

Questions Asked During Live Webinar Broadcast on 11/15/19



Legal and Ethical Issues in Supervision

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Are there times when the tiers of ethics at a federal level conflict with the state level? And if that occurs which do we adhere too? What if a state ethical code conflicts with a federal ethical code?

A: When state and federal law differ (whether one conflicts with the other or not), the advice is follow the law that is most strict. For example, if a state law on confidentiality regarding client information is more limiting than 42 CFR, part 2 (the federal confidentiality law pertaining to substance use disorder treatment), then one would follow the state law. Regarding ethical codes, these are typically not created by state or federal legislation. Ethical codes typically are developed by state licensing boards, other credentialing boards, or professional organizations. If one is licensed, they must follow the codes of their licensing boards. Note that many credentialing boards (including some state licensing boards) have adopted the NAADAC Code of Ethics.

I've heard supervisors discuss openly non-clinical reasons to keep patients in treatment longer, possibly for financial reasons, how can a supervisor deal with this when we are lower on the hierarchy in a clinical program?

A: If patients are kept in treatment beyond the time necessary as determined by medical professionals and the reason is for financial gain for the facility, then the program has committed a breach of ethics and perhaps even a violation of law (e.g. insurance fraud). My advice is to discuss this with the other supervisor (I assume a peer) who had discussed this openly (to check out the accuracy of this and gather specific information). Perhaps the two of you could go to your supervisor (clinical director or program director) to express your ethical concern and how the program or facility could potentially be the subject of insurance fraud. If your complaint is ignored, you could lodge an ethical complaint to your licensing board or to your state's insurance commission. Of course, if nothing is done and you feel you are part of system that is operating in such an unethical (and perhaps illegal) way, you may want to consider finding another job.

If my supervisee still seems to be bringing the same types of ethical dilemmas to me and hasn't developed adequate autonomy how do I get them past that hump? What are some techniques to get my supervisee to start making ethical decisions without me there?

A: First of all, I assume you are documenting these dilemmas as well as your advice to your supervisee and your supervisee's inadequate autonomy (to make ethically sound decisions). If changes are not made (through a collaborative and trusting supervisory relationship), this could be treated as a job performance problem and you may want to begin progressive discipline (the due process your HR department has laid out to address disciplinary issues as a means of providing opportunities for improvement with consequences if improvement is not made). My advice is to go to your HR department for advice on following appropriate due process.

There is a significant age gap between me and my supervisee - she is much older and has a great deal of sensitivity to this aspect in our relationship, sometimes I can tell she doesn't respect my supervision in the area of legal or ethical issues she thinks she knows more what do I do?

A: My advice is that you work on developing a bi-directional collaborative relationship. What I mean by bi-directional is to let her know that you expect to get as much out of the relationship as she can by showing respect and admiration of her experience (life experience as well as work experience). You are obviously in your position due to your skill level, but I'm sure she has skills that you could learn from – tell her that. I'd focus more, at this point, on developing a trusting and collaborative relationship (with mutual respect) than on legal and ethical issues. Of course the legal and ethical issues are quite important and if she is at risk for breaching ethics or violating a law, this must be effectively dealt with (see my answer to the previous question regarding seeking advice from HR).

Can you recap what you meant on the slide where it said autonomy of supervisee vs expectations of supervisee?

A: (actually the slide says “autonomy of supervisee vs expectation of *supervisor*”). What this means is that a supervisor will have certain expectations of the supervisee with regards to his or her professional growth, clinical decisions, and becoming ethically grounded. However, this may involve a lot of close guidance by the supervisor and dependency (on the supervisor) by the supervisee – this is especially the case for supervisees who are in an early stage of their professional growth. A goal of supervision is for the supervisee to gain a degree of autonomy in order to make the right clinical and ethical decisions without close guidance. In other words a goal of supervision is for supervisees to autonomously make the correct decisions that meet the expectations of the supervisor

In the area of competence, as a supervisor I’m often forced to supervise counselors who are using EBPs that I know nothing about? If I have 10 supervisees and each of them using 3-5 different EBP curriculum do I need to be certified in each of those to be competent as a supervisor or can I assume a role of supervising them on how to properly use any ebp in a general sense?

A: As I had stated at the end of the webinar, you do not need to be certified in each of the EBPs that your supervisees are using. Instead, learn from them. Better yet, have those who have an expertise in different EBPs provide training to the others. If you are providing group supervision, this would be a great venue for the training. As I believe I also stated in the webinar, show your respect for their knowledge. Learn as much as you can about the EBPs (from your supervisees as well as other resources). This will not only show your supervisees that you are interested in their approaches and want to work with them, but it also has the potential of increasing collaboration in your supervisory relationships.