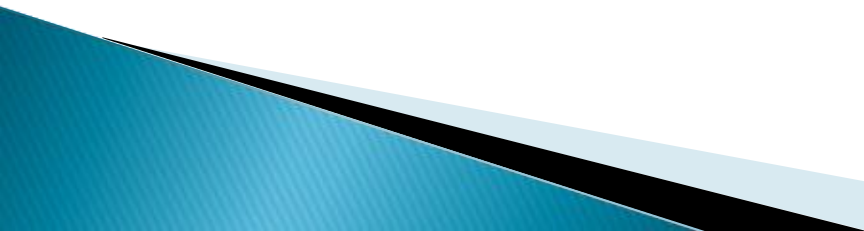



# Law and Ethics in Mental Health Counseling

DeLynn Lamb MSW, LCSW  
[delynnlamb@hotmail.com](mailto:delynnlamb@hotmail.com)  
1-435-590-1923


# Sources of Information

- ▶ ATSA Code of Ethics
  - ▶ Code of Ethics *of the National Association of Social Workers*
  - ▶ Ethical Principles of Psychologists and Code of Conduct
  - ▶ NOJOS Policy and Procedure Manual
  - ▶ Resolution and Reunification : A Step-by-Step Guide for Therapists Treating Youthful Sexual Offenders ; DeLynn Lamb
- 

# What are Ethics

- ▶ Is a framework for making professional decisions and conduct and is intended to augment own moral compass
  - ▶ Identifies core values
  - ▶ Provides a mission statement on how services are provided
  - ▶ Helps identify relevant considerations when professional obligations conflict or ethical uncertainties arise
  - ▶ Helps clients and the general public hold professions accountable
- 

# What are Ethics

- ▶ Aspirational goals to guide professionals toward the highest ideals
  - ▶ Articulates standards that the profession itself can use to assess whether a professional has engaged in unethical conduct
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The Utah Department of Occupational and Professional Licensing does not have a code of conduct or ethics for professionals

It relies on one's own professional code of ethics

# Ethics are Usually divided into

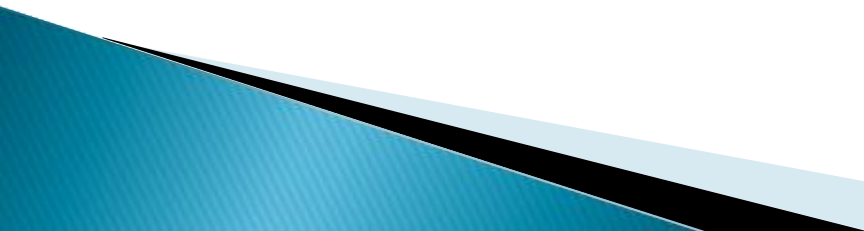
- ▶ **Ethical Principles**
  - The Principles represent guidelines for ethical professional conduct
  - To guide and inspire professionals toward the very highest ethical ideals of the profession
- ▶ **Standards, Procedures, and Rules of Conduct**
  - The Rules and Procedures define the process by which ethical concerns are pursued

The prevailing professional judgment of professionals engaged in similar activities in similar circumstances, given the knowledge the professional had or should have had at the time makes up code of ethics and sets standard for liability




Certain professional behaviors are required as part of the *Ethical Standards*

As such, ethical violations may also arise from a failure to adhere to these prescribed professional behaviors






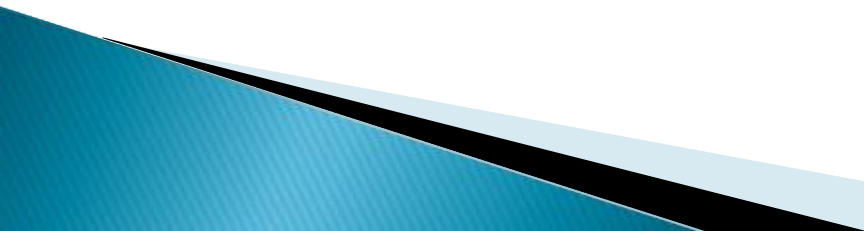
A code of ethics sets forth values, ethical principles, and ethical standards to which professionals aspire and by which their actions can be judged



Ethical decision making in a given situation must apply the informed judgment of the individual professional 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



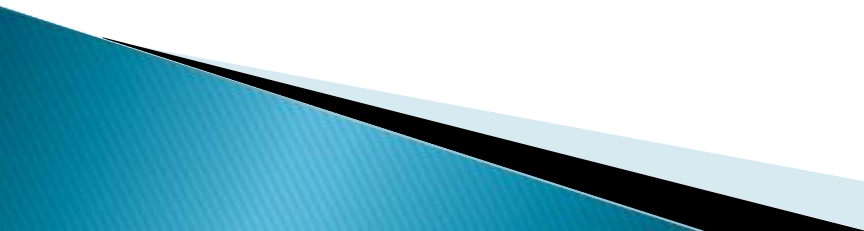
There are many instances in practice where simple answers are not available to resolve complex ethical issues. Professionals should take into consideration all the values, principles, and standards in an *Ethical Code* that are relevant to any situation in which ethical judgment is warranted. Decisions and actions should be consistent with the spirit as well as the letter of this *Code*.



# The Nature of the Therapeutic/Professional Relationship

- ▶ Must acknowledge the relationship has an impact of the life of the client
- ▶ Interpersonal style and therapeutic alliance is important
- ▶ Friendliness/affiliation is conducive to a more positive alliance
  - Empathetic and warm
- ▶ Keep in mind the relationship or therapeutic alliance is an non-parallel/un-balanced/non-reciprocal relationship


# Beginning Thoughts

- ▶ Law and ethics undergo change more or less continuously
  - ▶ Therapists follow a developmental path that affects their needs regarding law and ethics
  - ▶ Ethical lapses stem from personal errors of judgement much more often than corrupt intentions
  - ▶ Ethical dilemmas are called dilemmas for a reason
  - ▶ Ethical misjudgments often result from excessive stress, fatigue, and unmet emotional needs.
  - ▶ Risk is a fact of life
- 


# Ethical Principles



# Ethical Principles


- ▶ To help people in need
  - ▶ Strive to benefit those with whom you work and take care to do no harm
  - ▶ Provide service to others above self-interest
  - ▶ Respect the inherent dignity and worth of the person
  - ▶ Cognizant of the dual responsibility to clients and to the broader society
  - ▶ Seek to resolve conflicts between clients' interests and the broader society's interests in a socially responsible manner
- 

# Ethical Principles


- ▶ Recognize the central importance of the relationship
  - ▶ Establish relationships of trust with those with whom you work
  - ▶ Always be warm and empathic
  - ▶ Relationships between and among people are an important vehicle for change
- 




# Ethical Principles

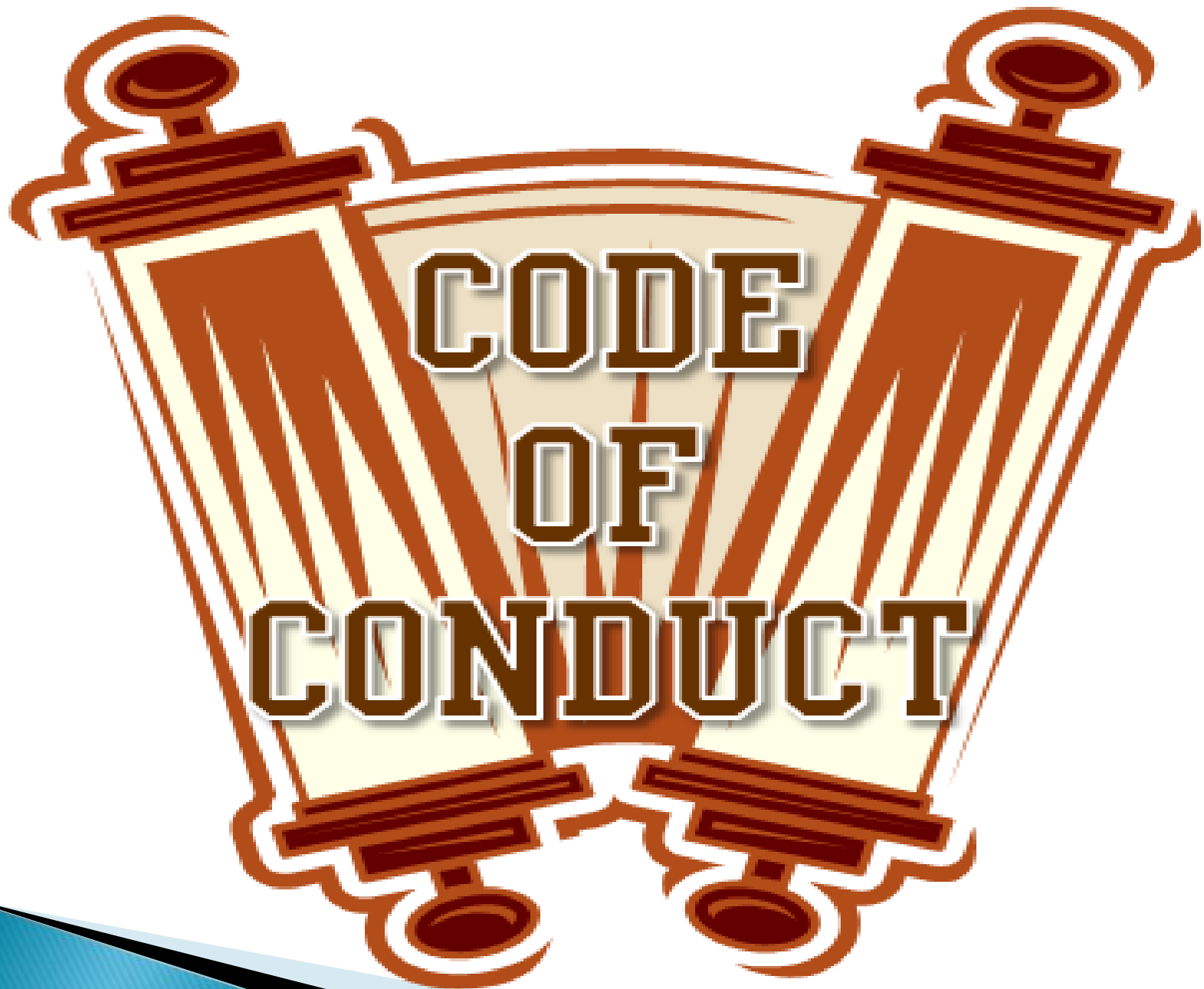
- ▶ Practice within areas of competence and develop and enhance professional expertise
  - ▶ Not allow personal feelings related to a Client's crimes or behavior to interfere with professional judgment and objectivity
  - ▶ Shall not engage in discrimination based on age, gender, race, ethnicity, national origin, religion, sexual orientation, political affiliation, social or economic status, disability, on any basis proscribed by law
  - ▶ Not engage in conduct that demonstrates a lack of good moral character
- 

# Ethical Principles

- ▶ Not engage in behaviors that are harassing, exploitative or demeaning to persons with whom you interact
  - ▶ Not engage in sexual harassment
  - ▶ Not have a felony conviction and not engage in illegal behavior that rationally reflects adversely upon your fitness to provide Professional Services or Tasks
- 

# Ethical Principles


- ▶ Responsible for becoming fully aware of all statutes that pertain to the conduct of professional practice
  - ▶ Seek to promote accuracy, honesty and truthfulness in practice
  - ▶ Respect the right of self-determination
  - ▶ Promote healing, forgiveness, and respect for self and others
- 



**CODE  
OF  
CONDUCT**

# Ethical Standards

## ▶ PAYMENT FOR SERVICES

- Refrain from using Professional Relationships to further personal, religious, political or economic interests
  - Bartering for services can result in a multiple relationship and therefore is considered unethical
  - Do not accept items or services from clients
- 

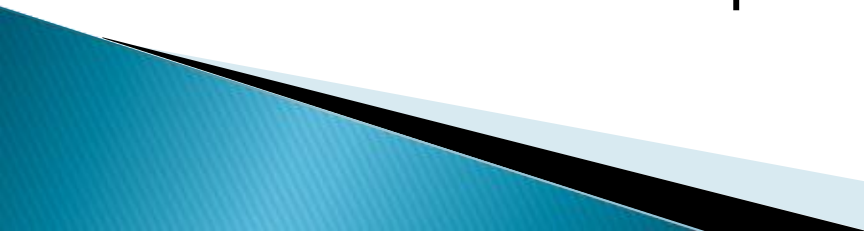
# Ethical Standards

## ▶ MEMBERS' TRAINING AND EXPERTISE

- Have an obligation to engage in continuing education and professional growth activities on a regular basis to assure an awareness of advances in the field
- Will refrain from diagnosing, treating or giving advice about problems outside the recognized boundaries of his or her discipline or training
- Interested in developing a new areas of competency shall attend a sufficient number of training sessions that address the newly adopted area of interest before offering or providing treatment or consultation services in that area
- Seek and receive appropriate supervision as they begin to practice in a new area of competency


# Ethical Standards

## PERSONAL PROBLEMS AND CONFLICTS

- ▶ Recognize that personal problems and conflicts may interfere with effectiveness with Clients
  - ▶ Avoid undertaking an activity where it can be reasonably foreseen that such activity will result in harm to a Client
  - ▶ Be alert to signs that a personal difficulty will, or may, adversely impact professional behavior and seek professional assistance to address this concern
  - ▶ In instances where personal difficulties impact professional behavior to a significant extent, consider limiting, suspending, or terminating work-related duties until these problems are resolved
- 

# Ethical Standards

## CLIENT RELATIONSHIPS

- Shall not exaggerate the efficacy of his or her services
  - Address financial matters with Client
    - Fee for services shall be described to the Client either prior to or at the time of the initial appointment
    - Payment arrangements for fees shall be settled at the beginning of an assessment or a therapeutic relationship
    - If there is a change in fees, or if a service is to be provided for which the fees have not been discussed, the Client shall be informed of the change in fees prior to the provision of the service
    - If the Client is a juvenile, the parent or legal guardian shall be informed of all fees in the manner outlined above
- 



# Ethical Standards

- Informed consent, at the time of the initial appointment, each Client (adult and juvenile) and the parent or guardian of a juvenile Client, shall be informed verbally or in writing of:
  - The types of services propose
  - Reasonable expectation of outcome
  - Alternatives to the type of services proposed
  - Potential benefits and risks involved in the services
  - The limits of privilege and confidentiality

# Ethical Standards


- Shall engage in supervisory or peer-based consultation under circumstances where a reasonable practitioner would recognize that a Professional Relationship might be non-therapeutic for a Client
- Members shall not withdraw services from a Client in a precipitous manner. When considering termination of services
  - Shall give careful consideration to all factors involved
  - Take care to minimize possible adverse effects on the Client
  - If anticipates the termination or disruption of services notify the Client promptly and, when possible, provide for transfer or referral to another service provider

# Ethical Standards

## MULTIPLE RELATIONSHIPS

- ▶ Avoid engaging in multiple relationships with a Client
  - A multiple relationship occurs whenever a member and a Client have a relationship with one another in one context (e.g., social or business relationships) that conflicts with and/or compromises the primary Professional Relationship
  - Multiple relationships may impair professional judgment and pose a significant risk for Client exploitation
  - It may not be possible or reasonable for a member to avoid other nonprofessional contact with Clients
    - Any foreseeable non-professional contact with a Client shall take place only after all other possible options are exhausted

# Ethical Standards

- A member shall refrain from accepting professional obligations when any pre-existing relationship may foreseeably impair the member's professional judgment or create a risk of harm
  - If a potentially harmful multiple relationship develops, due to unforeseen circumstances, the member shall attempt to resolve it as quickly as possible, with due regard for the best interest of Clients, supervisees, and other persons relying upon the member in his or her professional capacity
- 

# Ethical Standards


## CONFIDENTIALITY

- ▶ Respect clients' right to privacy ,should not solicit private information from clients unless it is essential to providing services
- ▶ Responsible for insuring that Clients, consultation parties, family members, organizations/ agencies, and all other work related Clients fully understand issues related to confidentiality
  - This includes, but is not limited to:
  - informing Clients of the limits of confidentiality


# Ethical Standards

- Informing Clients of any circumstances that may cause an exception to the agreed upon confidentiality
  - Specifically informing Clients about mandatory reporting requirement
  - Clarifying issues of confidentiality where multiple parties are involved
  - Clarify issues of confidentiality in cases involving minors in a manner that the minor Client is capable of understanding with respect to requirements for sharing information with parents, guardians, and/or agencies that may have custody of the minor

# Ethical Standards

- When providing service to several persons who have a relationship (such as husband and wife or family members), clarify at the outset how confidentiality will apply among participants and to any external party (e.g., criminal justice agency)
  - ▶ In instances where persons are legally incapable of giving informed consent, obtain written informed consent from a legally authorized person or agency for providing services
- 

# Ethical Standards

- ▶ When working with Clients incapable of giving informed consent, including minors, you are still responsible to
    - Inform those Clients about any proposed assessments and/or interventions in a manner commensurate with the persons' psychological or developmental capabilities
    - Seek their help and participation in such interventions
    - Consider such persons' preferences and best interests
- 



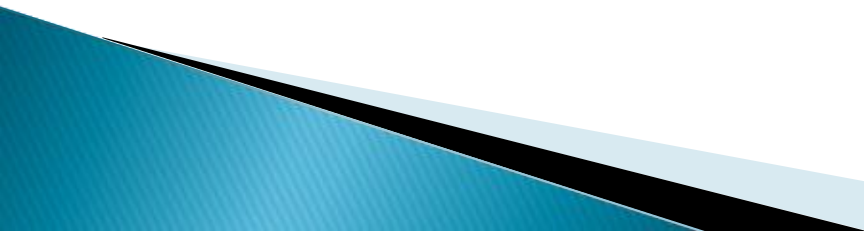
# Ethical Standards

- Live demonstrations of treatment techniques with current or former Clients or their family members is considered exploitative and compromises confidentiality beyond what can be justified relative to educational benefits

# Ethical Standards

- Unless reporting is mandated, written permission shall be required before any data may be divulged to persons
  - Unless the following circumstances apply:
    - The Client presents a clear and immediate danger to another individual or individuals
    - The Client presents a clear and immediate danger to him/herself
    - There is an obligation to comply with specific governmental statutes or regulations requiring reporting to authorities

# Ethical Standards


- When consulting with colleagues, a member shall not share Confidential Information that might reasonably lead to the identification of a Client unless the first obtained prior written and informed consent to do so, or if the disclosure cannot be avoided
  - If disclosure cannot be avoided in the course of a professional consultation, then the only information disclosed shall be limited to that which is necessary to achieve the purpose of the consultation
  - While providing training or workshops, a member shall not share Confidential Information that might reasonably lead to the identification of a Client
- 

# Ethical Standards


- When utilizing audio tape and/or video tape information shall protect the confidentiality of participants
  - Such tapes shall be used only with the written and informed consent of all individuals portrayed on the tapes
- A Member providing services within criminal justice settings shall inform all parties (including the Client) of the level of confidentiality that applies

# Ethical Standards

## PROFESSIONAL RELATIONSHIPS


- ▶ Refrain from knowingly offering services to a Client who is in treatment with another professional without consultation between the professionals involved
  - ▶ At the time of the initial appointment, a Client shall be asked to provide information about treatment received from other service providers and a release of information shall be required in order to consult with that service provider
  - ▶ If the Client refuses to comply, the professional shall discontinue the therapeutic relationship
- 

# Ethical Standards

- ▶ If, after involving a Client in therapy, you discover that the Client was in treatment with another service provider, the release of information shall be signed immediately and consultation with the other service provider shall occur in a timely fashion
  - ▶ In cases where you agree to provide services to a person, agency or organization at the request of a third party, clarify at the outset of the service, the nature of the relationship with each party, including the role of the professional, the potential use of the services to be provided and any information obtained, as well as any limits to confidentiality
- 

# Ethical Standards

## Self-Determination

- ▶ Respect and promote the right of clients to self-determination and assist clients in their efforts to identify and clarify their goal
  - ▶ Professionals may limit clients' right to self-determination when, in professional judgment, clients' actions or potential actions pose a serious, foreseeable, and imminent risk to themselves or others
- 


# Ethical Standards

## Access to Records

- ▶ Should provide clients with reasonable access to records
- ▶ If concerned that clients' access to their records could cause serious misunderstanding or harm to the client you should provide assistance in interpreting the records and consultation with the client regarding the records
- ▶ Should limit clients' access to their records, or portions of their records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client



# Ethical Standards


- ▶ Both clients' requests and the rationale for withholding some or all of the record should be documented in clients' files
  - ▶ When providing clients with access to their records, take steps to protect the confidentiality of other individuals identified or discussed in such records
- 

# Ethical Standards


- ▶ If a record is requested or subpoenaed by law enforcement, an attorney, or the Court, client confidentially must be maintained
  - Only the client can authorize release of the record
  - Communication between you and the client is privileged
  - You can claim privileged communication
  - Only a Judge can order release of the record and only after they have determined that obtaining the information outweigh the clients right to privacy

# Ethical Standards

## Sexual Relationships


- ▶ Under no circumstances can professionals engage in sexual activities or sexual contact with current clients, whether such contact is consensual or forced
  - ▶ Should not engage in sexual activities or sexual contact with clients' relatives or other individuals with whom clients maintain a close personal relationship when there is a risk of exploitation or potential harm to the client
- 

# Ethical Standards

- ▶ Should not engage in sexual activities or sexual contact with former clients because of the potential for harm to the client
  - ▶ Should not provide clinical services to individuals with whom they have had a prior sexual relationship
- 


# Ethical Standards

## Physical Contact

- ▶ Should not engage in physical contact with clients when there is a possibility of psychological harm to the client as a result of the contact (such as cradling or caressing clients)
  - ▶ Professionals who engage in appropriate physical contact with clients are responsible for setting clear, appropriate, and culturally sensitive boundaries that govern such physical contact
- 

# Ethical Standards

## Derogatory Language

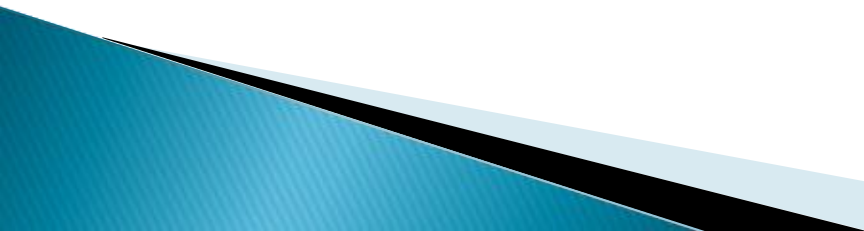
- ▶ Should not use derogatory language in their written or verbal communications to or about clients
  - ▶ Should use accurate and respectful language in all communications to and about clients
- 

# Ethical Standards

- ▶ **Group Therapy**

When providing services to several persons in a group setting, describe at the outset the roles and responsibilities of all parties and the limits of confidentiality

# Mandatory Reporting

- Shall comply with mandated reporting laws and statutes
  - No part of this ethical code shall be construed as releasing you from such obligations
  - If the circumstances allow, inform Clients that you will comply with mandated reporting requirements
- 




# DUTY TO REPORT CHILD ABUSE OR NEGLECT

- ▶ Any person including persons licensed... has reason to believe that a child (any person?) has been subjected to incest, molestation, sexual exploitation, sexual abuse, physical abuse, or neglect, or who observes a child being subjected to conditions or circumstances which would reasonably result in sexual abuse, physical abuse, or neglect, he shall immediately notify the nearest peace officer, law enforcement agency, or office of the division


# DUTY TO REPORT CHILD ABUSE OR NEGLECT

- ▶ The notification requirements of Subsection (1) do not apply to a clergyman or priest, without the consent of the person making the confession, with regard to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs, if: (a) the confession was made directly to the clergyman or priest by the perpetrator; and (b) the clergyman or priest is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession. (3) (a) When a clergyman or priest receives information about abuse or neglect from any source other than confession of the perpetrator, he is required to give notification (b) Exemption of notification requirements for a clergyman or priest does not exempt a clergyman or priest from any other efforts required by law to prevent further abuse or neglect by the perpetrator

# DUTY TO REPORT CHILD ABUSE OR NEGLECT

- ▶ Anyone who, in good faith, makes such a report shall be immune from civil liability in connection with the report
  - ▶ Any person required to report a suspected case of abuse, neglect, or exploitation, who willfully fails to do so, is guilty of a class B misdemeanor
- 

# DUTY TO REPORT CHILD ABUSE OR NEGLECT

- ▶ Any person?
  - ▶ What is the definition of child?
  - ▶ What about a vulnerable adult?
  - ▶ Does this include viewing child pornography?
- 

# Dealing with Suicidal Clients

- ▶ If a client informs you that he or she is suicidal this must be explored
  - Determine the seriousness or risk of the threat
    - Examine behavior
    - See if they have a plan
  - Attempt to get a commitment they will not harm themselves
  - Document the commitment
  - Provide them with emergency contact information


# Dealing with Suicidal Clients

- ▶ If they will not commit to a plan to not harm themselves you must act
  - Help them get to a behavioral health hospital unit
  - Get them to the emergency room
  - Inform members of their family or support network
  - Call 911 and work with law enforcement

# Emergency Contact Information


- ▶ If you or having suicidal thoughts or thoughts of harming yourself here are emergency hotlines
  - You can call 911
  - Southwest Behavioral Health Center 24 HOUR EMERGENCY SERVICE 800-574-6763 or 435-634-5600 24 hour help line
  - No matter what problems you are dealing with, we want to help you find a reason to keep living. By calling 1-800-273-TALK (8255) you'll be connected to a skilled, trained counselor at a crisis center in your area, anytime 24/7.

# The What ifs of Suicide

- ▶ What if they will not commit to a plan of not harming themselves?
  - ▶ What if they leave your office or call or text you they are suicidal?
  - ▶ What if they tell you, that you can't contact their family?
  - ▶ What about confidentiality?
  - ▶ What's the liability?
- 




To minimize ethical dilemmas, clinicians treating abuse need to acknowledge the conflicts, adhere to safeguards, and thoughtfully address the challenges with profession-specific ethical values and codes



Clinicians in sex offender treatment programs always encounter the need to balance the best interests of sex offenders and the safety needs of the community


The protection of the community often takes primacy, resulting in violation of traditional mental health codes of ethics



# Best Practice

- ▶ The definition of best practice in treating sexually abuse is still in question and evolving
- ▶ Consult NOJOS procedure and protocols manual NOJOS.Net

# Core Values and Guiding Philosophies in Treatment of Sexual Abuse

- ▶ Intervention must be specialized
  - ▶ Intervention must be clinically-facilitated, driven, structured, and supervised
  - ▶ Intervention must be based on an individualized approach
  - ▶ Intervention must involve all impacted
- 

# Core Values and Guiding Philosophies in Treatment of Sexual Abuse

- ▶ Intervention must be victim driven and sensitive
  - ▶ Intervention must be accountable and responsible
  - ▶ Intervention must be safe for all involved
  - ▶ Intervention must be beneficial
- 