

# Psychoanalytic Education Center of the Carolinas

*A division of the North Carolina Psychoanalytic Society*

## Ethical Issues in Psychotherapy and Psychoanalysis

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### Course Description:

This 3-session course will review professional ethical guidelines and highlight some of the ways in which conscientious practice may confront clinicians with difficult choices. Participants will have the opportunity to present hypothetical situations for class discussion. This course is designed to satisfy the re-licensure continuing education requirements of the North Carolina Psychology Board and of the North Carolina Social Work Certification and Licensure Board.

Time: Thursday, 7:00 pm - 9:00 pm

Dates: October 8, October 15, October 22

CME Credits: 6

CE Credits: 6 Category A

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It has become common for licensing boards in the professions to include amongst their continuing education requirements a course devoted to ethics or ethical issues. There is, however, a tendency to conflate ethics<sup>1</sup> with the law and ethical issues with legal issues. Ethics reflect the values held by a profession; laws reflect the views of the majority as they are embodied in political decisions.

In this seminar we will

1. review current ethical statements and guidelines promulgated by several professional associations;
2. review several of the Practice Bulletins published by the Committee on Peer Review of the American Psychoanalytic Association; and
3. read and discuss several articles and chapters related to the ethical practice of psychotherapy and psychoanalysis.

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### <sup>1</sup>ethics

1. The study of the general nature of morals and of the specific moral choices to be made by a person; moral philosophy.
2. The rules or standards governing the conduct of a person or the members of a profession: medical ethics.

The American Heritage® Dictionary of the English Language, Fourth Edition

The branch of philosophy that deals with morality. Ethics is concerned with distinguishing between good and evil in the world, between right and wrong human actions, and between virtuous and nonvirtuous characteristics of people.

The American Heritage® New Dictionary of Cultural Literacy, Third Edition

The rules or standards governing the conduct of a person or the conduct of the members of a profession.

The American Heritage® Stedman's Medical Dictionary

This seminar highlights how ordinary, conscientious practice may confront clinicians with situations in which two (or more) ethical principles may conflict, or in which an ethical principle may conflict with a legal obligation.

Participants will be encouraged (but are not required) to present “hypotheticals” for discussion. There is a good deal of background material that must be read **prior** to each of the three seminars and participants will be asked to identify the core elements of these readings.

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### Objectives

By the end of this seminar participants will be able to

1. identify the main themes in the ethical guidelines promulgated by three national professional organizations;
  2. identify the ethical issues presented in several case vignettes;
  3. articulate a procedure for resolving these ethical issues;
  4. identify two or more examples where ethical responsibilities may conflict with legal requirements in clinical practice;
  5. describe a procedure for resolving an hypothetical conflict between ethical responsibilities and legal requirements; and
  6. describe the core issues addressed by the U.S. Supreme Court in *Jaffe v. Redmond*.
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### Method

Participants are expected to read the “required” materials prior to each class. While I will begin each class with a brief review of some of the high points from the readings, we will move fairly quickly into a discussion of the questions posed under each general heading.

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## **October 8, 2009**

### **Principles and guidelines**

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#### Ethical principles

1. Professional Competence
  2. Respect for Persons
  3. Mutuality and Informed Consent
  4. Confidentiality
  5. Truthfulness
  6. Avoidance of Exploitation
  7. Scientific Responsibility
  8. Protection of the Public and the Profession
  9. Social Responsibility
  10. Personal Integrity
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### Some key questions

Given what you have read (from the list below) and your understanding of current North Carolina laws and regulations regarding the practice of your profession,

1. What would you say to a prospective patient regarding the treatment options available to him or her?
2. What would you say to a prospective patient regarding your qualifications?
3. What limits to confidentiality would you articulate, if any? When would you articulate these limits?
4. How would you deal with the topics of
  - a. your fees;
  - b. your policy regarding missed sessions, cancellations, and vacations; and
  - c. your financial position vis-a-vis the patient and his or her health insurance?
5. What would you do if served with a subpoena for your records regarding a specific patient?

### Readings

[Required readings are in **bold type**. *In addition*, members of each mental health profession should review the North Carolina laws governing the practice of their profession – i.e., psychologists should review the laws pertaining to the practice of psychology, and so forth for the other professions.]

American Association of University Professors (1987). Statement on professional ethics. Available at: <http://tinyurl.com/mk8ey9>

American Psychoanalytic Association (1999). Position statement on confidentiality. Available at: <http://tinyurl.com/kljpf6>

**American Psychoanalytic Association (2001). Principles and standards of ethics for psychoanalysts. Available at: <http://tinyurl.com/n3zd4d>**

American Psychological Association (2002). Ethical principles of psychologists and code of conduct. Available at: <http://www.apa.org/ethics/code2002.pdf>

Dewald, P. & Clark, R.W., Eds. (2001). Ethics Casebook of the American Psychoanalytic Association. New York: American Psychoanalytic Association.

Koocher, G.P. & Keith-Spiegel, P. (1998). Ethics in Psychology: Professional Standards and Cases. Second Edition New York: Oxford University Press.

N.C. Juvenile Code. Available at <http://tinyurl.com/nwe85o>

N.C. Medical Practice Act. Available at <http://tinyurl.com/md897f>

N.C. Medico-Legal Guidelines – see especially Appendix A. Available at <http://www.ncbar.org/news/1/3658/index.aspx>

**N.C. Psychology Practice Act. Available at <http://tinyurl.com/kn9kfj>**

**N.C. Social Worker Certification and Licensure Act. Available at <http://www.nccbsw.org/legislation.asp>**

U.S. Surgeon General (1999). Report on Mental Health in America, Chapter 7: Confidentiality of Mental Health Information: Ethical, Legal, and Policy Issues. Available at <http://www.academyprojects.org/lesurgen.htm>

**October 15, 2009**

**Some examples of ethical violations and institutional responses**

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Ethical violations in the practice of psychotherapy and psychoanalysis

Boundary violations

- sexual
- non-sexual
- post-termination
- supervision (clinical / research)

Institutional responses to boundary violations [see Gabbard & Lester (1995), Chapter 10]

- management of complaints
- response to victims
- assessment and rehabilitation (of victim, of victimizer)
- practice limitations
- supervision
- use of rehabilitation coordinator
- personal psychotherapy or psychoanalysis (with special problems of countertransference)
- return to unsupervised practice
- prevention

Other ethical violations

- analysis terminable and/or interminable
- competence vs. omnipotence

The Brave New World of ethical violations [see Angell (2009)] – “Soma” in the 21<sup>st</sup> century

- research funding,
  - consulting contracts,
  - continuing education funding,
  - prescription practices,
  - referral patterns,
  - publication manipulation, and
  - pseudo-authorship
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**Some key questions**

1. How common are ethical violations?
  2. How often are ethical violations addressed and/or reported?
  3. What are some of the common intrapsychic and/or external issues that are associated with ethical violations?
  4. Why are ethical violations not more common?
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**Readings** [Required readings are in **bold type**.]

- Angell, M. (2009, January 15). **Drug companies & doctors: A story of corruption.** New York Review of Books, **56 (1)**, available at <http://www.nybooks.com/articles/22237>
- Burka, J. (2008). **Psychic fallout from breach of confidentiality: A patient/analyst's perspective.** Contemporary Psychoanalysis, **44 (2)**, 177 ff. Available at <http://tinyurl.com/mf6ewt>
- Boynton, Robert S. (2002). **The return of the repressed: The strange case of Masud Khan.** The Boston Review. Available at <http://www.bostonreview.net/BR27.6/boynton.html>
- Gabbard, G. O. (1995). **The early history of boundary violations.** Journal of the American Psychoanalytic Association, **43**, 1115-1136.
- Gabbard, G. O. & Lester, E. P. (1995). Boundaries and boundary violations in psychoanalysis. New York: Basic Books.
- Godley, Wynne (2001). Saving Masud Khan. London Review of Books, Vol 23 (4), February 22, 2001.
- Kerr, John (1993). A most dangerous method: The story of Jung, Freud, and Sabina Spielrein. New York: Knopf.
- Renik, Owen (2003). Standards and standardization. Journal of the American Psychoanalytic Association, Vol. 51, Supplement, 43-56.
- Sandler, A.-M. (2004). **Institutional responses to boundary violations.** International Journal of Psychoanalysis, **85 (1)**, 27-41.

**October 22, 2009**  
**Some ethical dilemmas**

Recording

what / when / where / why  
 security issues

Reporting

suspicious of child abuse – police and social services  
 danger of serious bodily harm – police and intended victim  
 obtaining authorization for reimbursement – insurance companies

“Informed” consent – an oxymoron

Some especially difficult situations

custody determination  
 minor patients  
 young adult patients whose treatment is paid for by their parents  
 trainees as patients  
 trainees in supervision  
 “recovered” memories

### Some key questions

1. How can one distinguish between medical records and psychotherapy notes?
2. What do you say to patients regarding the release of information to insurance companies?
3. What do you say to patients regarding “mandatory reporting”?
4. How has “mandatory reporting” affected public attitudes toward psychotherapy and psychoanalysis?
5. How has “mandatory reporting” affected your practice as a psychotherapist and/or psychoanalyst?
6. When does a suspicion of abuse become a *suspicion* of abuse?

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### Readings [Required readings are in **bold type**.]

- American Psychoanalytic Association Committee on Peer Review (1991). Practice Bulletin 1: Informed consent to review. Available at: <http://tinyurl.com/n2wuqp>
- American Psychoanalytic Association Committee on Peer Review (1994). Practice Bulletin 2: Charting psychoanalysis.** Available at: <http://tinyurl.com/lrkc9h>
- American Psychoanalytic Association Committee on Peer Review (1999). Practice Bulletin 3: External review of psychoanalysis. Available at: <http://tinyurl.com/loktzq>
- American Psychoanalytic Association Committee on Peer Review (1996). Practice Bulletin 4: Charting psychoanalysis, a clarification.** Available at: <http://tinyurl.com/nuscqj>
- Bollas, C. (1999). On the loss of confidence in psychoanalysis. International Psychoanalytical Association (IPA) Newsletter, Volume 8, Issue 2.** Available at <http://www.academyprojects.org/lebol1.htm>
- Bollas, C. & Sundelson, D. (1995). The new informants: The betrayal of confidentiality in psychoanalysis and psychotherapy. Northvale, NJ: Jason Aronson.
- Herbert, P. (2004). Psychotherapy as law enforcement. Journal of the American Academy of Psychiatry and the Law, 32 (1), 91-95.**
- Jaffe v. Redmond, 518 US 1, 9 (1996).** Available at <http://jaffee-redmond.org>
- Kavanaugh, P. B. (2002). Mandatory continuing education (MCE): Industrializing and deprofessionalizing psychology. Available at <http://www.academyprojects.org/kava6.htm>
- Procci, W. (2007). A cautionary tale about boundary violations in psychodynamic psychotherapy and psychoanalysis. Focus, V (4), 407-411. Available at <http://tinyurl.com/lp6h4d>
- Sobel, R. (2007). The HIPAA paradox: The privacy rule that’s not. Hastings Center Report, pp. 40-50.** Available at <http://tinyurl.com/mjf58h>
- Solnit, A. J., Nordhaus, B. F., & Lord, R. (1992). When home is no haven: Child placement issues. New Haven, CT: Yale University Press.

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### Other resources

- Edwards, R. B. (Ed.) (1997). Ethics of psychiatry: Insanity, rational autonomy, and mental health care. Amherst, NY: Prometheus Books.
- Fisher, C. B. (2003). Decoding the ethics code: A practical guide for psychologists. Thousand Oaks, CA: Sage Publications.
- Koocher, G. P. & Keith-Spiegel, P. (1998). Ethics in psychology: Professional standards and cases, second edition. New York: Oxford University Press.
- O’Donohue, W. & Ferguson, K. (Eds.) (2003). Handbook of professional ethics for psychologists: Issues, questions, and controversies. Thousand Oaks, CA: Sage Publications.
- Szasz, T. S. (1965). The ethics of psychoanalysis: The theory and method of autonomous psychotherapy. New York: Basic Books.