*

*Freedom of speech in the United States* is protected by the *First Amendment* to the *United States Constitution* and by many state constitutions and state and federal laws.

...The freedom of speech is not absolute; the Supreme Court of the United States has recognized several categories of speech that are excluded from the freedom, and it has recognized that governments may enact reasonable time, place, or manner restrictions on speech.
Four Regulatory Bodies
1. New ACA Code of Ethics, 2014

New ACA Code of Ethics, 2014

MISSION OF ACA
The mission of ACA is to enhance the quality of life in society … and to promote respect for human dignity and diversity.
Changes to ACA, 2014
www.counseling.org

**ACA C.5 Non-discrimination**
Counselors do not condone or engage in discrimination against prospective or current clients, students, employees or research participants based upon…

(age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital/partner status, language preference, SES, immigration status, or any basis prescribed by law.)

---

**ACA, 2014**

**A.4.b. Personal Values**
Counselors are aware of their own values, attitudes, beliefs, and behaviors and avoid imposing values that are inconsistent with counseling goals. Counselors respect the diversity of clients, trainees, and research participants.
**ACA, 2014**

**A.11.b. Inability to Assist Clients**

*If counselors determine an inability to be of professional assistance to clients, they avoid entering or continuing counseling relationships. Counselors are knowledgeable about culturally and clinically appropriate referral resources and suggest these alternatives.*

103

**ACA, 2014**

**A.9.b. Counselor Competence, Choice, and Referral**

*Recognizing the personal, moral, and competence issues related to end-of-life decisions, counselors may choose to work or not work with terminally ill clients who wish to explore their end-of-life options. Counselors provide appropriate referral information to ensure that clients receive the necessary help.*

104
AAMFT Code of Ethics, 2015
www.aamft.org

**AAMFT 1.1 Non-discrimination**
MFTs provide professional assistance to persons without discrimination...

...on the basis of race, age, ethnicity, SES, disability, gender, sexual orientation, gender identity or relationship status.

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For side-by-side comparison of 2012 & 2015
www.aamft.org/imis15
Social workers promote social justice and social change with and on behalf of clients. Social workers are sensitive to cultural and ethnic diversity and strive to end discrimination, oppression, poverty, and other forms of social injustice.

3.01 Unfair Discrimination

In their work-related activities, psychologists do not engage in unfair discrimination based on age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, socioeconomic status, or any basis proscribed by law.
Jennifer Keeton, a student at Augusta State University (ASU), sought a court order requiring ASU to reinstate her in a graduate-level counseling program even though she insisted on a right – rooted in her religious beliefs – to counsel lesbian, gay and bisexual clients that being gay is immoral.

ASU’s counseling program requires its graduate students to adhere to the American Counseling Association’s Code of Ethics, which prohibits counselors from discriminating based on sexual orientation, among other characteristics, and requires them to avoid imposing their values on their clients.
Keeton vs Anderson
December 20, 2011

The American Civil Liberties Union and the ACLU of Georgia filed a friend-of-the-court brief supporting ASU’s right to require its students to comply with these professional standards when counseling clients.

Status: The U.S. Court of Appeals for the Eleventh Circuit held that a public university graduate counseling program can require its students to follow the American Counseling Association’s Code of Ethics. The court rejected Ms. Keeton’s claims that her rights to religious freedom and free speech under the United States Constitution barred the university from enforcing the code of ethics in her case.

David Kaplan Article


http://www.counseling.org/docs/default-source/ethics/ethical-implications
The Eastern Michigan University (EMU) student who was reportedly expelled from a counseling program because of her views on gay and lesbian lifestyles has resolved her legal battle. As the Detroit Free Press is reporting, EMU announced it had settled a 2009 lawsuit filed by Julea Ward, a former student who had been enrolled in a masters' counseling program when she asked her superiors to refer a gay client to someone else. "EMU has made the decision that is in the best interest of its students and the taxpayers of the state of Michigan to resolve the litigation rather than continue to spend money on a costly trial," Walter Kraft, EMU's vice president for communications, he said in a written statement.

Ward was given a $75,000 settlement from the university. Among those to praise the settlement was Ward's legal counsel, Jeremy Tedesco. "Public universities shouldn't force students to violate their religious beliefs to get a degree," he is quoted as saying. At the time of her dismissal, Ward claimed to have told professors that her Christian faith prohibited her from affirming homosexual behavior, which she believed was immoral and a choice. She was expelled shortly thereafter despite being just a few classes short of her degree.
In a YouTube video for the Alliance Defense Fund describing her case, Ward said, "I had never refused to counsel homosexuals, I had simply refused to affirm their lifestyle." After requesting a formal review hearing, Ward noted, "I was met with more intolerance...unanimously, they decided to expel me from the program."

Professional & Personal Values
Martz & Kaplan, 2014

Two Legal Cases and Ethics
“These cases brought to light counselors discriminating against entire classes of people in favor of their own values.... That type of referral is clearly inappropriate and a violation” of ethics codes. (p. 2)
Julea Ward Case Follow Up

SUMMARY

Julea Ward was dismissed from a counseling program at Eastern Michigan University in 2009 after she refused to counsel a gay student based on her Christian religious beliefs and, according to school officials, declined to work with the university to resolve the issue.

Michigan's House passed a bill that prohibits the state's public universities from taking such action in the future. The bill HB 5040 is being called the “Julea Ward freedom of conscience act” in honor of Ward.

HB 5040 becomes LAW
**Conscience clause** is a legislative provision that relieves a person from compliance on religious grounds.

HAS BECOME A STATE BY STATE ISSUE

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The “Conscience Clause”

*In California*

- Abortion conscience clause exists
- Pharmacist “right of refusal” laws exist
  - Refusal to fill prescriptions
  - Birth control; morning after pill
- Currently no such religious conscious clause exists
- All ethics codes take a strong stand
The “Conscience Clause”

Arizona Law: HB 2565 becomes LAW

Training programs shall not discipline or discriminate against a student in a counseling, social work, or psychology program because the student refuses to counsel a client about goals that conflict with the student’s sincerely held religious belief if the student consults with the supervising instructor or professor to determine the proper course of action to avoid harm to the client.
## Four Lessons from these Two Cases

**Behnke, 2012, p. 194**

### Lesson One
- The court recognized the prerogative of schools to adopt policies that prohibit discrimination based on a code of ethics
- The courts viewed adopting such policies as squarely within the school’s purview to establish policies that further legitimate curricular objectives
- Training students in the ethics of the profession is certainly a legitimate curricular objective

### Lesson Two
- The court reaffirmed that trainees may not impose their values on clients
- Training programs do not risk violating the Constitution when they take the position that students may not use the professional relationship to impose their values upon a client or to change a client’s values
Lesson Three

- Discussion about religion in remedial and disciplinary hearings potentially raises questions about the motivation behind an action the program decides to take.
- Discussing religion during a remedial or disciplinary hearing will be a red flag for a court that religion was part of the decision-making process.
- This inference will almost certainly raise constitutional concerns if the student challenges the outcome of the school’s process.

Lesson Four

- Although reasonable pedagogical (educational) goals may be imposed on trainees, they may not be used as a pretext for religious discrimination.
Suggestions for Therapists

- Examine own views about sexual differences
- Client’s problems may be due to discrimination against same sex relationships
- Many issues client presents are unrelated to sexual orientation

Sum Up Questions

What is the difference between “confidentiality” and “privilege”?

ANSWER:
Sum Up Questions

What is meant by “bracketing?”

**ANSWER:**

Sum Up Questions

Since it is impossible to maintain complete value neutrality, what is the best policy for therapists to follow?

**ANSWER:**
**Sum Up Questions**

When is it completely appropriate for a psychotherapist to refer a client to another psychotherapist WITHOUT discrimination or violation of diversity ethics?

**ANSWER:**

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**Sum Up Questions**

When a therapist strongly disagrees with his or her client on a political topic, the therapist should:

**ANSWER:**

- a. Immediately refer the client to another therapist
- b. Tell the client about the disagreement
- c. Try to influence the client to change his or her mind
- d. Remain neutral while seeking consultation for personal feelings
Sum Up Questions

What is meant by “Empathic Morality”? 

ANSWER:

Sum Up Questions

What is meant by the ”Conscience Clause?”

ANSWER:
What are the two “dueling ethics codes”?

Sum Up Questions

What is meant by “pluralism”?

ANSWER:
Sum Up Questions

What is meant by “Cultural Empathy”?

**ANSWER:**

Sum Up Questions

What are the “five virtues’ of ethical practice?”

**ANSWER:**
Bibliography


Bibliography


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