

Wisconsin Public Psychiatry Network Teleconference (WPPNT)

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Wisconsin Mental Health Teleconference
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Ethical Decision Making for Mental Health Providers

Making sure we are doing good when we are doing good

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Why worry about ethics?

Because we will “get it wrong” if we do not think about the issues ahead of time

We all intend to do the “right thing”
Issue is NOT malevolence or bad intentions

Problems and dilemmas

Unintended consequences

Conflicts between competing goods

Confusion over what is an ethical issue

Situation 1: protecting the public

- John is one of your consumers who is not doing well. His substance abuse seems to be a major part of his major legal and housing issues.
- He tells you, that he is selling his plasma to a local plasma center and uses that money to buy drugs.
- You realize you cannot call the plasma center about how the money from the plasma center is adding to his life chaos.
- On the other hand, you feel you need to call the plasma center because he is putting other people at risk through his donation of plasma when he is taking both prescribed and illicit drugs and then lying about this to the plasma center.

Situation 1: John Confidentiality Vs. Protecting the Public

- You call the plasma center letting them know that John has been lying about both use illicit drugs and prescribed medication. They then ban him from giving plasma
- He gets angry at this breach of confidentiality, and breaks off all contact with you and with the program. He also stops taking his medication

Situation 1: John Good ethics starts with good facts

- What is the actual risk to others?
 - If he is lying about taking drugs, so likely are many other donors to the plasma center
 - On further investigation, the risk to a plasma recipient is very very low because the drug levels in plasma would be so low

Good Ethics Start with Good Facts

(Be clear about what really happened)

- What is the specific behavior involved when we say someone is “dangerous”, “violent”, “threatening”, “not cooperating”, “more psychotic”?
- “She took a bunch of pills”
 - How many, what kind, in front of whom, context?
- “He threatened to shoot himself with a gun”
 - Did he have a gun? Was it loaded? Who did he make the threat to? In what context? What happened then?
- “He became violent”

Situation 1: John

What other issues or pressures are involved in your decision?

- Be aware of all of the pressures to call the plasma center?
 - We wanted to stop John’s use of drugs, and since we could not breach confidentiality to help him, we came up with a “duty to warn” rational to do so
- Interventions based on our wanting to help, our own frustration, pressure from police or other agencies, concern about family etc.

Situation 1: What could have been done instead?

- The plasma center could have been notified that we knew of consumers who were lying about their drug use, and that they may want to consider different screening.
- We could get more information about the actual risk to others if this was the potential basis for an intervention.
- We could have continued to work with John focused on his life goals and see if we could decrease his drug use and associated instability

Situation 1: protecting the public

- After an ethical as well as clinical review, the decision was discussed with John.
- An apology was made to him about the clear error in talking to the plasma center, his anger was dealt with as a legitimate reaction to this error, and after some time and a lot of staff work he reconnected with the program

Clinician's do not think in “ethical” terms

- We think about the positives, and tend to not think about how it can go wrong
- Problems are framed as “clinical” rather than “ethical”
- We equate what is legal with what is ethical
 - » Laws set minimal standards of conduct
 - » Ethics demands more
- Ethics sometimes assumed to interfere with clinical work

Mental health treatment always involves the imposition of values

- No such thing a “value free” mental health treatment
 - » We either support or challenge a client’s existing relationships
 - » We either support our client’s current stability, or encourage them to engage in change/risk
 - » We give one client extra time or extra resources that others do not get
- Every important decision that is difficult likely involves ethical issues

We are All Vulnerable to Justifying Our Own Decisions

- We are conscientious, caring professionals committed to ethical behavior, but...
- We get tired, afraid, under pressure or in conflict
- Rationalization and thinking errors can fool us by making something unethical seem ethical
- None of us is infallible so we are vulnerable to justifying our behaviors

Situation 2: George and the gift of an air conditioner

- What can go wrong?**
- Who are the stakeholders in this decision?**

You have an older but still working window air conditioner that you no longer need.

You have been working with George for some time, a consumer who has recently started clozapine. He lives in a very hot unventilated apartment and you know that people on clozapine are at much greater risk from heat stroke

You decide to give George your old air conditioner.

Situation 2: George and the air conditioner

- You feel that there are no commercial concerns; since you are giving away the air conditioner
- You are making a decision for yourself and trying to help out this one consumer with whom you are close, so there are no other “stakeholders” involved
- The actual value of the air conditioner is small enough that it does not seem to be a big problem

Situation 2: What could go wrong?

- George's electric bill increases enough that his budget no longer works
- George stops the clozapine, and is now feeling so guilty that he avoids you completely. He is aware that you gave him the air-conditioner to make it easier to him to take clozapine
- He decides to sell the air-conditioner.
- Another consumer with whom you work is angry the he did not get an air conditioner, especially since he has stayed on the clozapine.
- Another consumer in the program is angry that his case manager has not given him an air conditioner

Consider What is at Stake for Whom

What stakeholders have an interest in this?

- You
- The consumer
- Your other consumer's
- The other case managers who do not have an air conditioner to give away
- The consumers of these other case managers

What other considerations are involved?

- How did you pick this one consumer?
 - Issues of equity, fairness
- What does this consumer owe you back?
 - Issues of reciprocity
- What could go wrong?
 - What is the WORSE headline that could come out of this decision

What is the goal?:

To give away your old air conditioner to help a consumer at risk for heat stroke?

Considerations

- What other consumers in the program are at highest risk for heat stroke?
- Work with other staff to come up with a decision process that can be transparent
- Ensure equity among all consumers
- Problem solve with other staff about what could go wrong, and how to plan ahead as much as possible

We Justify Behavior as Ethical

- It's ethical as long as no one complains about it
- It's ethical if supervisor says it's okay
- It's ethical as long as we can say
 - "Anyone else" would have done the same thing
 - It came from the heart (or gut)
 - "I just knew that's what the client needed"
- It's ethical if we could not (or did not) anticipate the unintended consequences of our acts

What May Get in the Way of Doing the “Right Thing”

- We are not sure what the “right thing” is.
- It is easier to think about how it will go right, than how it might go wrong
- Too hard, takes too long, unnecessarily complex
- We are getting some benefit, whether we wish to acknowledge it or not
- It will cause a rift with colleagues or even supervisors

Use the Rule of “3”

- Try to discuss difficult decisions with at least 3 colleagues, supervisors, advisors, experts
- Ethics in crisis work is a “team activity”
- Involving colleagues does not guarantee ethically correct decisions, but being unwilling or uncomfortable to involve colleagues suggests a problem with the decision

Rationale for Confidentiality

- To encourage clients to fully and freely disclose to therapists
 - With expectation information won't be disclosed to their disadvantage
 - To ensure they receive the best care
- To decrease risk of harm to the consumer
- Everything is presumed confidential unless there is a specific reason to breach
 - Consent, comply with law, communicate threat
- Wisconsin has broad and liberal interpretation in favor of protecting client confidentiality

Ralph and confidentiality

Ralph is a man you know well. He is chronically psychotic and often gets agitated. He has never been violent and can be talked down by staff. When he has been arrested or hospitalized in the past, he became very agitated during police transport and admission. In the past it took weeks for him to get back to his baseline.

You get a call from police that he has been harassing and frightening women on the sidewalk. The officer asks if you have any information about this man. In the background you hear Ralph yelling “don’t tell them anything”

If you do not say anything police will take Ralph to jail or to the hospital.

If you say that you know Ralph well and that your staff will be there in the next 15 minutes. You feel pretty certain if the police leave him alone you can stabilize the situation.

Identify “Worse Case Scenario” that Could Come from Your Course of Action

- What decision would you rather defend?
- Would you feel comfortable explaining decision to all stakeholders involved?
- Would it feel okay for decision to be on front page of newspaper or evening news?
- Does your decision fit your organization’s mission?

Dangerous Patient Exception

- Duty of confidentiality gives way to duty to warn ~~protect~~
- Harm must be imminent (very likely to occur in near future)
- Victim does not need to be identified directly since WI duty is owed for “generalized statements of dangerous intent”
- Exception broadly encompasses duty to protect, warn and take all steps reasonably necessary including protecting yourself

Before Breaching Confidentiality

- How immediately dangerous is situation?
- What are consequences of breach?
- What biases do I have (if any)?
- What actions are reasonable?
- Don't cave into anxiety and make hasty decision
- Use consultation whenever possible
- Document decision making process

Function of Professional Boundaries

- Needed to make relationship safe between people with different power
 - When roles are clear, anxiety is reduced
- Protection for client/consumer
- Protection for staff
- Protection of relationship
 - Safe, consistent, reliable and sustainable
 - Serves as role model for clients

Boundaries Essential in Mental Health Work

- Managing boundaries somewhat like walking a tightrope, trying to get a balance between various different elements
- The line is ever-changing...the skill is learning where to draw the line
- Boundaries essential part of all mental health treatment
 - To provide a role model for clients
 - To avoid feeding into clients' vulnerability
 - To build independence and empower clients
 - To maintain focus and provide professional oversight /objectivity in midst of a crisis

Inevitable Boundary Issues

- Same neighborhood, place of worship, social events, support groups, funerals, celebrations
 - Self-disclosure: what and when is appropriate
 - Friend vs. friendly
- Ethnic, faith-based, cultural, AA, LGBT communities
- Patronize same businesses or recreational sites
- Working with clients struggling with trauma
- Clinicians with secondary traumatic stress, burnout, ethical exhaustion, moral distress

Boundary crossings vs Boundary Violations

Would you hire one of your own consumer's to do work on your yard?

Ralph, a consumer in our program, shared his excitement about his new landscaping job.

My wife hired a landscaping company to do some work we had talked about for some time.

I come home from work and find that Ralph is part of the crew that is now working on my lawn.

Is there a problem and if so what should I do about it?

Boundary Issues

- I come into work at the CMHC and the new secretary on my floor is one of my patient's from my private practice
- One of my patients is a social worker at the hospital who regularly works with me on shared patients, referring patients back and forth and developing shared treatment plans
- I walk into my local grocery store and the clerk on the cash register is one of my patient's who has been trying to get a job for some time, despite his dx of schizophrenia
- My then teenage daughter brings home a date who is the son of a woman whom I have been treating, and who has vividly described issues with her son.

Boundary Crossings

- Brief “excursions” across boundaries which may be inadvertent, or done to meet a specific therapeutic need
- Boundary crossings may include giving token gifts or disclosure of small bits of personal information
- Boundary crossings occur when:
 - Confusion between the needs of the provider and those of the consumer or family
 - Provider uses professional relationship to meet their personal needs at expense of clients/ families or
 - Unaware due to burnout, compassion fatigue, trauma

Commercial entanglements

Susan is a consumer who has set up a table at a local market and is selling her ceramic mugs.

When you offer to buy a mug, she offers to gift you one instead of accepting money for it.

Gifts

- Peter is a painter and you like this work a lot. He has priced his paintings starting at \$400 and up, and while he has never sold any, this is what he feels they are worth
- He gives you one of his paintings that still has a price tag on it of \$750. In one sense this is a very expensive gift. On the other hand, he has never sold any paintings, you like it a lot, and it you feel it would help his self-esteem for you to have it hanging in the office.
- Is there a problem with accepting this gift, and are there any alternatives that would help his self-esteem and limit potential problems?

Crossings vs. Violations

- Boundary crossings that may be in the interest of client
- Boundary violations that are harmful to the client
- May be a “slippery slope” between boundary crossings and boundary violations
 - May be misinterpreted by client
 - May have unintended consequences
 - Clinician believes client benefits when this is not the case

Ask Yourself ...

- “How comfortable would I feel explaining this entire situation to my supervisor and the rest of my team in full unedited detail?”
- If you would feel uncomfortable explaining it, then a boundary has probably been crossed
- Red flags should pop up when you say:
 - “This person will be different”
 - “This circumstance doesn’t qualify as a role conflict”
- Pause...ask yourself, “how will this help client?”

Warning Signs of problem boundary crossings

- High volume of cases, burnout, lack of supervision, desire to be liked, feel helpful or competent
- Appears harmless, begins in innocent situations
- Not recognized or felt as a violation until something goes wrong
- Pay attention to “red flags”
 - A “special” relationship between you and client
 - More self disclosure than would typically be the case?
 - Making your own rules/substitute your own?
 - Avoiding bringing case to supervision or talking about it with colleagues

Things to think about

1. Ethical conflicts are conflicts between competing goods

- Almost everything has ethical implications
- Ethical thinking and ideas about boundaries change over time, as we, our client, and our context all change
- Ethical issues are too complicated to have a set of rules, but there are ways of thinking through ethical problems than can help come up with decisions

2. **What are the goals of the proposed action?**

- What are the positive things that we are hoping for
- What are the worse possible problems that could happen: What is the worst possible headline that could come from this decision
- Who are all of the people who would benefit, and who would possibly be harmed
- Talk with colleagues: rule of 3
- How can we maximize the good and minimize the risk

3. Identify all of the stakeholders involved

Interests and Vulnerabilities

	Significant	Moderate	Minimal/None
<u>Client/Family</u>			
<u>Individual Worker</u>			
<u>Agency</u>			
<u>Professional Field</u>			
<u>Community/Public Safety</u>			
<u>Other?</u>			

William White

4. Identify the benefit and risk for each stakeholder?

	Ethical Issue	Pros	Cons
Client			
Family			
Clinician			
Agency			
Other clients			
Professional Field			
Community/ Safety			
Other			

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Adopted from William White

5. Discuss with colleagues: Rule of 3

- Discussing a decision with colleagues does not ensure that the decision is ethical, but not being comfortable discussing it almost guarantees there is a problem
- Choose colleagues whom you know might disagree or have a different point of view or would tell you if they did disagree

6. Practice Ethical Awareness

- Work challenges can overwhelm, drain, distract us, and lull us into “ethical sleep”
- Develop a refined “ethics radar” which increases our ability to detect and respond to ethical issues
- We must practice continuous alertness & mindful awareness of the ethical implications of what we choose to do and not do
- Recognize and address ethical issues & challenges as they come up in our work (not later)

Guidelines for Ethical Decisions

1. Good ethics starts with good facts
2. Identify all of the stakeholders involved
3. Consider the benefit and risk for each stakeholder
4. Identify ethical, clinical, legal and policy issues involved
5. Be clear about problems: identify “worse case” scenarios
6. Discuss the issue with colleagues
7. Learn to tolerate ambiguity
8. Live and learn from your decision

Midrash: On Truth

When the Holy One, blessed be he, came to create Adam, the ministering angels formed themselves into groups and parties. Some of them said “let him be created”, while others urged “let him not be created”.

Loving kindness said “let him be created because he will dispense acts of loving kindness.”

Truth said “let him not be created because he is full of lies.”

Justice said “Let him be created because he will perform acts of justice.”

Peace said “let him not be created because he is full of strife.”

While the angels were arguing with each other and disputing with each other, the Holy One created the first human. God said to them, “Why are you arguing? Man has already been made!”

