

APPLYING THE GUIDELINES:

Reviewing real-world ethical challenges

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ETHICAL CHALLENGES

- Navigating ethical challenges is a complex process
- One component skill is understanding the guidelines that are developed for our profession
- Another component skill is application of these guidelines
- Moving from code to conduct is a skill set

Best way to learn code to conduct: Review of Real world ethical dilemmas

- - Weighing the issues
 - Understanding courses of action and potential ramifications
 - Referencing the code and using it to guide us

4 scenarios

- Confidentiality in 2014
- Effective/appropriate/humane treatment
- BCBA's and non-evidence- based practice
- Multiple Relationships

Confidentiality in our high tech age: Protecting our consumers

Leslie

Leslie is a teaching assistant in a specialized school for children with autism. She has a blog she has created for a creative writing class that she has made publically accessible. It is called Autism in the Trenches. In the blog, she never actually names her students, and is careful not to provide identifying information. However, she does narrate her days in the classroom, including the behavioral challenges she encounters.

Her supervisors become aware of the blog, and are concerned about confidentiality. What should be done?

Confidentiality

- Has always been an emphasis in the provision of human services and in behavior analysis
- Has always been an area of staff training, with an emphasis on sensitizing staff members to unintentional violations

Historic issues

- Discussions of clients/students by name
- Discussions of students/clients with families of other students/clients
- Posting of student information in the school
- Heightened awareness of potential violations of confidentiality in the community
 - Happy hour discussions
 - Chance meetings with clients/students outside of setting

New challenges

- As technology has evolved.....
 - Facebook
 - Twitter
 - Constant access/transparency
 - 6 degrees of separation

How to sensitize staff to these issues?

- Real world problem with potential severe consequences
- Unintended violations do extend to this realm
- Our assessment of this risk is often inaccurate

How to address these issues?

- Be cautious; "The internet is the world's elevator." (Annals of Internal Medicine, Dr. Mostaghimi)
 - Someone nearby is always listening
- Suggestions from medical community
 - Do not communicate with clients via social media
 - Do not post photos or any descriptions or information about any clients in any forum
 - Separate out personal and private communications

How does this influence our ethical practice of behavior analysis?

- Scenarios
 - Can you post pictures of students on Facebook?
 - Can you blog about the experiences of teaching students with autism?
 - How should you respond to an invitation to become a Facebook friend to a parent of a student?
 - Is a Facebook relationship with clients ok ever? Under what conditions?
 - Levels of knowledge/access

Ethical Questions

- Are these conflicts/concerns?
 - Yes
 - These behaviors do not fully respect the privacy and confidentiality of students and clients.
 - Risks are unacceptable.
- Is this a potential violation of our Guidelines for Responsible Conduct?
 - Yes
 - Even if there is consent and agreement between clinician and parent/client

BACB Guidelines for Responsible Conduct

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- precautions to respect the confidentiality of those with whom they work or consult rules, or professional or scientific relationships.
- (b) Clients have a right to confidentiality. Unless it is not feasible or is contraindicated, the discussion of confidentiality occurs at the outset of the relationship and thereafter as new circumstances may warrant.
- (c) In order to minimize intrusions on privacy, behavior analysts include only information germane to the purpose for which the communication is made in written and oral reports, consultations, and the like.
- (d) Behavior analysts discuss confidential information obtained in clinical or consulting relationships, or evaluative data concerning patients, individual or organizational clients, students, research participants, supervisees, and employees, only for appropriate scientific or professional purposes and only with persons clearly concerned with such matters.

BACB Guidelines

- The Guidelines are very clear and preventive
- Client/student confidentiality is of paramount importance
- Information is shared only as clinically indicated and only with those who have a right to the information
 - No social sharing of information

Recommendations

- periodically with clients
 - Educate clients
- Consider regular discussions of confidentiality and related policies up-front with clients, staff, students.
 - WRITTEN GUIDELINES
- Revisit such discussions periodically.
- Train others in risks of electronic media.

Continued.....

- members in these matters.
 - CLEAR, FIRM RULES
 - Guard against drift
- Increase/heighten awareness of risks that exist in this context of constant access and information.

BACK TO LESLIE

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Next Dilemma: Concern over practice of ABA

Manny is a BCBA from the east coast who is invited to visit a program in the west, while at a conference. While observing the program, he sees a number of practices that he considers to be egregious violations of typical practice. For example, he sees clients threatened with restraint and with punishment. He also observes the use of mechanical restraints for low level, non-dangerous behaviors. He also observes frequent use of blindfolds and water sprays, again for behaviors such as self-stimulatory behaviors. He is not sure what to do, but feels he must say something. Must he? Why?

What are the concerns of the BCBA in this context?

- Discomfort
- Concern over definition or role/appropriateness of feedback
- Concern for the well-being of the clients observed
- Concern for the other clients/all clients in this setting
- Concern about the state of programming in this setting
- Concern about what he should share and with whom

Which of the Guidelines applies here?

- There are several over-arching guidelines that apply
- Themes
- INTEGRITY
- EFFECTIVE TREATMENT
- RESPONSIBILITY TO CLIENTS SERVED
- RESPONSIBILITY TO COLLEAGUES

RELEVANT GUIDELINES

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- (a) Behavior analysts are truthful and honest. The behavior analyst follows through on obligations and professional commitments with high quality work and refrains from making professional commitments that he/she cannot keep.
- (b) The behavior analyst's behavior conforms to the legal and moral codes of the social and professional community of which the behavior analyst is a member.

RELEVANT GUIDELINES

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- The behavior analyst has a responsibility to operate in the best interest of clients.
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- The term client as used here is broadly applicable to whomever the behavior analyst provides services whether an individual person (service recipient), parent or guardian of a service recipient, an institutional representative, a public or private agency, a firm or corporation.

RELEVANT GUIDELINES

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- The behavior analyst's responsibility is to all parties affected by behavioral services.

RELEVANT GUIDELINES

- 2.10 Treatment Efficacy.
- (a) The behavior analyst always has the responsibility to recommend scientifically supported most effective treatment procedures. Effective treatment procedures have been validated as having both long-term and short-term benefits to clients and society.
- (b) Clients have a right to effective treatment (i.e., based on the research literature and adapted to the individual client).
- (c) Behavior analysts are responsible for review and appraisal of likely effects of all alternative treatments, including those provided by other disciplines and no intervention.
- (d) In those instances where more than one scientifically supported treatment has been established, additional factors may be considered in selecting interventions, including, but not limited to, efficiency and cost-effectiveness, risks and side effects of the interventions, client preference, and practitioner experience and training.

RELEVANT GUIDELINES

- 4.01 Describing Conditions for Program Success.
- The behavior analyst describes to the client or client-surrogate the environmental conditions that are necessary for the program to be effective.
- 4.02 Environmental Conditions that Preclude Implementation.
- If environmental conditions preclude implementation of a behavior analytic program, the behavior analyst recommends that other professional assistance (i.e., assessment, consultation or therapeutic intervention by other professionals) be sought.
- 4.03 Environmental Conditions that Hamper Implementation.
- If environmental conditions hamper implementation of the behavior analytic program, the behavior analyst seeks to eliminate the environmental constraints, or identifies in writing the obstacles to doing so.

RELEVANT GUIDELINES

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- resolve ethical violations by colleagues.
- **Colleagues.**
- When behavior analysts believe that there may have been an ethical violation by another behavior analyst, or non behavioral colleague, they attempt to resolve the issue by bringing it to the attention of that individual if an informal resolution appears appropriate and the intervention does not violate any confidentiality rights that may be involved. If resolution is not obtained, and the behavior analyst believes a client's rights are being violated, the behavior analyst may take additional steps as necessary for the protection of the client.

What other issues may arise?

- The BCBA may feel the issues should be evaluated by a regulatory body.
- Mandated reporters must report potential abuse.
- Should/could this scenario constitute abuse?
- Should a state regulatory body become involved?
- If there are BCBAs at the agency, should they be reported?

How is the BCBA feeling?

- OVERWHELMED
- RESPONSIBLE FOR MAKING RIGHT DECISION
- What should he do?
 - Start with the guidelines
 - What else?
 - TALK WITH COLLEAGUES, FORMER MENTORS AND PROFESSORS
 - CONSULT WITH EXPERTS
 - ABAI HOTLINE
 - ETHICS EXPERTS IN FIELD
 - PROFESSIONAL ORGANIZATIONS

Step one: Address concerns within organization

- State concerns to clinical and administrative leads
 - Focus on the observed interactions and procedures
 - Acknowledge limits
 - Discuss deviations from state-of-the-art best practices
- Put concerns in writing
- Make suggestions about what might be done to assess and/or rectify problems
 - Referrals to experts who might do a comprehensive program evaluation

Step two: Decide on additional courses of action

- Consult with colleagues, mentors, supervisors etc. and decide on courses of action
- Consider consulting professional experts and organizations to guide decision on action

Step three: Ensure an accurate and complete record of all steps taken

- Include all accessing of resources used to guide decisions
- Include all correspondences

What about filing a complaint with the BACB?

- Could this constitute a violation at this level? MAYBE
- What are some variables that may push the BCBA to file
 - Nature of reaction to feedback
 - Actions of organization following expressed concerns
 - If relevant, findings of state bodies

What Disciplinary Standard might apply?

- A digression
- Do you know your standards well?
- Do you periodically review them?
- YOU SHOULD!

Professional Disciplinary and Ethical Standards (BACB), Sec. 6

- malpractice in professional work, including, but not limited to, a. any physical or mental condition that currently impairs competent professional performance or poses a substantial risk to the client/consumer of behavior analysis services; b. Professional conduct that constitutes an extreme and unjustified deviation from the customary standard of practice accepted in the applied behavior analytic community and that creates a serious risk of harm to or deception of consumers; c. Abandonment of a consumer resulting in the termination of imminently needed care of a consumer without adequate notice or provision for transition; d. Professional record keeping and/or data collection that constitutes an extreme and unjustified deviation from the customary standard of practice for the field, and/or deceptively altering consumer records or data; e. Engaging in blatant fraud, deception, misrepresentation, false promise or pretense or intimidation in the practice of applied behavior analysis or in solicitation of consumers; and f. The unauthorized material disclosure of confidential consumer information

Continued.....

- *evidence of a disciplinary review and formal finding by an employer, professional peer review organization/group, governing official, federal or state agency, or other licensing or certification board. If the certificant was not overseen by an employing agency, governing official agency, or other Board, then the BACB President and Executive Director shall determine, by consensus, whether the complaint should be submitted to a Review Committee. Incompetence or malpractice must be evidenced by official determinations (such as, court orders, jury findings, or treatment professional findings of incompetence or malpractice);*

What are the consequences of various courses of action?

- Action
 - Various levels of action associated with different consequences
 - All involve some potential damage to relationship/ interpersonal awkwardness with agency and people in it
 - May result in other awkward exchanges
 - Amy reduce income (consulting etc.)
- Inaction
 - Violation of our Guidelines
 - Consumers at risk

Next topic

- BCBA's and non-behavioral treatment
- Most BCBA's will work in team contexts in which clients are receiving a combination of evidence-based and non-evidence based interventions
- What is our obligation in these contexts??

Examples

- A BCBA is approached by a former client, who says that the child's current teacher has recommended AIT. She is hopeful that the long-standing processing problems might be addressed through this intervention. She asks what the BCBA knows of it/thinks about it.
- A parent of a child with autism says at the annual IEP meeting that she is finally going to try the gluten free diet. She recently saw Jenny McCarthy on Larry King, and she wants to see what happens for her son on the diet.

Examples

- A parent has asked that the school program do rapid prompting/SOMA with their child. They have hired on out of state consultant to come on a regular basis. The school was invited to a session, which the BCBA attended. The BCBA became very concerned on many levels about the nature of the intervention, and about the appropriateness of the content taught. She saw an adolescent with severe issues in every area of functioning being prompted to respond to material about the Bushmen of the Kalahari and the Lewis and Clark Expedition. She believes the responses are almost entirely the result of over-prompting and inadvertent prompting. She has been asked to find a way to incorporate the intervention into the school program. What should she do

What guidelines help us navigate these challenges?

- There are several guidelines that assist us here
- Focused on effectiveness and our commitment to effective intervention
- Focused on our obligation to evaluate the impact of treatments

Guideline 2.10

-
- (a) The behavior analyst always has the responsibility to recommend scientifically supported most effective treatment procedures. Effective treatment procedures have been validated as having both long-term and short-term benefits to clients and society.
- (b) Clients have a right to effective treatment (i.e., based on the research literature and adapted to the individual client).

Guideline 2.10

- (c) Behavior analysts are responsible for review and appraisal of likely effects of all alternative treatments, including those provided by other disciplines and no intervention.
- (d) In those instances where more than one scientifically supported treatment has been established, additional factors may be considered in selecting interventions, including, but not limited to, efficiency and cost-effectiveness, risks and side-effects of the interventions, client preference, and practitioner experience and training.

And related guidelines

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- The behavior analyst should promote the application of behavior principles in society by presenting a behavioral alternative to other procedures or methods.
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- **Colleagues.**
 - Behavior analysts have an obligation to bring attention to and resolve ethical violations by colleagues.

What can be done?

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- evaluate the impact of the intervention at the level of the individual (SOMETIMES)
 - WHEN is it yes?
 - When is it no?

Let's revisit the ethical dilemmas posed

- Auditory Integration Training
- What about effectiveness?
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 - ASHA has a position statement against it
 - AAP has a position statement on its ineffectiveness
 - Would you evaluate at level of individual? NO

Let's revisit the ethical dilemmas posed

- Rapid Prompting
- What about effectiveness?
 -
 -
 -
 -
 - Belief as a variable
 - Not a teachable technology
 - Evaluate at level of individual? No

Let's revisit the ethical scenarios

- Gluten free diet
- Ineffectiveness should be discussed
- Risks should be discussed with parents
 - Nutritional deficiencies
- Medical input should be sought
- If there may be food sensitivity or allergy issues that are medically confirmed, it could be methodically tracked
- Evaluate impact? MAYBE IN VERY SPECIFIC SITUATIONS WITH MEDICAL COLLABORATION

Bottom line

- Some procedures should not be investigated (red lights)
 - Evidence of harm (e.g., FC, Chelation)
 - Documented, clear no effect
 - Position statements exist against them
 - Anti-science (belief as an important variable, guru-based)
- Some not yet empirically validated procedures (yellow lights) might be explored with data when
 - Operational definitions are agreed upon and a data collection system is put in place AND
 - Team agrees to a data-driven ultimate decision on continuance

Bottom line

- Families will pursue these interventions
- We can serve a useful function in helping to make a data-based decision on continuance.....
- First line of influence should be education of the team
 - individual and save this time

Next challenge

- Multiple Relationships and Dual Relationships
- From the small problems to the big disasters
 -
 - chain

Multiple Relationships: Chatting at the bus stop

A behavior analyst lives in a neighborhood. She is friendly with a mom of a child with autism who lives on her block. In fact, her daughter and the typically developing daughter of that mom are good friends. She is frequently in situation with the child with autism. The mom does not ask much about autism, though she knows that the BCBA works in the field. For years, it is a non-issue.

One year, though, there are more IEP disputes. At the bus stop one day, they begin chatting about the districts recommendations for Brian. The BCBA listens intently, begins dispensing advice, and offers to look at the IEP. Ultimately, she offers to go observe the child in school, to observe the proposed placements, and to attend team meetings.

The code: 1.05 Professional and Scientific Relationships

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- **teaching, research, supervisory, consultative, or other behavior analytic services only in the context of a defined, remunerated professional or scientific relationship or role.**
- supervision, teaching, consultation, research, or other behavior analytic services to an individual, a group, or an organization, they use language that is fully understandable to the recipient of those services. They provide appropriate information prior to service delivery about the nature of such services and appropriate information later about results and conclusions.
- (c) Where differences of age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status significantly affect behavior analysts' work concerning particular individuals or groups, behavior analysts obtain the training, experience, consultation, or supervision necessary to ensure the competence of their services, or they make appropriate referrals.

More.....

- (d) In their work-related activities, behavior analysts do not engage in discrimination against individuals or groups based on age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, socioeconomic status, or any basis proscribed by law.
- (e) Behavior analysts do not knowingly engage in behavior that is harassing or demeaning to persons with whom they interact in their work based on factors such as those persons' age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status, in accordance with law.
- (f) Behavior analysts recognize that their personal problems and conflicts may interfere with their effectiveness. Behavior analysts refrain from providing services when their personal circumstances may compromise delivering services to the best of their abilities.

What are the themes here?

- CLEAR DEFINITION OF ROLE
- BEST INTERESTS OF CLIENT
- NON-DISCRIMINATION
- INTEGRITY
- SELF-MONITORING
- MONITORING OF OTHERS

DUAL RELATIONSHIPS

- 1.06 Dual Relationships and Conflicts of Interest.
- nongovernmental contacts with persons such as clients, students, supervisors, or research participants.
analysts must always be sensitive to the potential harmful effects of other contacts on their work and on those persons with whom they deal.
- (b) A behavior analyst refrains from entering into or promising a personal, scientific, professional, financial, or other relationship with any such PERSON.
impair the behavior analyst's objectivity or otherwise interfere with the behavior analyst's ability to effectively perform his or her functions as a behavior analyst, or might harm or exploit the other party.
- (c) If a behavior analyst finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen (i.e., one in which the reasonable possibility of conflict of interest or undue influence is present), the behavior analyst attempts to resolve it with due regard for the best interests of the affected person and maximal compliance with these Guidelines.

BACK TO THE DILEMMA: What did she do wrong?

- should she have stopped?
- How can this be avoided?

Why do we drift?

- Desire to be helpful
- We have LOTS OF IDEAS
- We CAN HELP
 - This does not mean we should help

Slippery slope

- Listening at the bus stop to generalities.....
- Listening to specifics
- Asking questions to get more info
- Offering to look at IEP
- Offering to observe
- Attending/Advocating at meetings

A new twist on the home/school dual relationship

- A child in your class is having a very difficult time behaviorally at home, and the family is struggling. They are coping with multiple additional stressors, including a dying in-law, job transitions, and sibling struggles. They ask about getting some respite hours from the classroom, which they would privately pay the staff for. The teacher is conflicted. As the child is very challenging behaviorally, it would be difficult for the family to recruit people to assist them who do not know the child. The teacher asks her classroom staff who might have hours available, and one teaching assistant agrees to do the hours.

Continued.....

- After a few weeks, the teaching assistant says that it is a bit awkward, as the mother frequently brings up school information, and poses many questions to the assistant while at the house about school happenings. In particular, the mother is very upset about the speech therapy services, and feels there is a lack of progress overall.

What happened here?

- Multiple relationships
- Lack of clarity in boundaries
- Desire to be helpful had unintended consequences
- What should have happened?
 - FAMILY NEEDED HELP
 - FAMILY NEEDED SKILLED HELP
 - TEACHER DESIRED TO HELP
 - TEACHER PLACED ASSISTANT IN POTENTIALLY UNTENABLE ROLE

What might have prevented problem?

- Creation of distance from classroom context
 - Possibly a policy that same class staff do not provide such services
- Contract with explicit guidelines for both parties
- More attention to issue of payment/liability
 - Any easier if agency hours?

A general comment

- It is always easier BY DEFINITION to weigh in on scenarios post-hoc
- It is easy to dissect any course of action
- Self-flagellation is not productive

HOW AND WHEN can it be prevented and/or rectified?

- Prevention
 - Explain parameters of involvement
 - Explain reasons for need to follow rules within profession
 - Share rules, when appropriate to do so
 - In context of actual clients, define roles and rules in writing
 - Reference it again as it comes up
 - Promotes wider understanding from clients
- Fixing
 - Mistakes happen
 - ACT quickly and clearly
 - Educate the individual regarding how and why you erred
 - Monitor yourself
 - Discuss questions with valued colleagues

A REVIEW: SOME COMMON THEMES

- principles of the Guidelines?

Responsible Conduct (Section 1)

- Maintain high standards of the profession
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at prevention

What about threats within and outside of our science?

- How do we adhere to the guidelines in these broad contexts?
- What threats are commonly encountered?

Many of us work in non-behavioral worlds

- We may be able to shape these environments
- We may be able to shape these colleagues
- Some guidelines encourage us to do exactly that
 - Provide the behavioral view
 - Educate others about science, pseudo-science, and anti-science
 - Help others understand levels of evidence and the concept of evidence-based practice
 - Encourage data based decision making at the level of the individual

**The Behavior Analyst's
Ethical Responsibility to Society:
9.01 Promotion in Society**

- of behavior principles in society by presenting a behavioral alternative to other procedures or methods.

**The Behavior Analyst's
Ethical Responsibility to Society:
9.02 Scientific Inquiry**

- The behavior analyst should promote the analysis of behavior as a legitimate field of scientific inquiry.
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**We can provide help to one
another**

- We can rely on one another to help
- We can train our staff and teach our students that this is an important strategy in maintaining high levels of ethical adherence
- We can reinforce one another for reaching out
- We can make ourselves available
- We can share stories of dilemmas (assuring no violation of confidentiality)
- We can encourage a culture of policing ourselves and protecting our field at every level.

Do you know what to do?

- Are you clear on the ethical implications of a particular issue?
- Are you UNCLEAR about whether the issue has ethical challenges?

If you are clear that a violation exists

- ACT in accordance with the guidelines
 - Approach a colleague who is in violation
 - Get out of dual relationships
 - Stop violations of confidentiality
- DOCUMENT all you do to address your concerns
- PREVENT FUTURE OCCURRENCES
 - Create policies within your organization
 - Educate staff
 - Educate consumers
 - Disseminate the guidelines
 - Create contracts with clients

If you are unclear

- ACCESS RESOURCES
 - Review the Guidelines for Responsible Conduct
 - Revisit books on the topic (e.g., Bailey and Burch)
 - Read ethical scenarios (e.g., APBA column)
- GET SOUND AND LEARNED ADVICE!
 - Approach a supervisor, mentor, former or current professor, or trusted colleague
 - Consider approaching several
- Consider the ABAI hotline, run by Jon Bailey

Remember

- Prevention often works
- Prevention does not always work
- You may find yourself in a situation in which ethics are compromised
 - Act quickly and fully to align yourself with the values and code of your profession
 - Keep client interests paramount

Remember

- The field belongs to all of us
- We all have a responsibility to it
- We should act to help others resolve situations in which our code is compromised
 - Ask for help
 - Approach colleagues
 - Make yourself available to others
 - Make ethics a part of your program's training
 - Make ethics part of your continued professional development
