

Ethical Issues in Counseling: Christian Counseling in a Secular World

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New Orleans Baptist Theological Seminary

***3rd Annual Conference on Issues in Christian Counseling: The
Caregiver Confronting Abuse***

Friday, November 2, 2018

Description

- This workshop will explore a number of ethical theories related to counseling, with a particular focus on the uniqueness of Christian counseling. Codes of Ethics (including NBCC and NASW) will be used as references for examining selected ethical issues that are likely to occur in a church-related setting, including the problem of abuse.

Objectives

Attendees will:

- 1. Increase in understanding the different ethical theories in counseling and decision making
- 2. Learn about ethical models in Christian and secular codes of ethics
- 3. Examine ethical responses to such issues as abuse in counseling and church counseling settings.

Discussion

- *“Learn the rules and codes in order to avoid problems; obey your supervisor or employer; and, try to do no harm.”* Following these principles will make you a competent ethical counselor.
- Do you agree with this statement?
 - If not, why not?

Discussion

- What is ethics?
 - Identify key components of ethics
- What is Christian ethics?
 - Is it a unique form of ethics, and, if so, what is unique about it?

Codes: Interpretation, Application and Contextualization

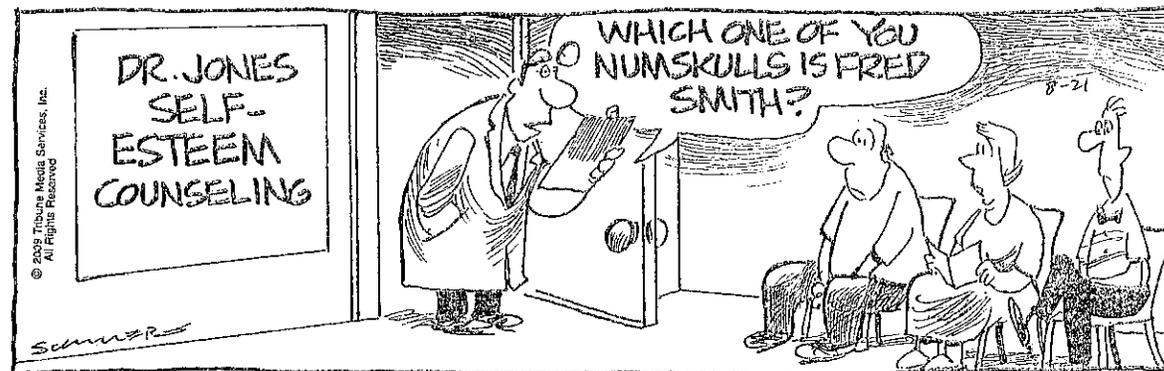
- Ethics Codes “are statements of principle, which must be interpreted and applied by the individual or group to a particular context. They present a rationale for ethical behavior. Their exact interpretation, however, will depend on the situation to which they are being applied.”
 - E. W. Stude and J. McKelvey (1979). Ethics and the Law: Friend or Foe? *Personnel and Guidance Journal*, 57, 453

Ethical Practice

“Simply learning the ethics codes and casebooks will not prepare counselors for ethical practice.”

- Gerald Corey, Marianne Schneider Corey, & Patrick Callanan, *Issues and Ethics in the Helping Professions* 6th ed. (Pacific Grove, CA: Brooks/Cole, 2003), 7.

BOUND & GAGGED by Dana Summers



Professional Counseling Ethics

- The earliest counseling code of ethics in the USA was written by the American Psychological Association in 1953.
- Other ethics codes:
 - State Licensing Codes (LPC, LMFT)
 - American Association for Marriage and Family Therapy (AAMFT)
 - American Counseling Association (ACA)
 - National Board for Certified Counselors (NBCC)
 - American Association of Christian Counselors (AACCC)
 - NASW Code of Ethics (2017)

Ethics Codes: Size & Content

- American Psychological Association
 - The first APA ethics code, published in 1953, was a 5.5 by 8.5-inch volume that was over 170 pages long. The 2003 edition (amended in 2010) of the ethics code was a brief 16 pages.
- American Association for Marriage and Family Therapy
 - The 1985 Code of Ethical Principles was a two-sided brochure, with nearly 30% of the code dedicated to rules on fees and advertising.
 - The 2012 Code is 10 pages, with less than 20% on fees and advertising.
- Are you beginning to see that, while codes have some things in common, opinions vary on what they should contain?
 - Also, Codes are constantly changing and being revised.

Aspirational vs. Enforceable Standards

APA Code

- Includes an introduction, preamble, a list of five aspirational principles and a list of ten enforceable standards that psychologists use to guide ethical decisions in practice, research, and education.

National Board for Certified Counselors (NBCC)

- Established in 1982 by the American Counseling Association (ACA)
- Purpose: To implement and monitor a national certification system for counseling professional
- NBCC Code of Ethics
 - Old Code (2005) had seven sections: A. General; B. Counseling Relationship; C. Counselor Supervision; D. Measurement and Evaluation; E. Research and Publication; F. Consulting; G. Private Practice
 - New Code (March 1, 2013): 95 Directives

Revision Example

NBCC Code: Dual Relationships

- OLD 2005 Code, Sec. B-9: Certified counselors who have an administrative, supervisory and/or evaluative relationship with individuals seeking counseling services must not serve as the counselor and should refer the individuals to other professionals. Exceptions are made only in instances where an individual's situation warrants counseling intervention and another alternative is unavailable. **Dual relationships that might impair the certified counselor's objectivity and professional judgment must be avoided and/or the counseling relationship terminated** through referral to a competent professional.
- NEW 2013 Code, Directive 5: **NCCs shall not engage in harmful multiple relationships with clients.** In the event that a harmful multiple relationship develops in an unforeseen manner, the NCC shall discuss the potential effects with the client and shall take reasonable steps to resolve the situation, including the provision of referrals. This discussion shall be documented in the client's record.

NBCC New Code

DIRECTIVES

NCCs take appropriate action to prevent harm.

- 1. NCCs, recognizing the potential for harm, shall not share information that is obtained through the counseling process without specific written consent by the client or legal guardian except to prevent clear, imminent danger to the client or others or when required to do so by a court order.

National Association of Social Workers (NASW)

Revised Code of Ethics (2017)

- The *Code* offers a set of values, principles, and standards to guide decision making and conduct when ethical issues arise. It does not provide a set of rules that prescribe how social workers should act in all situations. Specific applications of the *Code* must take into account the context in which it is being considered and the possibility of conflicts among the *Code's* values, principles, and standards. Ethical responsibilities flow from all human relationships, from the personal and familial to the social and professional.

National Association of Social Workers (NASW)

Revised Code of Ethics (2017)

- Further, the *NASW Code of Ethics* does not specify which values, principles, and standards are most important and ought to outweigh others in instances when they conflict. Reasonable differences of opinion can and do exist among social workers with respect to the ways in which values, ethical principles, and ethical standards should be rank ordered when they conflict. Ethical decision making in a given situation must apply the informed judgment of the individual social worker and should also consider how the issues would be judged in a peer review process where the ethical standards of the profession would be applied.

NASW Code of Ethics (2017)

Revised Code of Ethics: majority of changes and additions addressed new technologies.

Ethical Principles

- **Value:** *Service*
- **Ethical Principle:** *Social workers' primary goal is to help people in need and to address social problems.*
- Social workers elevate service to others above self-interest. Social workers draw on their knowledge, values, and skills to help people in need and to address social problems. Social workers are encouraged to volunteer some portion of their professional skills with no expectation of significant financial return (pro bono service).

NASW Code of Ethics (2017)

Ethical Principles

- **Value:** *Social Justice*
- **Ethical Principle:** *Social workers challenge social injustice.*
- Social workers pursue social change, particularly with and on behalf of vulnerable and oppressed individuals and groups of people. Social workers' social change efforts are focused primarily on issues of poverty, unemployment, discrimination, and other forms of social injustice. These activities seek to promote sensitivity to and knowledge about oppression and cultural and ethnic diversity. Social workers strive to ensure access to needed information, services, and resources; equality of opportunity; and meaningful participation in decision making for all people.

NASW Code of Ethics (2017)

1. Social Workers' Ethical Responsibilities to Clients

• 1.01 Commitment to Clients

- Social workers' primary responsibility is to promote the well-being of clients. In general, clients' interests are primary. However, social workers' responsibility to the larger society or specific legal obligations may on limited occasions supersede the loyalty owed clients, and clients should be so advised. (Examples include when a social worker is required by law to report that a client has abused a child or has threatened to harm self or others.)

NASW Code of Ethics (2017)

1. Social Workers' Ethical Responsibilities to Clients

- **1.07 Privacy and Confidentiality**

- (c) Social workers should protect the confidentiality of all information obtained in the course of professional service, except for compelling professional reasons. The general expectation that social workers will keep information confidential does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or others. In all instances, social workers should disclose the least amount of confidential information necessary to achieve the desired purpose; only information that is directly relevant to the purpose for which the disclosure is made should be revealed.
- (d) Social workers should inform clients, to the extent possible, about the disclosure of confidential information and the potential consequences, when feasible before the disclosure is made. This applies whether social workers disclose confidential information on the basis of a legal requirement or client consent.

AACC Code of Ethics (Y-2014)

The 2014 AACC Code of Ethics is 65 pages (The 1998 Code was 21 pages)

The Y-2014 Code is a comprehensive, detailed, and integrative synthesis of biblical, clinical, systemic, ethical, and legal information. It was created this way because vaguely worded, content limited, and overly generalized codes are insufficient for the complexities of the modern, 21st-century counseling environment. A more comprehensive and behavior-specific ethical code is needed for Christian counselors (and all mental health and ministerial professions, we believe) because of:

1. the mounting evidence of questionable and incompetent practices among Christian counselors, including increasing complaints of client-parishioner harm;
2. the largely unprotected legal status of Christian counseling, including the increasing state scrutiny, excessive litigation, and unrelenting legalization of professional ethics; and more positively
3. the vitality and growing maturity of Christian counseling—including its many theories and controversies—indicating the need for an overarching ethical-legal template to guide the development of biblical and empirically sound Christian counseling models.

Pastors & Professional Ethics

- “Theological training typically does not emphasize educating clergy on matters of professional ethics.”
 - Gregory W. Brock, ed., *Ethics Casebook* (Washington, DC: AAMFT, 1998), 157
- In June 2012, the National Association of Evangelicals issued its first Clergy Code of Ethics
 - “It used to be that clergy knew the difference between right and wrong. After all, teaching such matters was seen as a core part of the job. But eroding standards, moral ambiguity, and other factors have made that assumption dangerous.”
 - Luder Whitlock, chair of drafting committee for the National Association of Evangelicals (NAE) clergy code of ethics.
 - David Neff, *Christianity Today: Interview* (6/13/2012) <http://www.christianitytoday.com/ct/2012/juneweb-only/nae-clergy-ethics-code.html?paging=off>

Louisiana

Title 46: PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors Board of Examiners

- **Subpart 1. Licensed Professional Counselors §313. *Code of Ethics***
- A. The board has adopted the *Code of Ethics* of the American Counseling Association for Licensed and Provisional Licensed Professional Counselors as specified in R.S. 37:1105(D) and may adopt any revisions or additions deemed appropriate or necessary by the board.

Louisiana

Part LX. Licensed Professional Counselors Board of Examiners

- **Subpart 2. Professional Standards for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists §2909. Code of Ethics**
- A. The advisory committee has adopted the Code of Ethics of the American Association for Marriage and Family Therapy (AAMFT), including any revisions or additions deemed appropriate or necessary by the board as recommended by advisory committee. AAMFT has given its written permission to use its code of ethics.

ACA Code of Ethics

Mission:

- The mission of the American Counseling Association is to enhance the quality of life in society by promoting the development of professional counselors, advancing the counseling profession, and using the profession and practice of counseling to promote respect for human dignity and diversity.
- 23 pages

ACA Code of Ethics

Professional values are an important way of living out an ethical commitment. The following are core professional values of the counseling profession:

1. enhancing human development throughout the life span;
2. honoring diversity and embracing a multicultural approach in support of the worth, dignity, potential, and uniqueness of people within their social and cultural contexts;
3. promoting social justice;
4. safeguarding the integrity of the counselor–client relationship; and
5. practicing in a competent and ethical manner.

ACA Code of Ethics

The professional values provide a conceptual basis for the fundamental principles of professional ethical behavior:

- *autonomy*, or fostering the right to control the direction of one's life;
- *nonmaleficence*, or avoiding actions that cause harm;
- *beneficence*, or working for the good of the individual and society by promoting mental health and well-being;
- *justice*, or treating individuals equitably and fostering fairness and equality;
- *fidelity*, or honoring commitments and keeping promises, including fulfilling one's responsibilities of trust in professional relationships; and
- *veracity*, or dealing truthfully with individuals with whom counselors come into professional contact.

ACA Code of Ethics

B.2.a. Serious and Foreseeable Harm and Legal Requirements

The general requirement that counselors keep information confidential does not apply when disclosure is required to protect clients or identified others from serious and foreseeable harm or when legal requirements demand that

confidential information must be revealed. Counselors consult with other professionals when in doubt as to the

validity of an exception. Additional considerations apply when addressing end-of-life issues.

Ethical Awareness

- Having a code, knowing a code, interpreting a code correctly, and applying a code are **four** different things.
- Research studies indicate that between 5% and 10% of mental health practitioners are substantially insensitive to the ethical dimensions of their work.
 - Elizabeth R. Welfel and Neil E. Lipsitz (1984). The Ethical Behavior of Professional Psychologists: A Critical Analysis of the Research. *Counseling Psychologist*, 12(3), 31-42. Allen Wilcoxon, Theodore P. Remley, Jr., and Samuel T. Gladding, *Ethical, Legal, and Professional Issues in the Practice of Marriage and Family Therapy*, 5th Edition (Upper Saddle River, NJ: Pearson/Merrill Counseling, 2012), 50.

Ethics Codes In Counseling: The Promise and the Problem

- “Your own ethical awareness and problem-solving skills will determine how you translate these general guidelines into professional day-to-day behavior.”
 - How “ethically aware” are you, and how good are your “problem-solving skills”?
- “...codes of ethics are not cookbooks for responsible professional behavior. Indeed, they offer unmistakably clear guidance of only a few problems. Ethics codes are necessary, but not sufficient, for exercising ethical responsibility.”
 - Ethical codes don’t promise much.
 - Gerald Corey, Marianne Schneider Corey, & Patrick Callanan, *Issues and Ethics in the Helping Professions* 6th ed. (Pacific Grove, CA: Brooks/Cole, 2003), 6-7.

Reasons Ethical Codes Exist

G. G. Ford (2006). *Ethical Reasoning for Mental Health Professionals*. Thousand Oaks, CA: Sage Publications.

- Identify the purpose, goals, and values of an organization
- Give rights to and protect both clients & professionals
- Provide guidance for ethical decision making
- Influence public perception and ensure professionalism by showing the public that the organization will monitor itself
- Send a message to law enforcement and government that the organization can enforce its own rules and regulate itself
- Help to establish an organization by differentiating it from similar institutions
- Establish a road towards licensing of professionals

Healthcare Providers Service Organization (HPSO) Review

- Examined over 3000 claims paid by HPSO on behalf of insured counselors over a 10 year period from Jan. 1, 2003-Dec. 31, 2012. Published in 2014
- Surveyed counselors on the relationship between claims experience and such variables as:
 - age, education and experience as a counselor
 - annual continuing education (CE) requirements
 - participation in supervision/peer review
 - type of treatment
 - presence of a disclosure policy

Findings...

- 50.8% of counselors who experienced professional liability claims worked in an office-based setting.
- 66.7% of claims involved face-to-face counseling of an individual
- 92.1% of claims involved adult clients
- Average amount distributed on behalf of an insured counselor \$129,939.00
- Top reasons for client seeking counseling
 - Marital Discord
 - Family discord
 - Depression
 - Addiction



What Issues Most Often Resulted in Liability Insurance Claims?

- The HPSO report goes into great detail about their settled claims
- What do you think was #1?

Sexual or Romantic Relationships

The most frequent professional liability allegation asserted against counselors

- Inappropriate sexual/romantic relationships with clients or the partners or family members of clients
- According to HPSO, nearly 60% of their paid claims fell in the area of counseling relationship
 - Inappropriate sexual, romantic relationships
 - Dual relationships

Paid Indemnity Trends

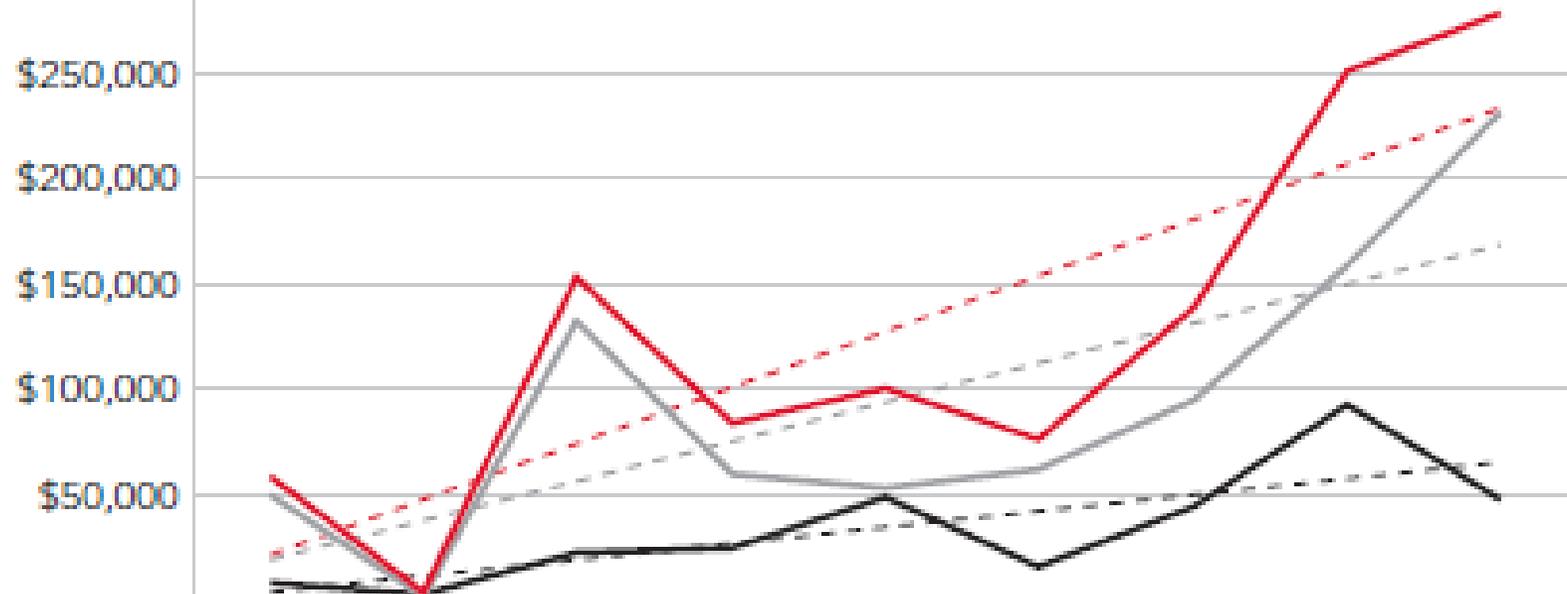
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PROFESSIONAL LIABILITY CLOSED CLAIMS WITH PAID INDEMNITY, WITH TREND LINES

Average paid indemnity and expense
by year the claim closed

2004 2005 2006 2007 2008 2009 2010 2011 2012

- Average of total paid indemnity and expense
- Average paid indemnity
- Average paid expense



SEVERITY BY COUNSELOR SPECIALTY*

* Specialty titles and designations are defined by individual states, and may vary across jurisdictions.

Counselor specialty	Percentage of closed claims	Total paid indemnity	Average paid indemnity
Counselor educator	1.6%	\$1,000,000	\$1,000,000
Alcohol / drug counselor	11.1%	\$1,365,625	\$195,089
Marriage / family counselor	27.0%	\$2,366,081	\$139,181
Mental health counselor	17.5%	\$1,334,960	\$121,360
Licensed professional counselor (LPC)	19.0%	\$1,126,475	\$93,873
Licensed professional clinical counselor (LPCC)	15.9%	\$672,700	\$67,270
Pastoral counselor	6.3%	\$192,500	\$48,125
Rehabilitation counselor	1.6%	\$19,500	\$19,500
Overall	100%	\$8,077,841	\$128,220

SEVERITY BY COUNSELING MODE

Counseling mode	Percentage of closed claims	Total paid indemnity	Average paid indemnity
Supervision during transfer of client to another facility	1.6%	\$275,000	\$275,000
Supervision session with student (face-to-face)	1.6%	\$250,000	\$250,000
Couples counseling (both partners seen individually and as a couple)	11.1%	\$1,005,000	\$143,571
Individual counseling (face-to-face)	66.7%	\$5,853,141	\$139,360
Family counseling (members seen together and in individual sessions)	9.4%	\$496,600	\$82,767
Couples counseling (one partner seen individually and both as a couple)	1.6%	\$70,000	\$70,000
Family counseling (some members seen only in individual sessions)	3.2%	\$62,500	\$31,250
Individual telecounseling (i.e., remote consultation)	3.2%	\$57,500	\$28,750
Couples counseling (together, with no individual sessions)	1.6%	\$8,100	\$8,100
Overall	100%	\$8,077,841	\$128,220

CLIENT PRIMARY REASON FOR SEEKING COUNSELING

Primary reason for seeking counseling	Percentage of closed claims	Total paid indemnity	Average paid indemnity
Assessment for adoption / foster parenting suitability	1.6%	\$800,000	\$800,000
Depression	7.9%	\$1,696,875	\$339,375
Depression with anxiety	6.3%	\$1,157,500	\$289,375
Disruptive behavior (preventing client from remaining in the home)	1.6%	\$275,000	\$275,000
Sex offender (via courts)	1.6%	\$250,000	\$250,000
Multiple personality / severe dissociative disorder	1.6%	\$200,000	\$200,000
Bipolar disorder	4.8%	\$553,000	\$184,333
Relationship issues (other than marriage)	3.2%	\$192,500	\$96,250
Aggressive behavior	1.6%	\$90,000	\$90,000
Marital discord / problems	31.7%	\$1,724,960	\$86,248
Court-ordered counseling	4.8%	\$252,100	\$84,033
Borderline personality	1.6%	\$80,000	\$80,000
Family discord / dysfunction	9.4%	\$468,500	\$78,083
Suicidal ideation (includes parasuicidal ideation)	1.6%	\$61,081	\$61,081
Eating disorder	3.2%	\$102,500	\$51,250
Suicide attempt	1.6%	\$50,000	\$50,000
Trauma history (sexual)	1.6%	\$25,000	\$25,000
Drug abuse / addiction (legal or illegal drugs)	1.6%	\$19,500	\$19,500
Alcohol abuse / addiction	7.9%	\$60,625	\$12,125
Post-traumatic stress disorder (PTSD)	1.6%	\$10,000	\$10,000
Counseling through embryo adoption process	1.6%	\$8,100	\$8,100
No reason for counseling was provided in claim file	1.6%	\$600	\$600
Overall	100%	\$8,077,841	\$128,220

- The majority of closed claims (66.7 percent) involved face-to-face counseling between the counselor and the client, with an average paid indemnity slightly higher than the overall average paid indemnity.

There was significant variation among the primary allegations made by claimants against the insured counselors. However, three allegations had the highest percentage of claims:

- Inappropriate sexual / romantic relationship with a client, client's partner or client's family member comprised 39.7 percent of the closed claims. These closed claims had an average paid indemnity lower than the overall average paid indemnity. Closed claims involving allegations of improper counselor sexual / romantic relationships are discussed in greater detail on page 27.
- The allegation that the counselor failed to practice within expected boundaries of competence accounted for 15.8 percent of closed claims, with an average paid indemnity greater than twice the overall average.
- Several closed claims (12.7 percent) involved sharing of confidential / private client information without appropriate authorization, thus violating a major tenet of the client-counselor relationship, as well as potentially breaching legal and regulatory requirements.

SEVERITY BY SPECIALTY

Specialty	Percentage of paid claims	Total paid expense	Average paid expense
Pastoral counselor	1.5%	\$27,026	\$4,504
Mental health counselor	15.4%	\$233,048	\$3,820
Alcohol / drug counselor	6.1%	\$90,915	\$3,788
Licensed professional counselor (LPC) / licensed professional clinical counselor (LPCC)	66.6%	\$977,392	\$3,716
Marriage / family counselor	10.1%	\$141,633	\$3,541
Counselor educator	0.3%	\$2,346	\$2,346
Overall	100%	\$1,472,360	\$3,727

Louisiana Code Violations

January 2017-September, 2018

- Mental Impairment and Instability
- Personal Relationship with Former Client
- Inappropriate Romantic/Sexual Relationship with Client or Former Client (5)
- Inappropriate Romantic/Sexual Relationship With a Minor Child Client
- Evaluation Report in Child Custody Matter—made assumptions about individual's mental health despite not having met with said individual
- Practicing without a license (e.g., as a Counselor Intern) (4)
- Guilty in court of possession of juvenile pornography
- Report of Criminal Conduct
- Dual Relationship

Christian Ethics: A Unique Ethic?

- What, if anything, is unique about Christian ethics?

A Unique Ethic

- A Unique Foundation
- A Unique Focus
- A Unique Calling

A Unique Foundation

Human Beings:

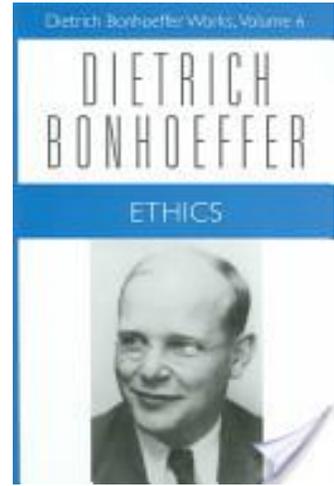
- Created by God (Genesis 1-3)
 - Image of God
- Relational beings—social and spiritual
 - Responsibility to God and to neighbor
- Fallen—effects of sin
 - Redemption possible (Rom. 6:23)
- Implications:
 - All people have value
 - Actions have both temporal and eternal consequences
 - Life has purpose, meaning, and hope

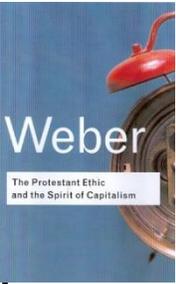
A Unique Focus

- At a meeting of pastors, Dietrich Bonhoeffer was quoted as saying “one man asks What is to come? The other: What is right? And there is the difference between the free man and the slave.”
 - James Burtness, *Shaping the Future: The Ethics of Dietrich Bonhoeffer* (Philadelphia: Fortress Press, 1985), 14; quoted in Mark Devine, *Bonhoeffer Speaks Today: Following Jesus at All Costs* (Nashville, TN: Broadman & Holman, 2005), 48.
 - Secular ethics are founded on definitions of right & wrong determined by individuals and groups. . .but who decides what is the right thing to do?
 - A Christian ethic seeks the will of God in every situation—an eschatological view

A Unique Focus

- Whoever wishes to take up the problem of a Christian ethic must be confronted at once with a demand which is quite without parallel. He must from the outset discard as irrelevant the two questions which alone impel him to concern himself with the problem of ethics, “How can I be good?” and “How can I do good?” and instead of these he must ask the utterly and totally different question “What is the will of God?”
 - Dietrich Bonhoeffer, *Ethics*, ed. Eberhard Bethge (New York: The Macmillan Company, 1955),188.





A Unique Calling

- Luther revolutionized the concept of the calling in the Reformation. Luther took the German word *Beruf*, which referred to any sort of labor or work, and transformed it into a moral enterprise and task set by God in all legitimate worldly activities. All work by a Christian has religious significance and should be a means of honoring God and expressing love of neighbor.
 - **So What! What Difference Does It Make in Counseling?** Observations of Weber (economics) & Merton (science) on quality of work produced
 - Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, trans. Talcott Parsons (New York: Charles Scribner's Sons, 1958), 79-92; Robert King Merton, *Social Theory and Social Structure*, Revised and Enlarged Edition [Glencoe, Illinois: The Free Press, 1957], 574-585.
- Christian counseling & a Christian ethic is part of a calling.
 - Motivated to honor God
 - Doing our best; going the extra mile

What is Ethics?

- **1. Ethics**

- ἠθικός, ἠθικά (*ethikos, ethika*) “character, nature disposition”

- ἦθος (*ethos*) “character” connected with

- ἔθος (*ethos*) “custom, habit”

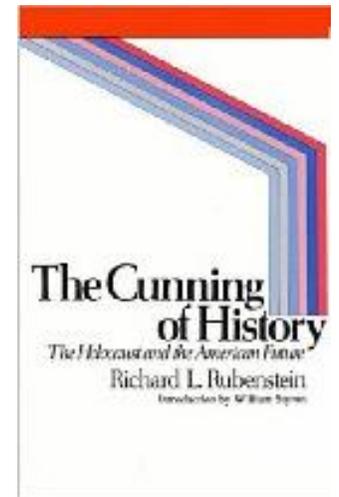
- *Ta ethika* from *ethos* (character, nature, disposition) or *ethos* (custom or habit) relating to issues of right and wrong, good and evil
- Discipline that studies the moral life to provide guidance and perspective for making decisions and forming character; how we **ought** to live.

Ethics

- Assumptions:
 - Good and evil exist
 - It is possible to have a standard of right and wrong—“ethics postulates the reality of moral agents under a sense of absolute moral obligation to do what is right and avoid what is wrong.”
 - D. S. Adams, *A Handbook of Christian Ethics* (Edinburgh: T & T Clark, 1925).
 - Man is a moral agent
- Issues:
 - Are there universal standards of right and wrong, good and evil?
 - Are such standards intrinsic or learned—does natural law exist?
 - Are there exceptions? If so, when? (Note: deontological, teleological ethics and hierarchicalism)

Ethics

- Issues (Cont.)
 - Philosophy: Plato and Natural Law
 - Is something evil because it is forbidden, or is it forbidden because it is evil?
 - How you answer will indicate whether or not you believe in natural law.
 - Theology: Emil Brunner (Pro) vs. Karl Barth (Con)
 - Richard L. Rubenstein
 - Nuremberg Trials
 - What laws did the Nazis break in WWII?
 - What was the origin or basis of the charges?



Biblical Ethics

- Rom. 1:19-20

- ¹⁹ For what can be known about God is plain to them, because God has shown it to them. ²⁰ For his invisible attributes, namely, his eternal power and divine nature, have been clearly perceived, ever since the creation of the world, in the things that have been made. So they are without excuse. (ESV)

- Eccles. 3:11

- ¹¹ He has made everything beautiful *and* appropriate in its time. He also has planted eternity [a sense of divine purpose] in the human heart [a mysterious longing which nothing under the sun can satisfy, but God]—yet man cannot find out (comprehend, grasp) what God has done (his overall plan) from the beginning to the end. (AMP, 2015)

The Problem and Influence of Science

- “The scientific study of behavior. . .subtly but inevitably tends to support not only a view of man that sets him outside the realm of free will and choice, but outside the realm of morality as well.”
 - Jeffrey Satinover, *Homosexuality and the Politics of Truth* (Grand rapids, MI: Baker Books, 1996), 128.

What is Morality?

- Morality (from latin *mos, moris*)
 - Concerned with what people actually do—the practices and beliefs by which people live.
 - Good, right, and proper behavior done in social settings (vocations, families, churches, communities, cultures, societies), and personal interactions.
 - Right and proper conduct, evaluation of actions usually based on the broader cultural context or a religious standard
 - Community *Mores* or Standards
 - William Graham Sumner (*Folkways*) distinguished between:
 - Folkways—social conventions or normative expectations of conduct, subtly encouraged but not strictly enforced
 - Mores—norms identifying right and wrong behavior
 - Laws

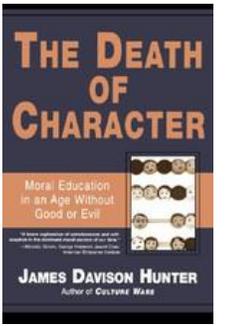
Moral Application and Engagement

- Morally Permissible (Discretionary actions): may do or not do an act and in either case not incur moral guilt.
- Morally Obligatory (Mandatory actions): there is a moral command which mandates or prohibits an action.
 - **Obligations**: duty; what must or ought to be done
 - **Prohibitions**: duty; what we must not or ought not do
- Morally Supererogatory actions are not duties, but are praiseworthy, producing good which goes beyond what duties demands.

What are Values?

- Beliefs and attitudes that provide direction to everyday living
 - Corey, Corey, & Callahan, 14.
- A value is “an enduring belief that a specific mode of conduct or end-state of existence is personally or socially preferable to an opposite or converse mode of conduct or end-state of existence”
 - M. Rokeach (1973). *The Nature of Human Values*. New York: Macmillan, 286; Allen Wilcoxon, Theodore P. Remley, Jr., and Samuel T. Gladding (2012). *Ethical, Legal, and Professional Issues in the Practice of Marriage and Family Therapy*, 5th Edition. Upper Saddle River, NJ: Pearson/Merrill Counseling, 2012, 3.
 - Belief, attitude, preferred notion about what is good or desirable that guides or influences decisions in life

What are Values?



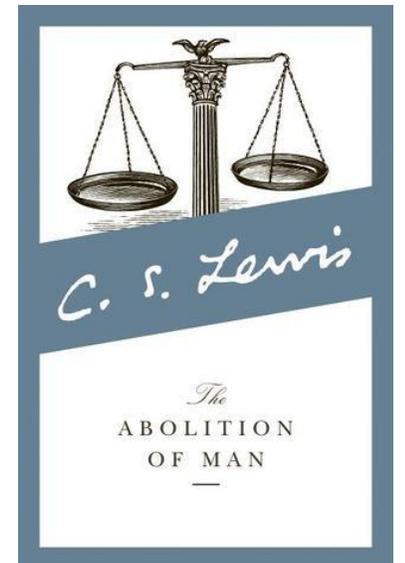
- “Our values reflect more than opinions or preferences. Our values move us to action that demonstrate our commitment to those values.”
 - R. B. Stuart (1980). *Helping Couples Change: A Social Learning Approach to Marital Therapy*. New York: Guilford; Wilcoxon, Remley, & Gladding, 3)
- The contemporary view of values has led to the destruction of character, as they substitute for revelation and imperatives where nothing is sacred. Truth becomes a matter of taste and temperament or personal preference, and moral exhortations are reduced to simplistic platitudes and empty maxims.
 - James Davison Hunter, *The Death of Character: Moral Education in an Age without Good or Evil* (New York: Basic Books, 2000).

Character & Values: Finding the Anchor

- Renewal of character requires a renewal of creeds that constrain, limit, bind, obligate, and compel. We want character “but without unyielding conviction; we want strong morality but without the emotional burden of guilt or shame; we want virtue but without particular moral justifications that invariably offend; we want good without having to name evil; we want decency without the authority to insist upon it; we want moral community without any limitations to personal freedom. In short we want what we cannot possibly have on the terms that we want it” (p. xv).
- The essence of character is moral discipline—the inner capacity for restraint, to control passions, desires, and habits within the boundaries of a moral order; the capacity to say “no.” Character in the positive sense is the affirmation of our commitments to the larger community, ideals that attract, draw, animate, and inspire us. (p. 16)
 - James Davison Hunter, *The Death of Character: Moral Education in an Age without Good or Evil* (New York: Basic Books, 2000).

The Loss of Virtue & Character

- In his book *The Abolition of Man*, C. S. Lewis laments the loss of absolute standards and the rise of subjectivism and moral relativism. The “whole” man is abolished as the “chest” of character, absolute standards and universal values disappears, no longer providing guidance between the “head” of pure reason and the “belly” of pure emotions.
 - C. S. Lewis, *The Abolition of Man* (New York: Macmillan, 1960).



Values vs. Virtues

- Virtue refers to excellence. In the case of ethics it implies moral excellence.
 - What is good, excellent or worthy.

What is Legal?

- **Law:** a binding custom or practice of a community; a rule of conduct or action prescribed or formally recognized as binding or enforced by a controlling authority. For sources of law include the following.
 - Human Law (civil law; civil rights)
 - Natural Law (human rights)
 - Divine Law (divine rights)
- **Civil Disobedience:** public appeal to move from what is legal to what is ethical (right or good)
- **Professional Codes of Ethics:** broad, general guidelines

Do I have to?: Being Duty Bound

- ***Prima facie* duties:**

- “*On first appearance.*” Basic duties required of all, all things being equal. In other words, *prima facie* duties are norms to which there is always a strong moral reason for acting in accord with it, but it is not binding when it conflicts with a stronger norm. Dilemmas occur when two or more duties conflict.

Professional Ethics

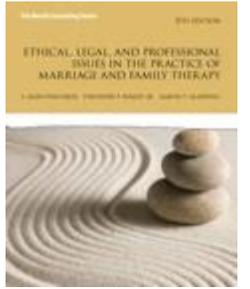
- Professionalism is related to ethical behavior
- It is possible to **not be unethical** in your behavior, yet still **act unprofessionally**.
 - Can you think of any examples?
 - (e.g., failure to return a client's phone call—not unethical, but possibly unprofessional)

Christian Ethics & Counseling

Understanding Ethics and Morality within a Christian Context

From Definition to Worldview (Riley)

- **Conduct**: the doing of a moral or ethical act
- **Character**: “basic moral orientation that gives unity, definition, and direction to our lives by forming our habits and intentions into meaningful and predictable patterns that have been determined by our dominant convictions” (William Willimon)
- **Values**: ideals and beliefs that move us to action, to particular kinds of behavior and lifestyles. Better used as verb.
- **Virtues**: habits or inner dispositions to perform acts considered morally and theologically excellent; character traits deemed morally praiseworthy
- **Integrity**: correspondence between belief and deed; the coherence and consistence of convictions to actions.
- **Worldview**: basic and fundamental attitude toward and understanding of ultimate reality



Worldviews & the Ecology of Therapy

- Perspectives or worldviews make up the *ecology of therapy*.
 - “This context is critical to our understanding of ethical, legal, and professional issues. Marriage and family therapists make decisions that are part of an ever-enlarging array of dimensions. The dimensions of this ecology are *layers of values* and *forms of power* that influence contemporary mental health care.”
- Layers of Values
 - Institutional values (legal systems, managed care systems, practice settings, medical systems, regulatory systems, delivery systems [e.g., e-counseling])
 - Personal values (acculturation-processed worldview)
 - Professional values (emerge through training and developments within the field)
 - Allen Wilcoxon, Theodore P. Remley, Jr., and Samuel T. Gladding, *Ethical, Legal, and Professional Issues in the Practice of Marriage and Family Therapy*, 5th Edition (Upper Saddle River, NJ: Pearson/Merrill Counseling, 2012), 30, 31.

Two Worldview Ethical Systems

- **Naturalistic systems**

- focus on present phenomenal world and life experiences as the source of defining and determining the chief good.

- **Transcendental systems**

- see the present life-experience as incomplete and address a transcendent ultimate reality or spiritual world in defining and determining the chief good for humanity.

Defining Christian Ethics:

Philippians 4:8-9

The **integration** of **conduct** and **character** that **glorifies** God, **practices** biblical faith, **values** moral truth, and **reflects** the **virtues** intrinsic to a **relationship** with God the Father, in Christ Jesus, and through the Holy Spirit.

Christian vs. Secular Worldview

- The Christian view of reality and existence rests on the claim of creation by a personal God, creation of humans in the image of God, presence of good and evil (sin), and revealed moral law.
- This view implies the existence of choice and freedom to act and the associated responsibility.

- If we are free to choose, then what is the basis for the freedom and what are the standards? How do we make the right choices?
- Appeal to science?

Science and Sin

Jeffrey Satinover, *Homosexuality and the Politics of Truth* (Grand rapids, MI: Baker Books, 1996), 146-167

- Science cannot tell you what is right or what is wrong.
 - To say that something is natural or comes naturally and therefore must be right is a fallacy
 - Natural drives are not intrinsically *not* sinful (Mark 9:43-47)
 - Knowledge of the laws of nature, neurophysiological development, and psychology may help explain a natural life or our natural inclinations, motivations, and impulses, but they will not result in an ability to attain a godly life
 - Dependence on a scientific (materialistic and temporal) view of reality inevitably leads to a view of humanity that rejects free will and choice, which, in turn, leaves morality as an illusion—the “abolition” of man as a free agent
 - The Judeo-Christian view, in contrast, recognizes that reality rests on moral standards of good and evil, and the ability choose and a freedom to act.

What Makes an Act, Decision, or Person Ethical or Moral?

- There must be a choice that has bearings on right or wrong, good or bad, fit or unfit.
- A real or culpable choice requires some sense of freedom of the will.
- Three Challenges to Freedom
 - Sociological Fatalism—"Others made me do it."
 - Genetic Fatalism—"I'm hardwired to do it."
 - Theological Fatalism—"The devil made me do it."

Four Key Terms that Define Ethical Acts

- Motive: Why one acts; the inducement motivational factor which drives someone to act in a situation
- Means: the method one goes about achieving his or her end
- End: the desired result of an act
- Consequences: what actually happens as a result of an act.

Components of a Complete Ethical System

A complete ethical system has logical, aesthetical, political/relational, psychological and metaphysical components.

- **Logic**

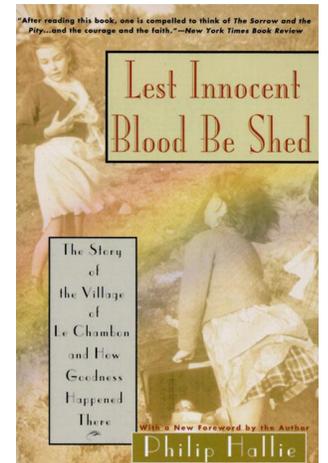
- Focus: Cognitive (Intellect and Reason)

- **Aesthetics**

- Philip Hallie, *Lest Innocent Blood Be Shed: The Story of the Village of Le Chambon and How Goodness Happened There*
- Focus: Affective

Aesthetical Ethic

- Greek word *to kalon* (or *kalos*) can be translated as both *beautiful* and *good*.
 - Ethical practice may have elements of both goodness and beauty
 - E.g., the actions of Pastor André Trocmé
 - Phillip Hallie, *Lest Innocent Blood Be Shed: The Story of the Village of Le Chambon and How Goodness Happened There*, 1-3.



Components of a Complete Ethical System

- **Politics**

- Focus: Relational

- **Psychology**

- Focus: Personal

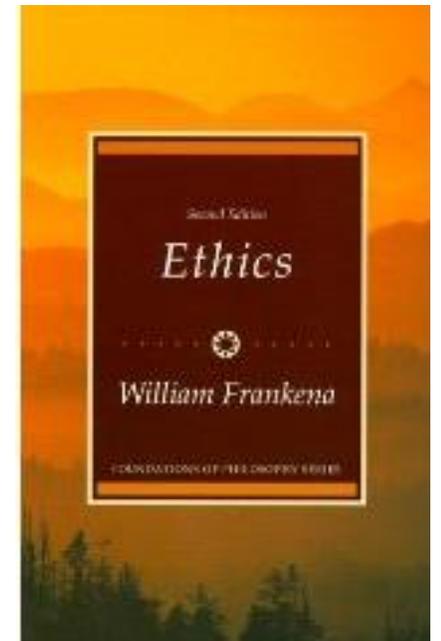
- “Psychology—the science of the human soul and its faculties and capacities—is presupposed by, and furnishes postulates to, ethical science. Consciously or unconsciously every treatment of moral subjects is permeated by the view of the soul or personality of man which the writer (*or therapist—italics added*) has adopted; and his view of conduct will be largely determined by the conception of conscience and freedom and responsibility with which he starts.
- “The fundamental postulate of Ethics therefore is that man is by his constitution intended and fitted for moral life.”
 - David Stow Adams, *A Handbook of Christian Ethics* (Edinburgh: T. & T. Clark, 1925).

Components of a Complete Ethical System

- **Metaphysics**
 - Focus: Spiritual/Transcendent

Three Common Approaches to Moral Decision Making

- Rule/Principle-based methods (Deontological)
- Goal/Consequences-based methods (Teleological)
- Virtue/Being-based methods (Ontological)



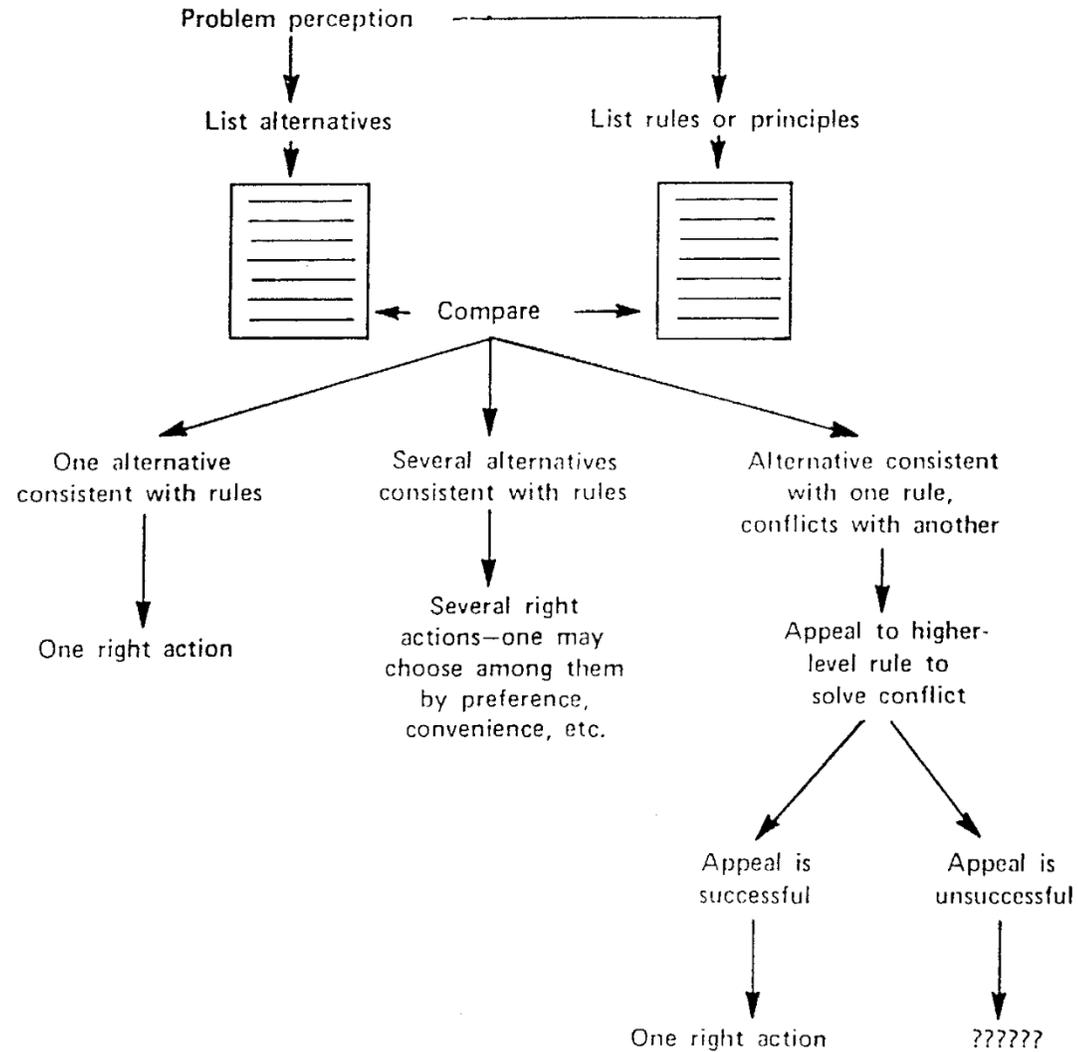
Deontological Approaches

- “Science of Duty”
- An act is justified by proper motives and means
- Ethic of Norms: actions are right or wrong based upon whether you follow the standard
 - Rule
 - Law
 - Principles
 - Commands
 - Duty, obligations, claims

Deontological Approaches

- Moral Law Standards
 - Rational Moral Law: Means is Reason
 - Intuitive Moral Law: Means is Intuition or Conscience
 - Divine Command: Means is God's, followed by Human Will
- Christian life and Deontology

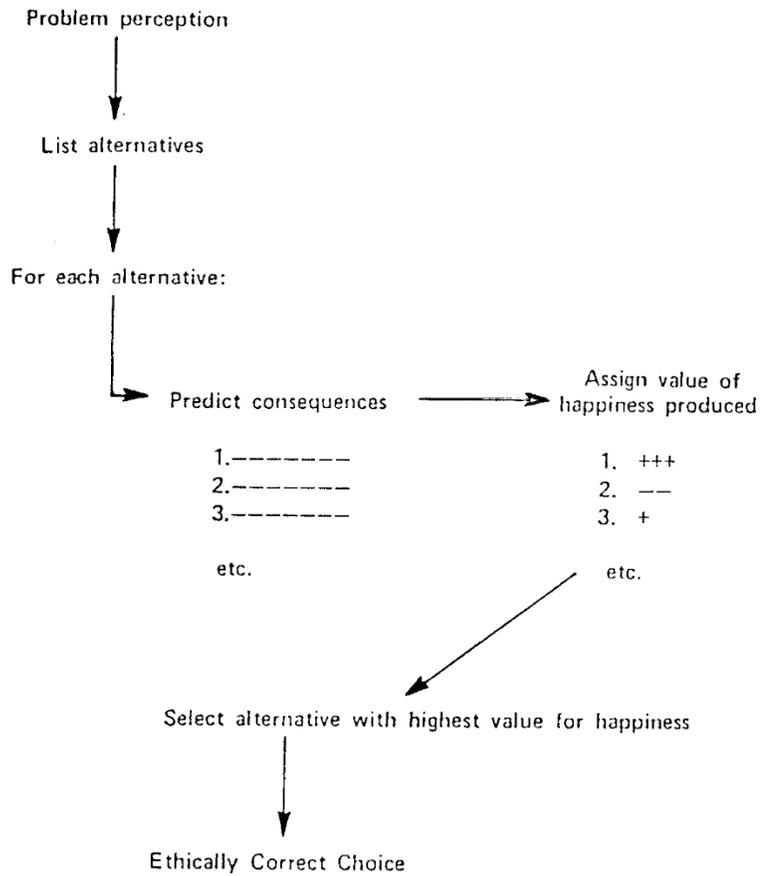
Deontological Ethical Method



Consequential Approaches

- An act is justified by its consequences or results.
- General Description
 - Focus on consequences or goals rather than rules
 - Asks what end justifies the means
- Types of Consequential Ethics
 - Hedonism
 - Utilitarianism
 - Situation Ethics
- The Bible and Consequential Ethics

Act-Utilitarian Ethical Method



Method fails if:

- 1) Unable to predict consequences accurately
- 2) - Unable to estimate accurate happiness values

Ontological Approaches

- Emphasizes Being, Character, or Virtue
- Ethics is primarily character formation
- Focuses on who we are rather than what we do
- Inward being connected to outward behavior
- Emphasis on community
- The Christian Life and Ontology

Inward and Outward

- Two Dimensions of Ethical Understanding
 - Outward or external understanding
 - Inauthentic: Superficial show and adherence to rules. E.g., ritualism (a form of deviance)
 - Authentic: Connected to and consistent with inward dimension
 - Inward or intrinsic understanding
 - Inherent comprehension; spirit, not just letter of the law
 - Law “written on the heart” & “consciences bearing witness” (Rom. 2:14-15).

Christian Ethics: Who we are (inward) & what we do (outward)

- By their fruit you will recognize them. Do people pick grapes from thornbushes, or figs from thistles? Likewise, every good tree bears good fruit, but a bad tree bears bad fruit. A good tree cannot bear bad fruit, and a bad tree cannot bear good fruit. Every tree that does not bear good fruit is cut down and thrown into the fire. Thus, by their fruit you will recognize them. (Matthew 7:16-20 NIV)
- “For it is from within, out of a person’s heart, that evil thoughts come—sexual immorality, theft, murder,²² adultery, greed, malice, deceit, lewdness, envy, slander, arrogance and folly.²³ All these evils come from inside and defile a person.” (Mark 7: 21-23 NIV)

Christian Ethics: Who we are (inward) & what we do (outward)

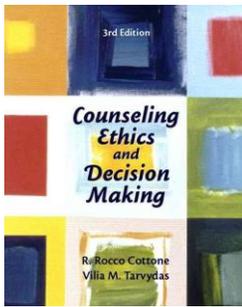
- The **acts of the flesh** are obvious: sexual immorality, impurity and debauchery; idolatry and witchcraft; hatred, discord, jealousy, fits of rage, selfish ambition, dissensions, factions and envy; drunkenness, orgies, and the like. I warn you, as I did before, that those who live like this will not inherit the kingdom of God. But the **fruit of the Spirit** is love, joy, peace, forbearance, kindness, goodness, faithfulness,²³ gentleness and self-control. Against such things there is no law.²⁴ Those who belong to Christ Jesus have crucified the flesh with its passions and desires. Since we live by the Spirit, let us keep in step with the Spirit. Let us not become conceited, provoking and envying each other. (Galatians 5: 16-26 NIV).

Which Approach is Right?

- All three are informative and constructive in ethical decision making
 - Ontological stresses relationship to God, responsibility to neighbor and becoming conformed to his character in Christ
 - Deontological reflects the importance of considering the norms, rules, and principles involved
 - Recognizes authoritative dependence on the Word of God
 - Teleological recognizes the importance of considering the immediate consequences of actions and the eschatological and spiritual implications of decisions

STEPS TO DECISION MAKING

Thinking Through a Process for Making Moral Decisions



Six Decision-Making Skills or Attitudes Necessary for Counselors to be Ethical

1. Willing to be a decision maker & accept appropriate responsibility for their clients & practice
2. Have an intellectual attitude to deal with complexities of human interaction in a deliberate & systematic manner
3. Seek and retain current & accurate professional information in order to be of assistance to clients
4. Continue learning—conferences, reading, professional development
5. Use a framework for decision making that is demonstrates thoughtfulness, sound judgment, competency, and credibility.
6. Be invested professionally—abide by ethical codes & maintain skills
 - Robert R. Cottone, *Counseling Ethics and Decision Making* (Pearson, 2006)

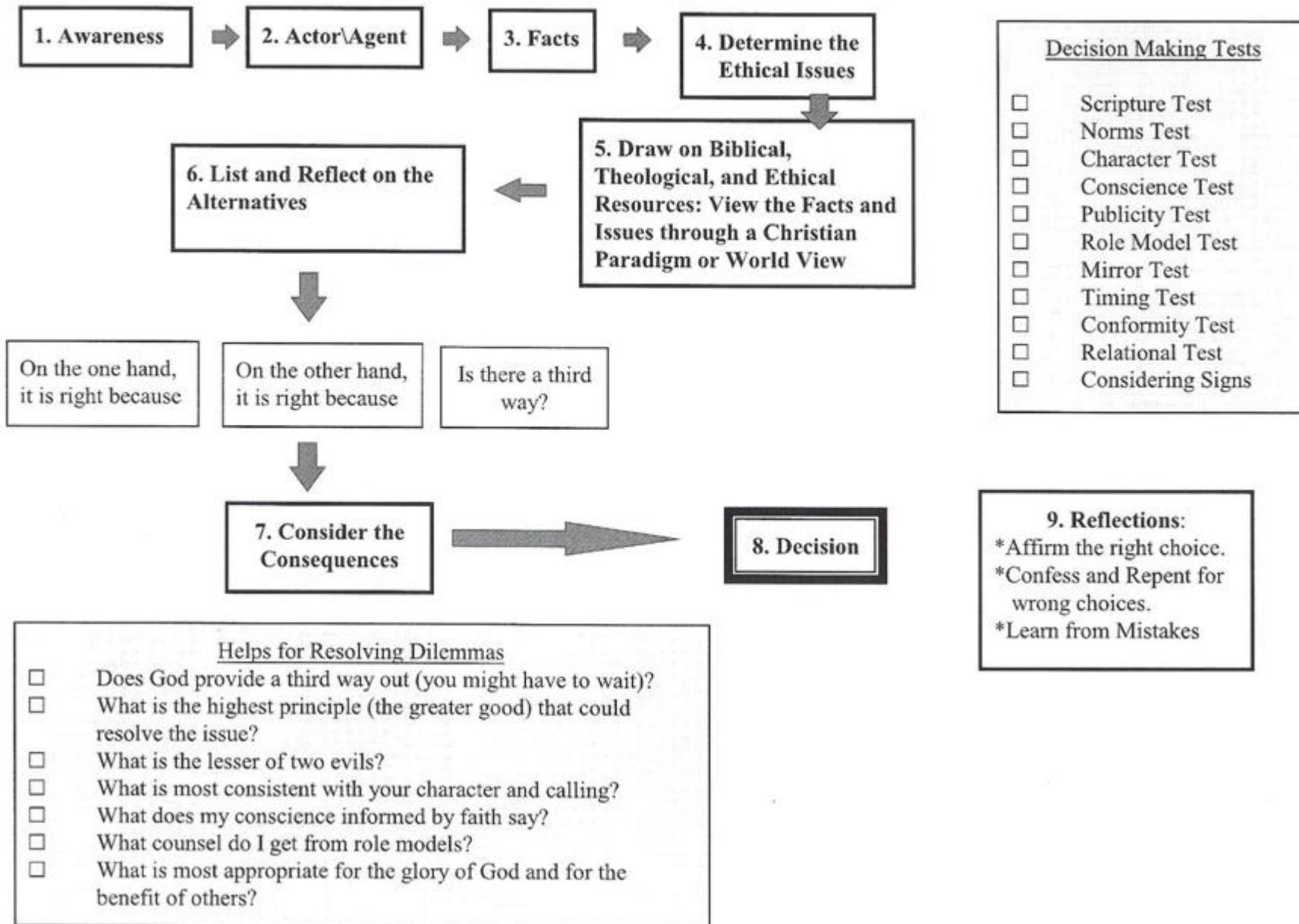
Model for Decision Making

Secular: Cory, Cory, & Callanan & Christian: Riley
Cory, Cory & Callahan Model

1. Identify problem or dilemma
2. Identify potential issues involved
3. Review relevant ethics codes
4. Know applicable laws and regulations
5. Obtain consultation
6. Consider possible and probable courses of action
7. Enumerate consequences for various decisions
8. Choose what appears to be the best course of action

A DECISION MAKING MODEL

Jeffrey B. Riley, NOBTS



Tests to Help Determine if Something is Ethical

1. The Scripture Test
2. Norms Test
3. Character Test
4. Conscience (Gut Feelings) Test
5. Publicity (Front Page) Test
6. Role Model Test
7. Mirror Test
8. Timing Test
9. Conformity Test
10. Relational Test
11. Excursus on Signs

ACA Code of Ethics

I.1.b. Ethical Decision Making

When counselors are faced with an ethical dilemma, they use and document, as appropriate, an ethical decision making model that may include, but is not limited to, **consultation**; consideration of **relevant ethical standards**,

principles, and laws; generation of **potential courses of action**; deliberation of **risks and benefits**; and **selection of**

an objective decision based on the circumstances and welfare of all involved.

Practitioner's Guide to Ethical Decision Making

Holly Forester-Miller, Ph.D. and Thomas E. Davis, Ph.D.

Ethical Decision-Making Model (ACA)

- 1. Identify the problem.
- 2. Apply the *ACA Code of Ethics*. (Which part? How?)
- 3. Determine the nature and dimensions of the dilemma.
- 4. Generate potential courses of action.
- 5. Consider the potential consequences of all options and determine a course of action.
- 6. Evaluate the selected course of action.
- 7. Implement the course of action.

So You Have An Ethical Dilemma?

1. Identify the problem.



- Outline the facts, separating out innuendos, assumptions, hypotheses, or suspicions.
- Ask yourself: Is it an ethical, legal, professional, or clinical problem? Is it a combination of more than one of these?
- Be sure to seek legal advice should you have any legal questions.

2. Apply the 2014 ACA Code of Ethics.



- Consider any other state or professional codes that apply.
- If the problem is not resolved by reviewing the ACA Code of Ethics, then proceed with additional steps outlined in the ethical decision-making process.

3. Determine nature and dimensions of dilemma.

Consider implications for each foundational principle.*



Autonomy:
Fostering the right to control the direction of one's life.

Non-maleficence:
Avoiding actions that cause harm.

* Foundational Principles

Beneficence:
Working for the good of the individual and society by promoting mental health and well-being.

Justice:
Treating individuals equitably and fostering fairness and equality.

Fidelity:
Honoring commitments and keeping promises, including fulfilling one's responsibilities of trust in professional relationships.



Review the relevant professional literature.



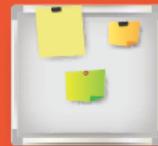
Consult other professional counselors (those who abide by ACA Code of Ethics).



Consult state and national professional associations.



4. Generate potential courses of action.



5. Consider potential consequences of each course of action for all parties involved.



6. Evaluate the selected course of action.



Consider Justice:

In applying the test of justice, assess your own sense of fairness by determining whether you would treat others the same in this situation.



Consider Publicity:

For the test of publicity, ask yourself whether you would want your behavior reported in the press.



Consider Universality:

The test of universality asks you to assess whether you could recommend the same course of action to another counselor in the same situation.

Make a note to follow up on the situation to assess whether your actions had the anticipated effect and/or consequences.



7. Implement your course of action.

Revised from: American Counseling Association (2014). Code of Ethics. Retrieved from www.aacounseling.org/ethics.
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White paper available at www.aacounseling.org/ETH



The ETHICS Model: Comprehensive, Ethical Decision Making

Thomson J. Ling and Jessica M. Hauck

- Consider the Ethical Theories
- Utilitarianism—consider actions that lead to the greatest good for the greatest number; prioritize the consequences of an action, rather than the manner in which the consequences are achieved; outcomes and benefits that might result.
- Moral Relativism—actions based on counseling standard practices; on what most counselors would do.
- Moral absolutism (deontological)—prioritize rules over consequences; e.g., consider liability and actions that increase or limit a counselor's exposure to liability.

The ETHICS Model: Comprehensive, Ethical Decision Making

Thomson J. Ling and Jessica M. Hauck (Forester-Miller & Davis)

- **E—Evaluate the Dilemma** (1. Identify the problem.)
- **T—Think Ahead** (2. Apply the ACA Code of Ethics.)
- **H—Help** (3. Determine the nature and dimensions of the dilemma.)
- **I—Information** (4. Generate potential courses of action.)
- **C—Calculate Risk** (5. Consider the potential consequences of all options, choose a course of action.)
- **S—Select an Action** (6. Evaluate the selected course of action.)
 - 7. Implement the course of action.

Practitioner's Guide to Ethical Decision Making

Holly Forester-Miller, Ph.D. and Thomas E. Davis, Ph.D.

Foundational Principles

- **Autonomy** is the respect for independence, and self-determination.
- **Justice** is “treating equals equally and unequals unequally but in proportion to their relevant differences” (Kitchener, 1984, p. 49).
- **Beneficence** reflects the counselor's responsibility to contribute to the welfare of the client.
- **Nonmaleficence** is the concept of not causing harm to others.
- **Fidelity** involves the notions of loyalty, faithfulness, and honoring commitments.

Now...

- A few more words about the codes and ethical responses to issues of abuse

Codes: Interpretation, Application and Contextualization

- Ethics Codes “are statements of principle, which must be interpreted and applied by the individual or group to a particular context. They present a rationale for ethical behavior. Their exact interpretation, however, will depend on the situation to which they are being applied.”
 - E. W. Stude and J. McKelvey (1979). Ethics and the Law: Friend or Foe? *Personnel and Guidance Journal*, 57, 453.

Common Themes of Ethics Codes

- Protecting the consumer
- Practicing within your scope of competence
- Doing no harm
- Protecting confidentiality and privacy
- Acting ethically and responsibly
- Avoiding exploitation
- Maintaining integrity of the profession
 - Koocher & Keith-Spiegel (2008)

Common Issues

- Practicing with your Scope of Competence
- Informed Consent
- Client Abandonment
- Inappropriate Relationships—Sexual, Dual
- Confidentiality, HIPAA, and Duty to Warn
- Client Records
- Tele-Therapy, Alternative Methods of Therapy
- Referral, wrongful termination, abandonment, and follow-up care.
- Duty of care: Operates continually until the counseling relationship is validly terminated. If the counselee desires continued counseling but the counselor believes that ongoing counseling would no longer be effective, then the counselor is responsible to recommend an appropriate referral.

Duty to Warn

In Texas, there is no duty to warn **the intended victim or the victim's family** under either the general state law governing confidential mental health communications or under the LPC rules. The chief obligation is duty to confidentiality. See 611.002, Mental Health Records, Health and Safety Code.

Know the codes for Your State

There is a duty for LPCs to notify **medical and law enforcement personnel** if you believe that there is a probability of imminent harm to the client or others

- Under LPC Rules, a counselor has a duty “to take reasonable action to inform medical or law enforcement personnel” under the same probability of harm standard. See Title 22 Texas Administrative Code sec. 681.41(m).
- Practitioners with dual licenses should follow the licensing rules that are more strict.
- If you are not under any licensing rules, then there is no duty to warn in Texas. It is not required and it is **allowed only if there is a probability of imminent or immediate injury by the client to himself or others**. This decision (*Thapar V. Zezulka*, 994 S. W. 2d 635) directly contradicted the California Supreme Court *Tarasoff* (1976) case.
- Disclosure without client consent is never allowed to the intended victim or his family.

A patient aggrieved by the improper disclosure of confidential communications may seek injunctive relief and monetary damage. Sec. 611.005.

Louisiana: LPC Board of Examiners; MFT Advisory Committee

- **MISSION STATEMENT**

- The mission of the LPC Board of Examiners is to protect the public interest by regulating the practice of mental health counseling, the practice of marriage and family therapy, and the use of the titles of Licensed Professional Counselor (LPC) or any similar term, Licensed Marriage and Family Therapist (LMFT), Provisional Licensed Professional Counselor (PLPC), and Provisional Licensed Marriage and Family Therapist (PLMFT).

Louisiana: LPC Board of Examiners; MFT Advisory Committee

- **Mental Health Counselor Licensing Act**
- The Mental Health Counselor Licensing Act was passed in 1987 via Act 892 to provide for the regulation of the practice of mental health counseling in the state of Louisiana and to provide for the regulation of the use of the title "Licensed Professional Counselor" or any similar term. In 2001 via Act 1195, the Marriage and Family Therapy Advisory Committee was established to regulate the use of the title "Licensed Marriage and Family Therapist". Act 484 of the 2014 Legislative Session empowered the board to provide regulation of the practice and use of the titles "Provisional Licensed Professional Counselor" and "Provisional Licensed Marriage and Family Therapist".

LPC

- **§313. *Code of Ethics***
- A. The board has adopted the *Code of Ethics* of the American Counseling Association for Licensed and Provisional Licensed Professional Counselors as specified in R.S. 37:1105(D) and may adopt any revisions or additions deemed appropriate or necessary by the board. Applicable ethics requirements for licensed marriage and family therapists and provisional licensed marriage and family therapists are addressed at §4301 of these rules.

Dealing with Child Abuse: Louisiana Law

True or False

1. Failure of a mandatory reporter (counselor) in Louisiana to report sexual or severe physical child abuse is a felony.
2. In Louisiana, Clergy members authorized or accustomed to hearing confidential communications are still required to report child abuse.
3. Mandatory reporters have 24 hours to report or 48 hours over a weekend.
4. An oral report of child abuse to the DCFS or Law Enforcement must be followed by a written report within five days.
5. The statute of limitations for prosecuting delayed disclosures of child sexual abuse is ten years after the child turns 18.
6. Duty to report only applies while a counselor is acting in professional capacity

Louisiana

Professionals Required to Report Children's Code Art. 603(17)

Mandatory reporters include any of the following individuals:

- Health practitioners, including physicians, surgeons, physical therapists, dentists, residents, interns, hospital staff, podiatrists, chiropractors, nurses, nursing aides, dental hygienists, emergency medical technicians, paramedics, optometrists, medical examiners, or coroners
- Mental health/social service practitioners, including psychiatrists, psychologists, marriage or family counselors, social workers, members of the clergy, or aides
- Teaching or child care providers, including public or private teachers, teacher's aides, instructional aides, school principals, school staff members, bus drivers, coaches, professors, technical or vocational instructors, technical or vocational school staff members, college or university administrators, college or university staff members, social workers, probation officers, foster home parents, group home or other child care institutional staff members, personnel of residential home facilities, daycare providers, or any individual who provides such services to a child in a voluntary or professional capacity
- Police officers or law enforcement officials
- Commercial film and photographic print processors
- Mediators
- Parenting coordinators
- Court-appointed special advocates

Mandated Reporters (Louisiana)

- **Health Practitioners**
- **Mental Health/Social Service Practitioners**

- **Teaching or Child Care Providers**
- **Law Enforcement**
- **Film Processors**
- **Mediators**
- **Court-Appointed Special Advocate (CASA)**
- ***Organizational or Youth Activity Providers***
- ***Coaches***
- ***All Adults who witness sexual abuse of a child***

Mandatory Reporter: Mental Health/Social Service Practitioners

Ch.C. Art. 603(17)(b)

Defined as any individual who provides mental health care or social service diagnosis, assessment, counseling, or treatment, including a psychiatrist, psychologist, marriage or family counselor, social worker, member of the clergy, aide, or other individual who provides counseling services to a child or his family. **Practitioner shall not be considered a mandatory reporter when engaged by an attorney to assist in the rendition of professional legal services to that child, when the information that would serve as the basis for reporting arises in furtherance of facilitating the rendition of those professional legal services to that child, and when the information that would serve as the basis for reporting is documented by the practitioner. The documentation shall be retained by the practitioner until one year after the child has reached the age of majority.**

Mandatory Reporter: Member of the Clergy

Ch.C. Art. 603(17)(c)

- Any priest, rabbi, duly ordained clerical deacon or minister, Christian Science practitioner, or other similarly situated functionary of a religious organization **who is authorized or accustomed to hearing confidential communications. Under the discipline or tenets of the church, denomination, or organization, he has a duty to keep such communications confidential. In that instance, he shall encourage that person to report the allegations to the appropriate authorities.**

Mandated Reporters: Where to Report

- **If Abuser is Parent or Caregiver**
 - **Call/Fax IMMEDIATELY to DCFS Hotline (855) 452-5437**
 - **Send written report within five days to to local DCFS office. Jurisdiction: Parish where child/caretaker resides**
- **If Abuse is NOT a Parent or Caregiver, and Parent/Caregiver is Not Believed to have any responsibility for abuse**
 - **Call/Fax IMMEDIATELY Law Enforcement 911 or non-emergency**
 - **Send written report within five days to to local law enforcement agency. Jurisdiction: Parish where offense occurred.**

Arkansas Clergy Mandatory Reporting Child Abuse & Neglect

Ark. Code Ann. § 12-18-402 (LexisNexis through 2012 Sess.)

A clergy member shall immediately notify the Child Abuse Hotline if he or she:

- Has reasonable cause to suspect that a child has been subjected to child maltreatment or died as a result of child maltreatment
- Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment

A clergy member includes a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting him or her, except to the extent the clergy member:

- Has acquired knowledge of suspected child maltreatment through communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith
- Received the knowledge of the suspected child maltreatment from the alleged offender in the context of a statement of admission

A privilege or contract shall not prevent a person from reporting child maltreatment when he or she is a mandated reporter and required to report under this section.

Ark. Code Ann. § 12-18-803(b) (LexisNexis through 2012 Sess.)

No privilege, **except that between a lawyer and client or between a minister, including a Christian Science practitioner, and a person confessing to or being counseled by the minister,** shall prevent anyone from testifying concerning child maltreatment.

Texas

Tex. Fam. Code Ann. § 261.101 (LexisNexis through 2011 1st Sess.)

A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.

The requirement to report under this section **applies, without exception, to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, and an employee of a clinic or health-care facility that provides reproductive services.**

Clergy as Mandatory Reporters

	Privilege granted but limited to pastoral communications	Privilege denied in cases of suspected child abuse or neglect	Privilege not addressed in the reporting laws
Clergy enumerated as mandated reporters	Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Illinois, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Vermont, Wisconsin	Guam, New Hampshire, West Virginia	Connecticut, Mississippi
Clergy not enumerated as mandated reporters but may be included with "any person" designation	Delaware, Florida, Idaho, Kentucky, Maryland, Utah, Wyoming	North Carolina, Oklahoma, Rhode Island, Texas	Indiana, Nebraska, New Jersey, Tennessee, Puerto Rico
Neither clergy nor "any person" enumerated as mandated reporters	Virginia, Washington ⁴	Not applicable	American Samoa, District of Columbia, Hawaii, Iowa, Kansas, New York, Northern Mariana Islands, South Dakota, Virgin Islands

- Child Welfare Information Gateway. (2016). *Clergy as mandatory reporters of child abuse and neglect*. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.

NBCC Code of Ethics, June, 2012

- NCCs, recognizing the potential for harm, shall not share information that is obtained through the counseling process without specific written consent by the client or legal guardian **except to prevent clear, imminent danger to the client or others or when required to do so by a court order.** [*Directive 1*] The requirement also applies to clinical supervisors. [*Directive 12*]
- NCCs shall not release the results of tests and assessments to individuals other than the client without prior written consent except as required to prevent clear, imminent danger to the client or others; by written agreement with the client; or when legally required to do so by a court order or governmental agency. [*Directive 16*]
- NCCs shall adhere to legal standards and state board regulations. [*Directive 86*]

Health Insurance Portability and Accountability Act (HIPAA)

- Child abuse, neglect, or domestic violence: **A covered entity may disclose the protected health information of an individual who is believed to be the victim of abuse, neglect or domestic violence.** Such a disclosure can be made to a social service or protective services agency that is authorized by law to receive reports of abuse, neglect or domestic violence. Disclosures to social service providers are limited to three types of cases: 1) the individual consents to the disclosure, 2) the disclosure is required by law, or 3) the disclosure is authorized by law, and either the covered entity believes the disclosure is needed to prevent serious harm, or the individual is incapacitated and the public official represents that the information is required for immediate enforcement activity and will not be used against the individual. [§ 164.512(c)(i)]
When a covered entity makes a disclosure under this exception it is required to promptly inform the individual. In cases where a covered entity believes that informing the individual or the individual's representative, such as a guardian, would place the individual at risk of serious harm, the covered entity need not inform the individual or the individual's representative of the disclosure. [§ 164.512(c)(2)].

Health Insurance Portability and Accountability Act (HIPAA)

- Mandatory reporting laws: HIPAA preempts state law with few exceptions. HIPAA does not, however, preempt state law provisions that provide for the reporting of disease, injury, child abuse, death, or for public health surveillance purposes. [§ 160.203(c)] For example, if a state law requires a hospital to report cases of child abuse to a social service agency, HIPAA would not prohibit the disclosure.

AACC Code of Ethics

Application to Deadly and Threatening Behavior [1-121]

- Christian counselors refuse to condone, advocate for, or assist the suicidal, homicidal, or assaultive/abusive harm done to self or others by clients, including that which is threatened by verbal or other means. In fact, we are under an affirmative ethical duty to prudently intervene for the sake of protecting life, and under certain conditions, to report deadly threats to the proper authorities and those threatened by clients (see Code sections 1-430ff).

AACC

1-430 Protecting Persons from Deadly Harm: The Rule of Mandatory Disclosure

- Christian counselors accept the limits of confidentiality when human life is imperiled or abused. We will take appropriate action, including necessary disclosures of confidential information, to protect life in the face of client threats of suicide, homicide, and/or the abuse of children, elders, and dependent persons.

- *1-431 The Duty to Protect Others*

The duty to take protective action is triggered when the counselor (1) has reasonable suspicion, as stated in your state statute, that a minor child (under 18 years), elder person (65 years and older), or dependent adult (regardless of age) has been harmed by the client; or (2) has direct client admissions of serious and imminent suicidal threats; or (3) has direct client admissions of harmful acts or threatened action that is serious, imminent, and attainable against a clearly identified third person or group of persons.

AACC

- *1-432 Guidelines to Ethical Disclosure and Protective Action*

Action to protect life, whether you're a client or a third-person, shall be that which is reasonably necessary to stop or forestall deadly or harmful action in the present situation. This could involve hospitalizing the client, intensifying clinical intervention to the degree necessary to reasonably protect against harmful action, consultation and referral with other professionals, or disclosure of harm or threats to law enforcement, protective services, identifiable third-persons, and/or family members able to help with protective action.

AACC

1-433 Special Guidelines When Violence is Threatened Against Others

- Action to protect third persons from client violence may involve or, in states that have a third-person protection (*Tarasoff*) duty, require disclosure of imminent harm to the intended victim, to their family or close friends, and to law enforcement. When child abuse or elder abuse or abuse of dependent adults exists, as defined by state law, Christian counselors shall report to child or elder protective services, or to any designated agency established for protective services. We shall also attempt to defuse the situation and/or take preventive action by whatever means are available and appropriate.
- When clients threaten serious and imminent homicide or violence against an identifiable third-person, the Christian counselor shall inform appropriate law enforcement, and/or medical-crisis personnel, and the at-risk person or close family member of the threat, except when precluded by compelling circumstances or by state law.
- When the client threat is serious but not imminent, the Christian counselor shall take preventive clinical action that seeks to forestall any further escalation of threat toward violent behavior.

Case Study

- Sarah a 25-year-old, divorced mother of two children reports that she is having a difficult time with her oldest son Jeff, aged six. Her live-in boyfriend Jerry has taken on the role of disciplining the children and, two nights ago, Sarah noticed bruises on Jeff's arms when she came home from work. Jeff told her that "Jerry did it"; but when Sarah confronts her boyfriend he denies hurting the boy and claims that it was a result of some innocent rough-housing.
- The PLPC counselor seeks guidance from her supervisor on how to proceed with the counseling. The supervisor suggests that they wait until Sarah returns for her next session and gather more information before deciding whether or not to report the incident.
- Identify the legal and ethical issues raised by this case
- How would you have handled the situation?

Codes of Ethics

- Code of Conduct for Louisiana Licensed Professional Counselors
 - <http://www.lpcboard.org/CODE%20OF%20CONDUCT.htm>
- Code of Ethics for the American Association for Marriage and Family Therapy (AAMFT):
 - http://www.aamft.org/imis15/content/legal_ethics/code_of_ethics.aspx
- Code of Ethics for the American Counseling Association (ACA):
 - <https://www.counseling.org/resources/aca-code-of-ethics.pdf>
- Code of Ethics for the National Board for Certified Counselors (NBCC)
 - <https://www.nbcc.org/ethics>
- Code of Ethics for the International Association of Marriage and Family Counselors:
 - www.iamfconline.org/public/IAMFC-Ethical-Code-Final.pdf
- Code of Ethics for the National Association of Social Workers:
 - <https://www.socialworkers.org/About/Ethics/Code-of-Ethics>
- *Ethics Principles of Psychologists and Code of Conduct* for the American Psychological Association:
 - <http://www.apa.org/ethics/code/index.aspx>
- Code of Ethics for the American Association of Christian Counselors (AACC):
 - <http://www.aacc.net/about-us/code-of-ethics/>
- Code of Ethics for the Biblical Counseling Foundation:
 - <http://www.bcfministries.org/downloads/pub-standardsofconduct.pdf>
- National Association for Evangelicals (NAE) Code of Ethics for Pastors:
 - www.naefcodeofethics.com