

# **Lessons to be Learned: The ACA Code of Ethics as a Looking Glass**

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# Presentation Outline

- Introduction & Overview
- The 2014 ACA Code of Ethics: What's In It for Me?
- Questions & Observations
- Importance of Ethical Decision Making Processes
- Final Questions, Comments, & Observations

# Ethical Principles

## Autonomy

- Fostering the client's right to self-determination

## Nonmaleficence

- Avoiding harm to clients

## Beneficence

- Working toward the good of client and society as a whole

## Justice

- Treating individuals with equity and fostering fairness and equality

## Fidelity

- Honoring commitments and keeping promises

## Veracity

- Truth-telling with clients

# Comparing ACA and AMHCA Codes

## ACA Major Sections

- A. The Counseling Relationship
- B. Confidentiality and Privacy
- C. Professional Responsibility
- D. Relationships with Other Professionals
- E. Evaluation, Assessment, & Interpretation
- F. Supervision, Training, & Teaching
- G. Research & Publication
- H. Distance Counseling, Technology, & Social Media
- I. Resolving Ethical Issues

## AMHCA Major Sections

- I. Commitment to Clients
  - A. Counselor-Client Relationship
  - B. Counselor Responsibility
  - C. Assessment & Diagnosis
  - D. Other Roles
- II. Commitment to Other Professionals
- III. Commitment to Students, Supervisees, & Employee Relationships
- IV. Commitment to the Profession
- V. Commitment to the Public
- VI. Resolution of Ethical Problems

# Prominent Issues in the Current ACA Code

- Boundary Issues
- Counselor Value Conflicts
- Counseling & Technology
- Forensics
  - Legal Consultation; Child Custody; Expert Testimony

(Kaplan et al., 2009)

# Boundary Issues and Ethics



# What are professional boundaries?

- Rules that clarify which behaviors are acceptable *within the professional counseling relationship*
  - May differ from what is appropriate or acceptable in non-counseling relationships, such as friendships or business partnerships
  - In non-traditional settings boundaries may vary depending on the employment setting, treatment goals, and social context
- \*According to the ACA Ethics Committee Annual Summary (2014) the largest percentage of ethical inquiries by practitioners were made regarding boundaries (32%)*

# Boundary Crossings & Boundary Violations

Boundary Crossing	Boundary Violation
<p>“A departure from commonly accepted practice that might benefit the client. Crossings occur when boundary is shifted to respond to the needs of a particular client at a particular moment.”</p>	<p>“A serious breach that cause harm. Action is harmful and/or exploitive of a client.”</p> <p>(Herlihy &amp; Corey, 2010)</p>



# Boundary Violations

- Traditionally, these entail a misuse of counselor power or authority in a secondary context outside of the counseling relationship and causes harm to a client
- Previously termed *dual relationships*
- The term *dual relationships* in ethics and professional counseling has since been phased out in favor of *multiple relationships* as it was an unclear and potentially misleading term

# What Makes Boundary Violations So Problematic?

- Distorts the professional nature of the counseling relationship
- Conflicts of interest may compromise counselor objectivity and judgment
- Danger of exploiting clients due to counselor authority and power differential
- Appearance of impropriety
- Could be the first step of “slippery slope”
- Legal or ethical complaints by clients

# Potentially Beneficial or Therapeutic Boundary Crossings

<b>Types of Services</b>	<b>Community Group</b>
<ul style="list-style-type: none"><li>•Community supported living services</li><li>•Peer employment training</li><li>•On-the-job training</li><li>•Supported employment</li><li>•Situational assessment</li></ul>	<ul style="list-style-type: none"><li>•Rural</li><li>•Substance abuse</li><li>•Deaf/Hard of Hearing</li><li>•Native American</li><li>•Gay, Lesbian, Bisexual, Transgender, Queer/ Questioning (GLBTQQ)</li><li>•Military</li></ul>

# Best Practice Recommendations

## - Boundaries

### Small Communities

- When working in small communities, **maintain clear expectations and boundaries** that strengthen the therapeutic relationship and safeguard both client and counselor

### Entering the Profession

- Upon entering the profession, seek out and develop trusting **relationships with credible peers** with whom you can have ongoing **consultation** and discuss cases

### Codes of Ethics

- **Knowledge of the profession's code of ethics and state laws** inform you of what is considered appropriate versus potentially harmful

(Schank & Skovholt, 1997)

# Best Practice Recommendations

## - Boundaries

### Personal Needs

- **Awareness of personal needs** and developing a **means to meet those needs** outside of work reduce the chance of engaging in potentially harmful dual relationships

### Treatment Planning

- If a treatment plan exists for the client, **connect the rationale** for the boundary crossing with the client's **individual treatment goals**

### Consultation

- Impulsive decision making can lead to trouble; even if there is a **potential cultural rationale** for a boundary crossing, **consult** with other professionals and members of that community **prior to taking action**

(Schank & Skovholt, 1997;  
Younggren & Gottlieb, 2004)

# Best Practice Recommendations - Boundaries

## Limiting Risk

- Refrain from engaging in boundary crossings **unless there is limited risk** to the client and a **clear benefit to the client**

## Documentation

- If there is potential benefit and no clear risk, **document the process** of professional consultation, informed consent, and references to professional codes of ethics

(Younggren & Gottlieb, 2004)

# Summary of Factors to Consider - Boundaries

Is the boundary crossing necessary, or can it be avoided?

How much potential to cause harm to the client is likely?

What are the risks of disrupting the therapeutic relationship?

If harm seems unlikely or avoidable, would the crossing prove beneficial?

How does the crossing fit with the client's treatment goals?

# Ethical Standards: Boundaries

## ACA (2014)

- A.6. Managing and Maintaining Boundaries and Professional Relationships
  - A.6.B. Extending Counseling Boundaries
    - “Counselors consider the risks and benefits of extending current counseling relationships beyond conventional parameters” (p. 5)

## AMHCA (2015)

- I.A.3. Dual/Multiple Relationships
  - “Mental health counselors are aware of their influential position with respect to their clients and avoid exploiting the trust and fostering dependency of the client.” (p. 5)
  - I.A.3.b.
    - “When deciding whether to enter a dual/multiple relationship with a client, former client or close relationship to the client, mental health counselors will seek consultation and adhere to a credible decision-making process prior to entering this relationship.” (p. 5)



# Ethical Standards: Boundaries

## ACA (2014)

- A.5. Prohibited Noncounseling Roles and Relationships
  - A.5.a. Sexual and/or Romantic Relationships Prohibited
    - “Sexual and/or romantic counselor–client interactions or relationships with current clients, their romantic partners, or their family members are prohibited.” (p. 5)

## AMHCA (2015)

- I.A.4 Exploitive Relationships
  - “Mental health counselors are aware of the intimacy and responsibilities inherent in the counseling relationship. They maintain respect for the client and avoid actions that seek to meet their personal needs at the expense of the client.” (p. 5-6)
  - I.A.3a
    - “Romantic or sexual relationships with clients are strictly prohibited.” (p. 6)

# Scenario: Boundaries

- You are involved in many social and political events within the local lesbian, gay, bi-sexual, and transgender (LGBT) community. Over the last twenty-years you have become known as a counselor who specializes in LGBT issues. Recently, you were asked to see the partner of a current client. Both the current client and her partner have said that Peg is the only counselor who is on their insurance panel and who is acceptable to them.
- What might be some ethical concerns in this scenario?

(Graham & Liddle, 2009)

# Counselor Value Conflicts



# Counselor Value Conflicts

- Recent legal challenges from counseling practitioners and students have compelled the field to consider how it handles counselor values both in the field and in the classroom
- At issue is whether or not counseling codes of ethics *unfairly* limit the expression of *certain* value systems
  - Can counselors be dismissed from a job or an academic program based on a set of beliefs or values?
- These issues have largely been defended based on First Amendment, freedom of speech justifications

# Counselor Practitioner Value Conflicts – Case Examples

## *Bruff v. North Mississippi Health Services, Inc. (2001)*

- Sandra Bruff was an EAP counselor for a medical center
- Bruff informed a client, who returned for services, that she could not counsel them on their *relationship* issues due to their “homosexual behavior”

## *Walden v. Centers for Disease Control and Prevention (2012)*

- Marcia Walden was an EAP counselor for the CDC
- Walden also disclosed to a gay client that she could not counsel them on relationship issues due to “*personal values*”
  - Did not tell the client she had religious objections
  - Prior to meeting this client Walden had referred another client with similar issues prior to meeting with them

# Counselor Practitioner Value Conflicts - Summary

- Both cases were *summarily dismissed* as employers were ruled to have provided *reasonable accommodations* to employees, but employees refused these accommodations
- These cases *do not* adequately or effectively challenge the legitimacy of our ethical codes
- The challenges did confirm the legal necessity of employers to respect employee religion and religious expression, it did not affirm the right of religious values to supersede ethical codes

# Counselor Student Value Conflicts – Case Examples

## *Ward v. Wilbanks (2010) & Ward v. Polite (2012)*

- Julea Ward, school counseling student, Eastern Michigan
- During a practicum course, Ward received a referral for the client and in the referral there was an indication the client was in a same-sex relationship
- Ward takes the file to her supervisor and states she can either counsel the client on issues *not related to relationships* or refer the client
- Supervisor initiated a referral and a remediation for Ward was requested

## *Keeton v. Anderson-Wiley (2011)*

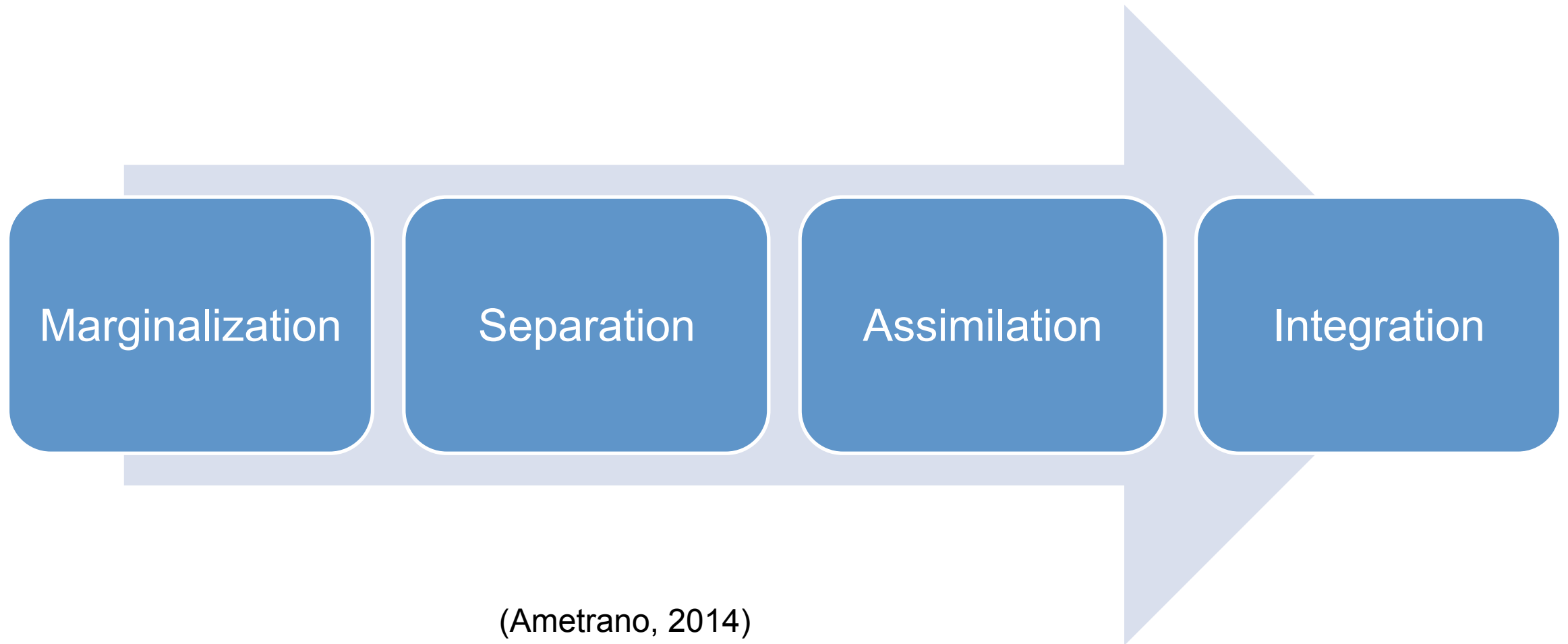
- Enrolled in a Counselor Education program at Augusta State University
- Made comments to classmates and instructors *prior to initiating practicum* regarding her views on homosexuality and her willingness to engage in reparative therapy
- Faculty determined due to her *willingness* to violate the ACA code, she was expelled from the program

# Counselor Student Value Conflicts - Summary

- These cases are starkly contrasted based on the details involved and the manner in which it was handled by faculty
  - In the Keeton case, the decision was open and shut and entirely supported based on ethical obligations
- In the Ward case, however, several instances arose that seriously challenged the manner in which our ethical code addresses counselor value conflicts
  - Issue of referrals based on competence, experience, client preference
  - Religion was the *central theme* of her remediation hearing



# Becoming an Ethical Professional



(Ametrano, 2014)

# Becoming an Ethical Professional: Values

“Professionals are not expected to be without bias, but they are expected to engage in a process of self-examination so that their biases can be evaluated, wrestled with, and ultimately reconciled with the standards of the profession” (p. 155)

(Ametrano, 2014)

# Becoming an Ethical Professional: Values

- Does adopting the values of a profession mean one needs to forfeit their own personal religious or spiritual values?

“Members of our profession must know their biases, understand how such biases might influence treatment choices, work to resolve any biases that are inconsistent with professional ethics and treatment codes, and thus ultimately provide professional services that are consistent with existing data and professional standards.” (p. 774)

(Bieschke & Mintz, 2009)

# Ethical Standards: Values

## ACA (2014)

- A.4. Avoiding Harm and Imposing Values
  - A.4.b. Personal Values
    - “Counselors are aware of-and avoid imposing-their own values, attitudes, beliefs, and behaviors. Counselors respect the diversity of clients, trainees, and research participants and seek training in areas in which they are at risk of imposing their values onto clients, especially when the counselor’s values are inconsistent with the client’s goals or are discriminatory in nature.” (p. 5)

## AMHCA (2015)

- I.4. Exploitive Relationships
  - I.4.d. “Mental health counselors are aware of their own values, attitudes, beliefs and behaviors, as well as how these apply in a society with clients from diverse ethnic, social, cultural, religious, and economic backgrounds.” (p. 6)

# Ethical Standards: Values

## ACA (2014)

- A.11. Termination and Referral
  - A.11.B. Values Within Termination and Referral
    - “Counselors refrain from referring prospective and current clients based solely on the counselor’s personally held values, attitudes, beliefs, and behaviors. Counselors respect the diversity of clients and seek training in areas in which they are at risk of imposing their values onto clients, especially when the counselor’s values are inconsistent with the client’s goals or are discriminatory in nature.” (p. 6)

## AMHCA (2015)

- C. Counselor Responsibility and Integrity
  - C.1.g. “Recognize the important need to be competent in regard to cultural diversity and are sensitive to the diversity of varying populations as well as to changes in cultural expectations and values over time.” (p. 16)

# Scenario: Values

- You are a counselor in a community mental health setting and two parents come to you looking for assistance in coping with their 4-year-old son's medical issues. Initially, they describe the situation as one in which their son has had persistent medical issues and they are experiencing distress as a result. However, as the sessions progress, you come to learn that the pressing issue is their son has received a terminal diagnosis of Leukemia and has been given a prognosis of 6 months; granted he continues to receive treatment. Part of the treatment includes medications to make him feel more comfortable in the time he has left. Parents disagree as to what the best option is as the father wants his son comfortable and alive as long as possible, while mother objects to a medication combination that could potentially be lethal.
- What ethical issues are present? What value conflicts may be present?

(Herlihy & Corey, 2014)

# Technology, Counseling, & Ethics



# Counseling, Technology, & Ethics

- The 2014 edition of the ACA code of ethics is the first to have an entire section of the code devoted to the use of technology (Section H)
  - It acknowledges the fact that we are largely apart of a *technology-based* society
- Section H provides guidelines regarding the use of technology and addresses areas such as:
  - Security/Encryption
  - Licensure
  - Boundaries (i.e. “Personal virtual relationship”)
  - Informed Consent (i.e. Response time)
  - Client identifiers
  - Privacy/Confidentiality

*\*According the ACA Ethics Committee Annual Summary, the third most ethics inquiries made by practitioners were concerns regarding the use of technology (23%)*



# Counseling, Technology, & Ethics

## Advantages

- Increased Accessibility
- Anonymity
- Asynchronous Communication
- Comfort for Clients

## Disadvantages/Ethical Concerns

- Anonymity
- Asynchronous Communication (Delay)
- Lack of Accessibility
- Absence of Non-Verbal Cues
- Technology Issues
- Online Security
- Misinterpretation/  
Misunderstanding

# Counseling, Technology, & the Law

- Limits to Informed Consent
- Age considerations
- Licensure
- Liability
- Guidelines & Regulations

(Harris & Birnbaum, 2015)

# Ethical Standards: Technology

## ACA (2014)

- Section H: Distance Counseling, Technology, and Social Media
  - Major Headings:
    - Knowledge & Legal Considerations
    - Informed Consent and Security
    - Client Verification
    - Distance Counseling Relationship
    - Records and Web Maintenance
    - Social Media

## AMHCA (2015)

- I.B.6. Telehealth, Distance Counseling and the Use of Social Media
  - “Recognizing that technology can be helpful in client’s mental health care management due to availability, expediency, and cost effectiveness, counselors engage in technology assisted, and or distance counseling.” (p. 10)

# Scenario: Technology

- You are a professional counselor working in a substance abuse treatment facility, specifically in an inpatient unit. You yourself are a recovering addict, over a decade sober, and actively involved in the local AA and Recovery community. A client was admitted to your unit two years ago and graduated the inpatient program within a year, then completed Intensive Outpatient within approximately 3 months. Their progress and stay within the unit was *unremarkable* and they have become an active member in the AA and Recovery community as well. Although the two of you have different sponsors and groups, occasionally you run into one another at events. They recently have sent you a friend request on Facebook, where they would also have access to pictures and information regarding other members in the community.
- What ethical issues are present? Is this specifically a “technology” issue?

(Herlihy & Corey, 2014)

# Ethical Issues in Forensic Mental Health Services



# Counseling, Forensics, & Ethics

- Forensic evaluations, as opposed to traditional mental health evaluations, are often circumscribed by the context in which they occur
  - Meaning, they seek to answer a *specific legal* question in a given case
  - Examples include:
    - Competency to stand trial
    - Mental status at the time of an offense
    - Risk Assessment
    - Psychological Evaluation
    - Custody Evaluations

(Barros-Bailey, Carlisle, & Blackwell, 2010)

# Counseling, Forensics, & Ethics: Common Ethical Issues

## Role Clarification

- The client in a forensic evaluation is *both* the referring entity and the person being evaluated
- May sometimes include a third person if an attorney requests the evaluation (i.e. expert witness)

## Informed Consent

- Typically required in traditional mental health evaluations
- May not be *legally* required if court ordered

## Confidentiality

- Similar to informed consent there may not be a *legal* mandate for confidentiality, but an ethical mandate remains
- Counselors can limit the *amount* of information disclosed to the court

## Destination of the Report

- Confidentiality remains, but is potentially limited by the circumstances surrounding the initiation of the report
- Disposition planning/ recommendation

(Candilis & Neal, 2013)

# Counseling, Forensics & Ethics: Legal Considerations

- Civil Rights: despite being *charged* with a crime, examinees still have a right to civil liberties and constitutional rights
- Fifth Amendment: privilege against self-incrimination
- Sixth Amendment: the right to legal counsel
- Presence of attorney: not a clear-cut right, but can be ordered

(Candilis & Neal, 2013)



# Counseling, Forensics & Ethics: A Dual Relationship Problem?

- Some have argued that mental health counselors cannot help but harm clients in a forensic setting simply due to operating in a larger *punitive context*
- Others, less cynically, identify a problem raised between competing parties of interest:
  - Community safety and justice versus
  - Client well-being and autonomy

(Candilis & Neal, 2013)

# Ethical Standards: Forensics

## ACA (2014)

- Section E: Evaluation, Assessment, and Interpretation
  - E.13. Forensic Evaluation: Evaluation for Legal Proceedings
    - E.13.a. Primary Obligations
      - “When providing forensic evaluations, the primary obligation of counselors is to produce objective findings that can be substantiated based on information and techniques appropriate to the evaluation, which may include examination of the individual and/or review of records.” (p. 12)

## AMHCA (2015)

- D. Assessment and Diagnosis
  - D.4. Forensic Activity
    - D.4.b. “When conducting interviews, writing reports, or offering testimony mental health counselors objectively offer their findings without bias, personal opinion or investment in the ultimate outcome. One error in their report or testimony could make the difference between acceptance or disqualification.” (p. 20)

# Scenario: Forensics

- You receive a request for a court ordered mental health evaluation for an alleged sex offender. The report is requested at the *presentence level* and the court is requesting both a mental health evaluation as well as a risk assessment. The client is a 45-year-old male who is currently being charged with a Sex Offender Registry violation, but in the past has been convicted of one contact sexual offense. You elect not to go through informed consent because the evaluation is court ordered and the client is the court. However, during the course of the evaluation, the client discloses that he has an *extensive* history of sexual offending despite only *one charge and conviction*. You cannot verify the past incidents, but the client disclosed them during the evaluation.
- Are there any ethical or *legal* issues present? What rights might the client have in this instance?

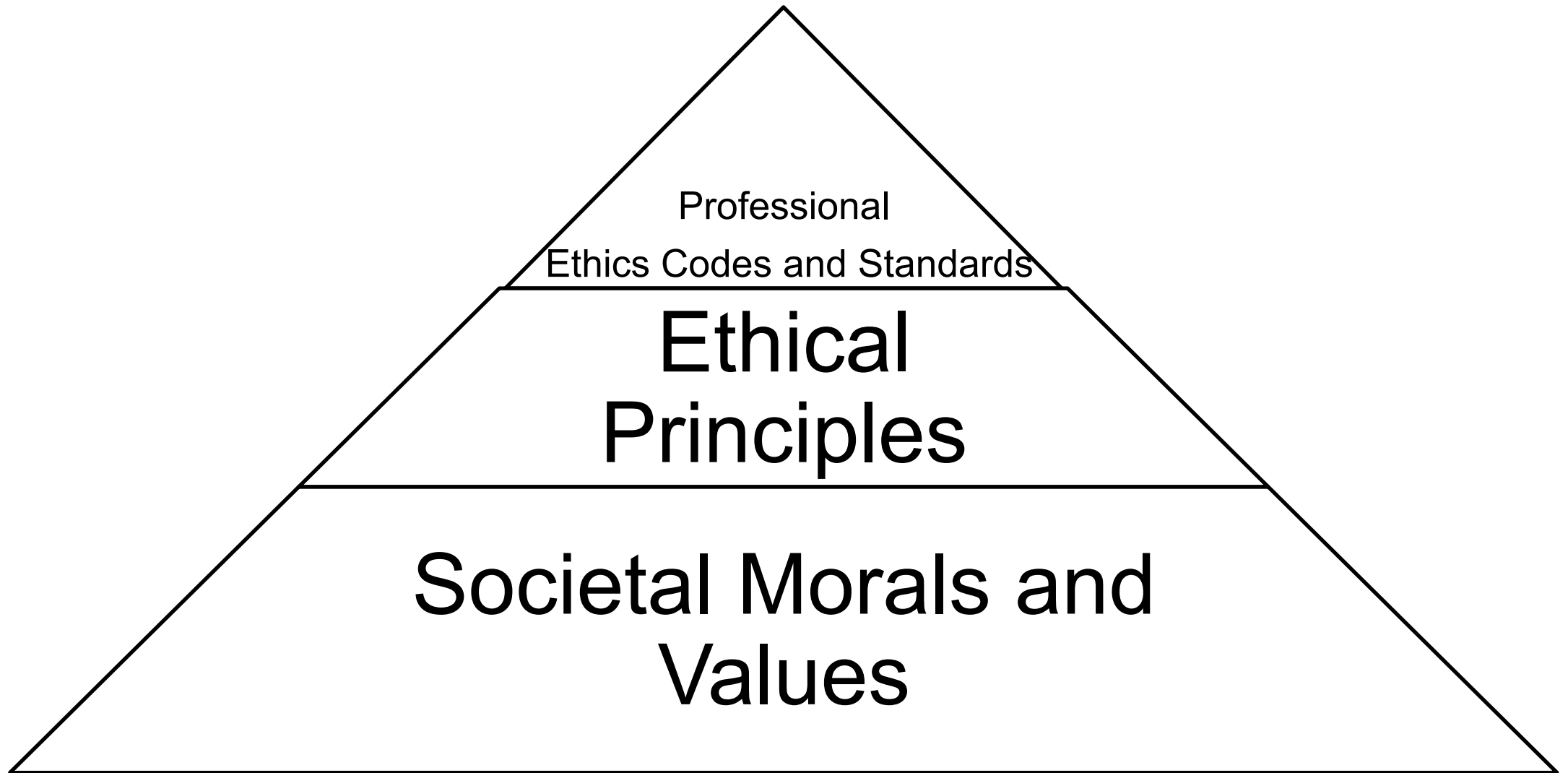
(Herlihy & Corey, 2014)

# Ethical Decision Making at a Glance

Tarvydas  
Integrative  
Decision-Making  
Model of Ethical  
Behavior (Tarvydas,  
2012)



# Ethical Decision Making & Practice Guidelines



# Ethics and Practice Guidelines

## Common Ethical Principles

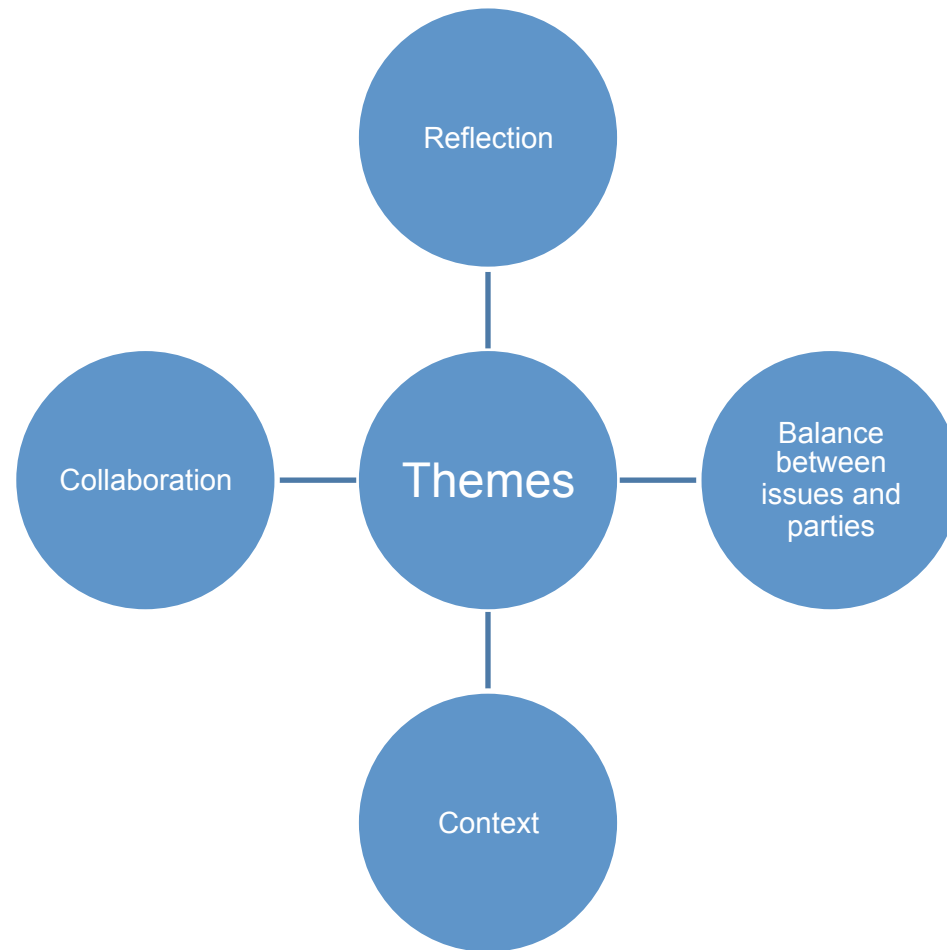
- Autonomy
- Nonmaleficence
- Beneficence
- Justice
- Fidelity
- Veracity

# Ethics and Practice Guidelines

## Common Ethical Standards

- Confidentiality and Privacy
- Roles and Responsibilities
- Competency
- Responsibilities to Other Staff
- Supervision and Consultation
- Advocacy and Accessibility
- Resolving Ethical Dilemmas

# Ethical Decision Making: Themes

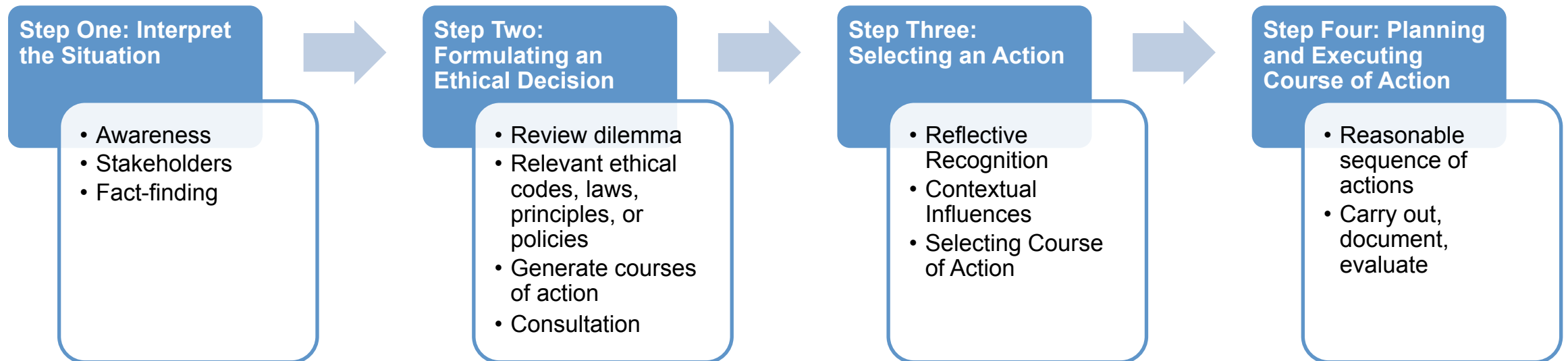




# Ethical Decision Making: Steps



# Ethical Decision Making: Steps



# References

- American Counseling Association (2014). ACA Code of Ethics. Alexandria, VA: Author.
- American Mental Health Counselors Association (2015). AMHCA Code of Ethics. Alexandria, VA: Author.
- Ametrano, I. M. (2014). Teaching Ethical Decision Making: Helping Students Reconcile Personal and Professional Values. *Journal of Counseling & Development*, 92(2), 154-161.
- Barros-Bailey, M., Carlisle, J., & Blackwell, T. L. (2010). Forensic Ethics and Indirect Practice for the Rehabilitation Counselor. *Rehabilitation Counseling Bulletin*, 53(4), 237-242.
- Behnke, S. H. (2012). Constitutional claims in the context of mental health training: Religion, sexual orientation, and tensions between the first amendment and professional ethics. *Training and Education in Professional Psychology*, 6(4), 189-195.
- Bieschke, K. J., & Mintz, L. B. (2009). Addressing Concerns and Taking on the Third Rail. *The Counseling Psychologist*, 37(5), 772-779.
- Candilis, P. J., & Neal, T. M. (2013). Not just welfare over justice: Ethics in forensic consultation. *Legal and Criminological Psychology Leg Crim Psychol*, 19(1), 19-29.
- Graham, S. R., & Liddle, B. J. (2009). Multiple relationships encountered by lesbian and bisexual psychotherapists: How close is to close? *Professional Psychology: Research & Practice*, 40, 15-21.
- Harris, B., & Birnbaum, R. (2015). Ethical and Legal Implications on the Use of Technology in Counselling. *Clinical Social Work Journal Clin Soc Work J*, 43(2), 133-141.
- Herlihy, B., & Corey, C. (2007). *Boundary issues in counseling: Multiple roles and relationships*. Alexandria, VA: American Counseling Association.
- Herlihy, B., & Corey, G. (2015). *ACA ethical standards casebook*. Alexandria, VA: American Counseling Association.
- Hutchens, N., Block, J., & Young, M. (2013). Counselor Educators' Gatekeeping Responsibilities and Students' First Amendment Rights. *Counselor Education and Supervision*, 52(2), 82-95.
- Kaplan, D. M., Kocet, M. M., Cottone, R. R., Glossoff, H. L., Miranti, J. G., Moll, E. C., . . . Tarvydas, V. M. (2009). New Mandates and Imperatives in the Revised ACA Code of Ethics. *Journal of Counseling & Development*, 87(2), 241-256.
- Knapp, S., & Slattery, J. M. (2004). Professional boundaries in nontraditional settings. *Professional Psychology: Research and Practice*, 35, 553-558. doi: 10.1037/0735-7028.35.5.553
- Schank, J. A., & Skovholt, T. M. (1997). Dual relationship dilemmas of rural and small-community psychologists. *Professional Psychology: Research & Practice*, 28, 44-49.
- Tarvydas, V.M. (2012). Ethics and ethical decision making. In D.R. Maki & V.M. Tarvydas (Eds.), *The professional practice of rehabilitation counseling* (pp. 339-370). New York, NY: Springer Publishing Company.
- Younggren, J. N., & Gottlieb, M. C. (2004). Managing risk when contemplating multiple relationships. *Professional Psychology: Research & Practice*, 35, 255-260.