

Ethics in an Age of Change: The Intersection of the Law, Ethics and Practice in Behavioral Health

Elizabeth Driscoll Jorgensen,

Insight Counseling, LLC

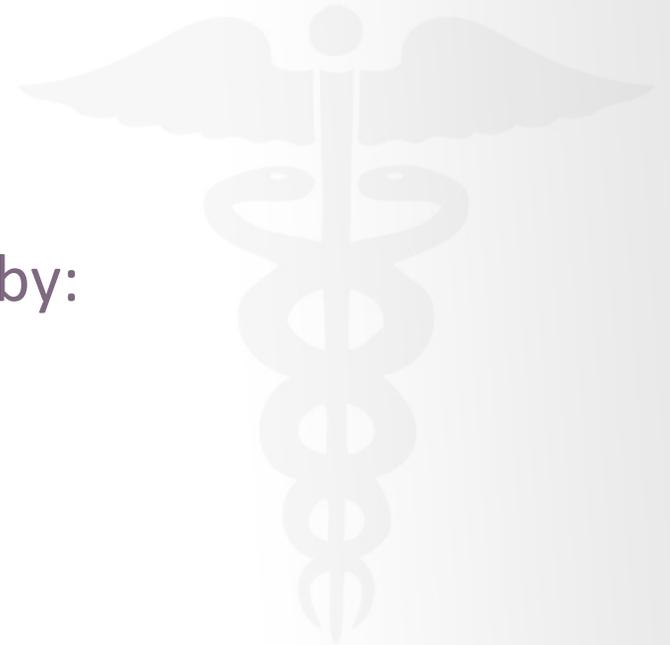
Clinical Consultant

The Shoreline Network Group presented by:

AWARE Recovery Care

ACADIA Healthcare

Project Courage



“Those who can make you believe absurdities can make you commit atrocities.” — Voltaire

- What is the difference between Ethics, the law and “evidence based best practices” ?
- Following the law is always a priority, however, there are cases where the law, rigidly interpreted can become ethically challenging
- The law can occasionally be unethical, we will have to be especially watchful now as the ACA is dismantled and recreated
- What is ethical can often go against culturally ‘accepted’ practices
- EBPs are ever expanding and evolving. We must be flexible and open to new data



SINCE 1828

Definition of ETHIC

- 1 **ethics** *plural in form but singular or plural in construction* : the discipline dealing with what is good and bad and with moral duty and obligation
- 2 **a** : a set of moral principles : a theory or system of moral values <the present-day materialistic *ethic*> <an old-fashioned work *ethic*> —often used in plural but singular or plural in construction <an elaborate *ethics*> <Christian *ethics*>
b *ethics plural in form but singular or plural in construction* : the principles of conduct governing an individual or a group <professional *ethics*>
c : a guiding philosophy
d : a consciousness of moral importance <forge a conservation *ethic*>
- 3 **ethics** *plural* : a set of moral issues or aspects (as rightness) <debated the *ethics* of human cloning>

Professional Ethics: The accepted code of moral behavioral governing a professional practice. The concept of morality, of right and wrong, does have a central role in the understanding of ethics within the helping professions

Best Practices:

- EBP Evidence Based Practices
- EBM Evidence Based Medicine
- SAMSHA Registry for EBP in Mental Health and Addiction Services: <http://nrepp.samhsa.gov/AllPrograms.aspx>
- ASAM Criteria:
<http://asamcontinuum.org/>

Online Resources for Codes of Ethics:

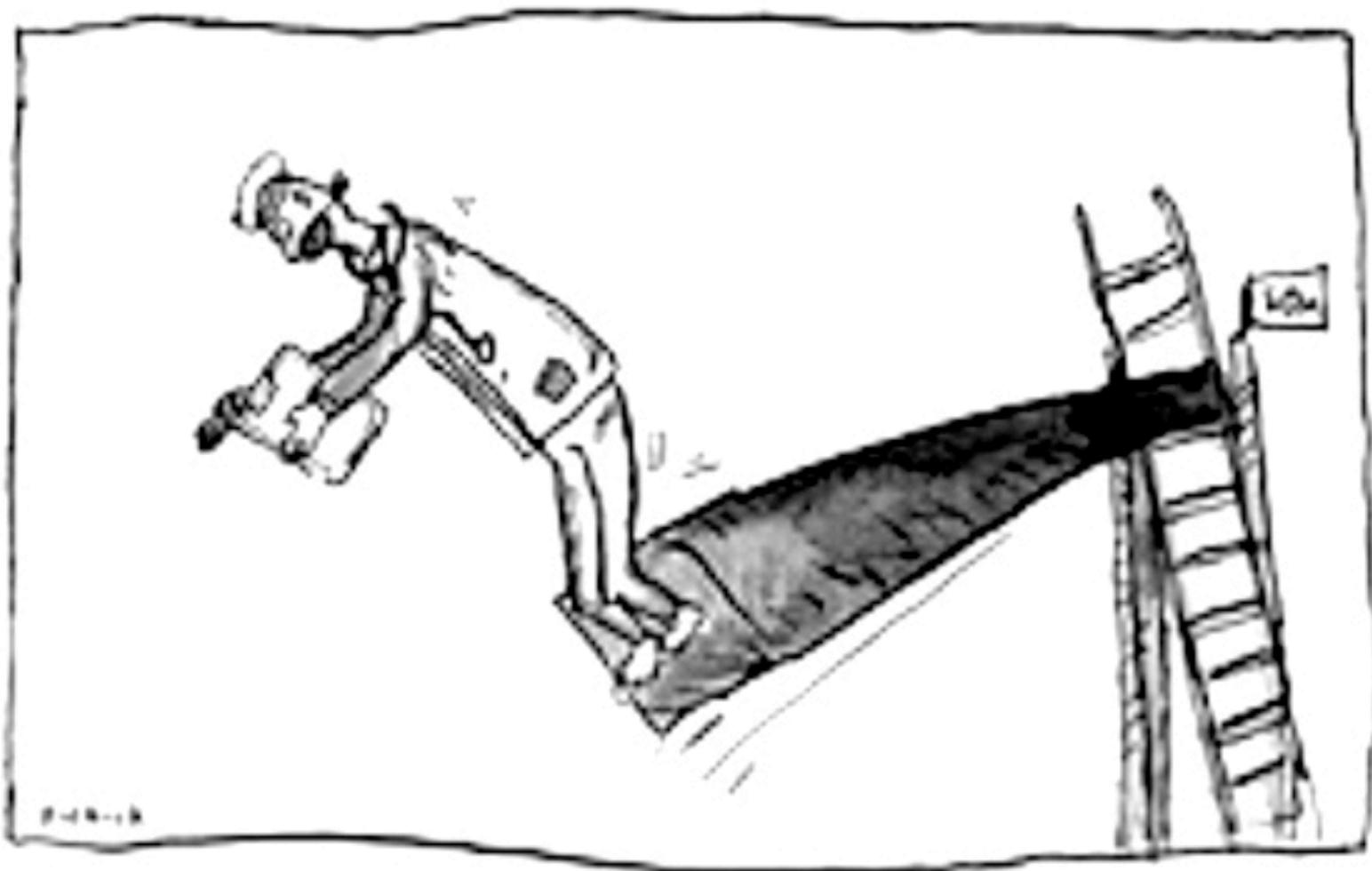
- National Association of Social Workers:
<https://www.socialworkers.org/pubs/code/code.asp>
- American Psychological Association:
<http://www.apa.org/ethics/code/>
- American Counseling Association:
<https://www.counseling.org/resources/aca-code-of-ethics.pdf>
- National Association of Addiction Treatment Provide
<https://www.naatp.org/resources/addiction-treatment-provider-ethics/code-ethics>

Ethics and Best Practices in Psychiatry

- Best Practices and Evidence Based Medicine (EBM) and Evidence Based Practices (EBP)
- EBM has a narrow focus- to use psychiatric interventions that have been demonstrated effective in a randomized, double blind trial. This raises ethical questions
 - Psychiatric diagnosis and thus treatment is based on consensus symptom checklists, there is a great deal of variance in how diagnosis are made
 - Physicians clinical judgment is deemphasized in EBM
 - Paucity of research that is independent from the pharmaceutical industry is also an issue

Special challenges in psychiatry

- Psychiatry demands the “highest ethical virtue and ethics” **Applied Ethics in Mental Health Care: An Interdisciplinary Reader (MIT Press, 2013)**
Dominic Sisti, Arthur Caplan, Hila Rimon-Greenspan, eds.
- Because psychiatrists have the fewest resources for completely objective measurements of illness, pro-dromal illness, course of illness, prognosis, etc., and they also have the greatest power in many circumstances. The ethical and moral demands are extraordinary
- Many medications are not FDA approved for children and adolescents due to the extreme difficulty of doing ethical, double blind testing with parent consent. Then there is the issue of “black box” warnings due to observed harm to some patients. These meds still help many despite this warning, Psychiatrists have many challenges due to the ethical conflict of wanting to help patients with medication without sufficient data.



Dr. Startie about to perform a double-blind randomized placebo controlled clinical trial with a two and a half twist.

Evidence Based Practices are Best Practices

- EBP do not require ‘double blind randomized trials’ they must be evaluated according to the best effect for the most clients at an affordable cost. These will change and evolve as we advance in our knowledge of the etiology and effective treatment of all psychiatric and substance use disorders
- EBP is especially important in assessment and treatment matching. We have to ask the right questions and then how to match data to treatment planning.
- EMR can help with this process, but can't replace human skill
- EMR can help document our processes of evaluation in a way clinical notes can not

NAATP Specifies Ethical Boundaries in Marketing:

Marketing

- Financial Rewards for Patient Referrals:
 - No financial rewards or substantive gifts are offered for patient referrals.
 - Treatment providers may refer families or individuals to a variety of treatment or recovery support professionals, including interventionists; continuing care providers; monitoring agencies; and/or referral sources that offer services to patients prior to or after outpatient or residential treatment.
 - However, in no case should treatment providers make payment or compensation to these individuals or organizations in exchange for patient referrals – neither in the form of direct payment, consulting contracts, large gifts, nor other forms of remuneration or compensation.

NAATP continued:

- NAATP members and member organizations hold sacred the shared value of our patients' rights to privacy. Clients' identities may not be revealed by a treatment provider – neither in the form of photographic images, video images, media coverage, nor in marketing testimonials – at any time during the client's engagement in treatment.

Advertising

- Member advertising shall not include representatives, including unsubstantiated representations, that would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, 15 USC Section 45 (1982).

NAATP continued:

Deceptive Advertising or Marketing Practices

- Treatment providers will not engage in deceptive or misleading advertising or marketing practices.
 - NAATP members and member organizations will provide information in their advertising; on their websites; and in their collateral marketing materials about the general location of their facility or facilities; the credentials of their staff; and the length of stay in their programs.
 - In addition NAATP members and member organizations will not utilize any form of false or misleading advertising; will not engage in “patient brokering” will not exploit patients and or families, particularly for the purpose of promoting their programs; and will not engage in competitive practices that are unduly predatory and/or destructive to a collaborative marketplace.

Exposing Clients’ Identities for Marketing Purposes

- Treatment providers will not exploit their clients’ rights to privacy for the purpose of promoting or marketing their programs.

Many Evidence Based, Validated tools

- ASAM clinical criteria
- SAMSHA lists all evidence based and valid screening, assessment tools with links to all
- Suicide Risk Assessment:
<http://www.integration.samhsa.gov/clinical-practice/screening-tools#suicide>

SAMSHA:

[NetworkOfPractice.org](https://www.networkofpractice.org)

- Implement an Evidence-based Practice (EBP)
- Findings have shown that when using evidence-based practices, the quality of care improves.
- In the field of behavioral health, the term evidence-based practices (EBPs) refers to interventions that:
 - have been rigorously tested
 - have yielded consistent, replicable results
 - have proven safe, beneficial, and effective for most people diagnosed with mental illness and substance use disorders^[1]

The Stage Change Theory and implementing new EBP in your agency/practice

- We all dislike change, we prefer remaining with what we know and are comfortable with

AND

- In order to practice ethically we must embrace EBPs and expand our knowledge in an ongoing manner

Stages of Change:

(Prochaska and DiClemente)

Pre-contemplation

Contemplation

Preparation

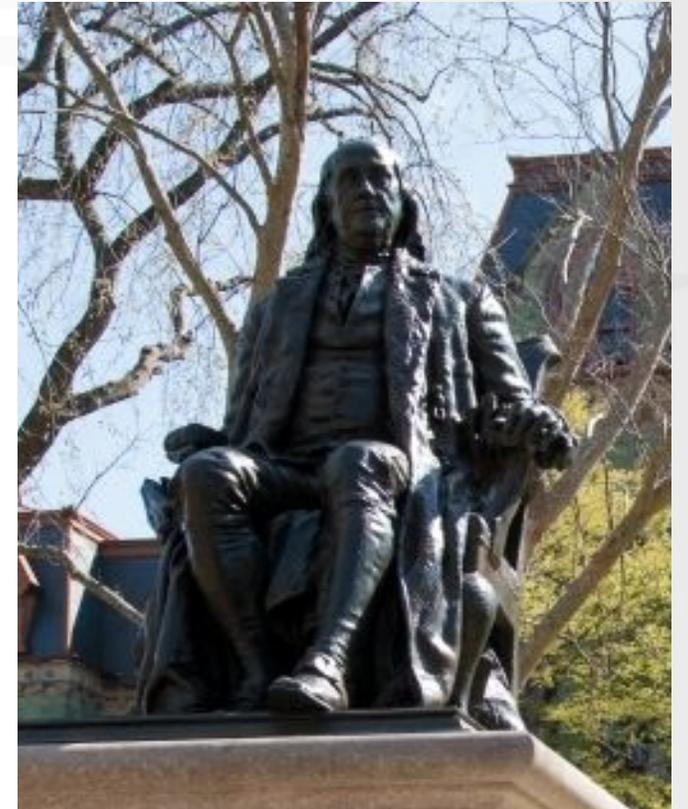
Active Quitting

Relapse

Maintenance

University of Pennsylvania: The Scattergood Program for Applied Ethics in Behavioral Healthcare

- Thomas Scattergood (1748- 1814)
 - A Quaker Minister and Activist in mental health care
 - scattergoodethics.org



As Professionals we are all familiar with
Ethics and Best Practices.

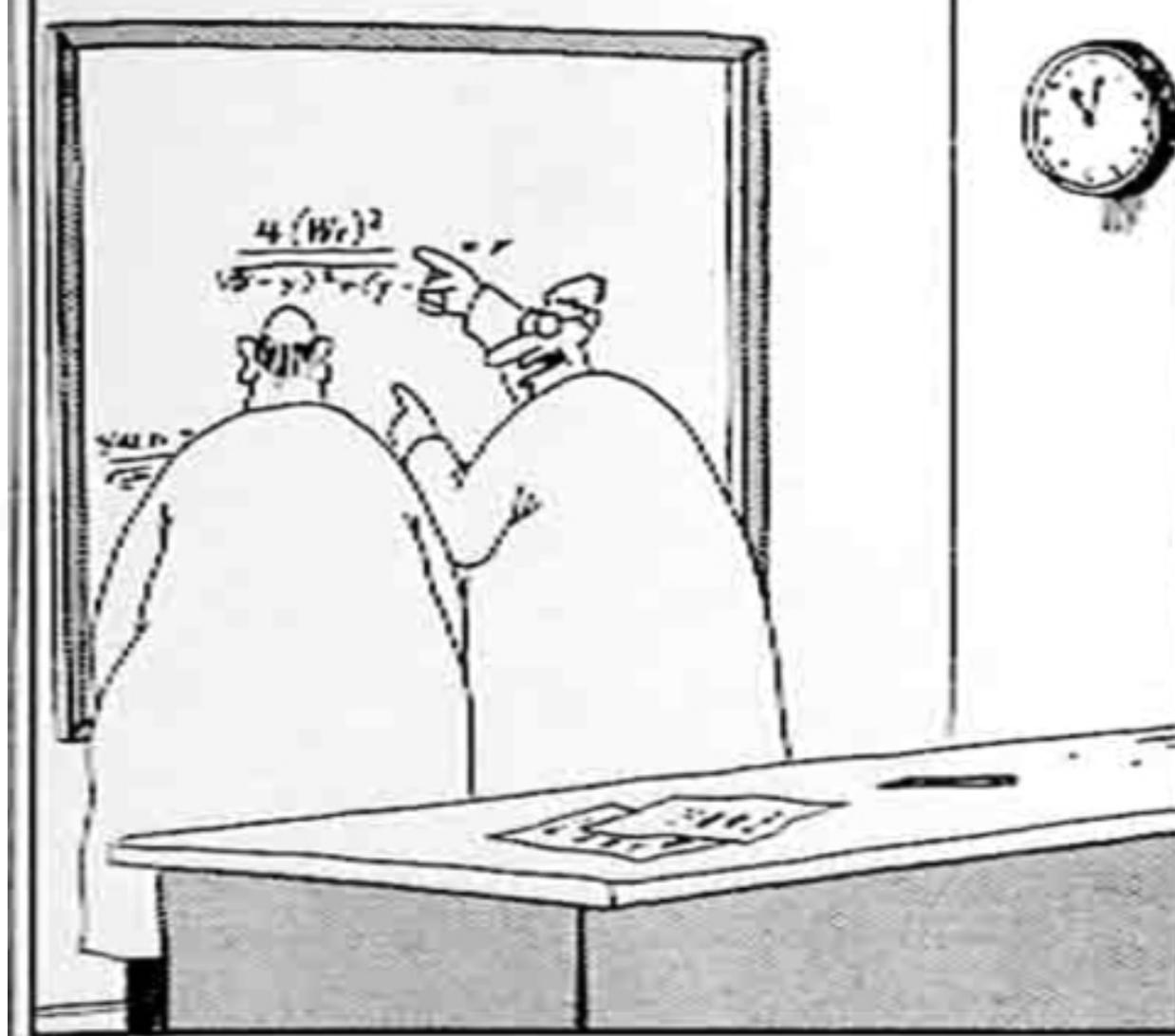
What gets in the way of making the best
decisions both ethically and
programmatically?

EDJ's Opinion:

- Fear, lack of early role models and good supervision
- GREED, you are in the wrong field to be greedy, get out now and sell Pork bellies or become a lobbyist in DC, especially now
- Ethical breaches are almost always those of 'omission' (failing to report child abuse, impaired colleagues or illegal activity of other practitioners)

My own case studies, when ethical behavior has been hard, or I made errors

- A mentor gets addicted
- A well liked employee acts out sexually
- I practiced beyond my scope of training
- I took on consulting that revealed ethical problems



"Yes, yes, I know that, Sidney ... everybody knows that! But look: Four wrongs squared, minus two wrongs to the fourth power, divided by this formula, do make a right."

The Work We Do is a Vocation, Not a Job

Thank you for all you do to alleviate suffering

“He who saves a single life saves the world entire.”

— Talmudic Proverb

“Do the next right thing and the next right thing will happen”

— AA Proverb

“Do unto others as you would have them do to you.”

— Christian Bible

“Happiness is the byproduct of right living”

— Socrates, as attributed by Plato in ‘Dialogues’

This work is a deep vocation, we are extremely privileged to care for others who are suffering. We must put their interests first, always.

Given this absolute, when we make a human error we must correct it. We need esteemed colleagues to help us see out own blind spots in ethical practices.