

The 2005 AAPL Ethics Revision: Description and Analysis

AAPL Ethics Committee, Executive
Council

October 29, 2006
Chicago, IL

Process

- Ethics Cmte (2000), Philip Merideth, Chair
- In context of APA + AMA ethics revisions
- Ethics sub-cmte: Bailey, Candilis, Ciccone, Gutheil, Hackett, Schetky, Weiner, Weinstock, Young + special consultants
- Email review
- Semi-annual reports to Ethics Cmte, Council
- Presentation to AAPL meetings, 2003
- Draft to Council (2004): Appelbaum, Janofsky, Pinals, Rosmarin, Zonana
- Public comment period, 2005
- Ratification

Preamble 1995

- The AAPL endorses the definition of forensic psychiatry adopted by the American Board of Forensic Psychiatry, Inc.
- “ Forensic psychiatry is a subspecialty of psychiatry in which scientific and clinical expertise is applied to legal issues in legal contexts embracing civil, criminal, and correctional or legislative matters: forensic psychiatry should be practiced in accordance with guidelines and ethical principles enunciated by the profession of psychiatry.” (Adopted May 20, 1985)

Preamble 2005

- Forensic Psychiatry is a subspecialty of psychiatry in which scientific and clinical expertise is applied in legal contexts involving civil, criminal, correctional, regulatory or legislative matters, and in specialized clinical consultations in areas such as risk assessment or employment. These guidelines apply to psychiatrists practicing in a forensic role.

Preamble 2005

- Psychiatrists in a forensic role are called upon to practice in a manner that balances competing duties to the individual and society. In doing so, they should be bound by underlying ethical principles of respect for persons, honesty, justice, and social responsibility. However, when a treatment relationship exists, such as in correctional settings, the usual physician-pt duties apply.

Consent 1995

- With regard to any person charged with criminal acts, ethical considerations preclude forensic evaluation prior to access to, or availability of legal counsel. The only exception is an examination for the purpose of rendering emergency medical care and treatment.

Consent 2005

- Absent a court order, psychiatrists should not perform forensic evaluations for the prosecution or the gov't on persons who have not consulted with legal counsel when such persons are: known to be charged with criminal acts; under investigation for criminal or quasi-criminal conduct; held in gov't custody or detention; or being interrogated for criminal or quasi-criminal conduct, hostile acts against a gov't, or immigration violations. Examinations related to rendering medical care or treatment, such as evaluations for civil commitment or risk assessments for mgt or d/c planning, are not precluded by these restrictions. As is true for any physician, psychiatrists practicing in a forensic role should not participate in torture.

Honesty & Striving for Objectivity

1995

- Treating psychiatrists should generally avoid agreeing to be an expert witness or to perform evaluations of their patients for legal purposes because a forensic evaluation usually requires that other people be interviewed and testimony may adversely affect the therapeutic relationship.

Honesty & Striving for Objectivity

2005

- Psychiatrists who take on a forensic role for patients they are treating may adversely affect the therapeutic relationship with them. Forensic evaluations usually require interviewing corroborative sources, exposing information to public scrutiny, or subjecting evaluatees and the treatment itself to potentially damaging cross-examination. The forensic evaluation and the credibility of the practitioner may also be undermined by conflicts of interest in the differing clinical and forensic roles. Treating psychiatrists should therefore generally avoid acting as an expert witness for their patients or performing evaluations of their patients for legal purposes.

Honesty & Striving for Objectivity 2005 (cont.)

- Treating psychiatrists appearing as “fact” witnesses should be sensitive to the unnecessary disclosure of private information or the possible misinterpretation of testimony as “expert” opinion. In situations when the dual role is required or unavoidable (such as Workers’ Compensation, disability evaluations, civil commitment, or guardianship hearings), sensitivity to differences between clinical and legal obligations remains important.

Honesty & Striving for Objectivity 2005 (cont.)

- When requirements of geography or related constraints dictate the conduct of a forensic evaluation by the treating psychiatrist, the dual role may also be unavoidable; otherwise, referral to another evaluator is preferable.