Ethical Dilemmas in Audiology & Speech-Language Pathology: It’s Complicated!

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Disclosures

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• 2017 Chair, ASHA Board of Ethics/2018 Ethics Education Subcommittee
• Former member and chair of the Louisiana licensure board

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Retrieved September 18, 2019 from https://idph.iowa.gov/Licensure/IowaBoardofSpeechPathology-Audiology/\Laws-\Rules
ASHA Code of Ethics – 2016 Revisions

New Terminology Section
Updated Preamble and Edited Principles III and IV
15 New Rules and Edits to Already-Existing Rules to address:
   Interprofessional Collaboration
   Supervision
   Informed Consent
   Technology

The Current Practice Environment: Considerations and Constraints?

Productivity Demands (e.g., SLPs in SNF required to clock out for paperwork, expectation that clients will be maintained on caseload [at same level of service] even when no longer warranted, etc.)

Pressure to bill on-going assessment provided within therapy sessions as "evaluation"

Billing for services which do not match CPT code(s)

The Current Practice Environment: Considerations and Constraints?

Patient/client abandonment

Currency of practice techniques/service delivery models (lack of release time for quality continuing education); practitioner burnout and work-life balance issues

Provision of services without adequate training in that area of practice

The Current Practice Environment: Considerations and Constraints?

Paperwork burden and its effect on service provision to clients/students, as well as quality of record-keeping (potential billing errors, inadequate documentation of services, etc.)

Inadequate/improper supervision of assistants, interns, Clinical Fellows

Pressure to "sign off" on Medicaid billing when proper supervision has not been delivered (lack of caseload/workload relief to allow for adequate supervision time)

The Current Practice Environment: Considerations and Constraints?

Inappropriate delegation of tasks to graduate students (and/or assistants)

Inadequate documentation of supervision

Conflict of interest (e.g., solicitation of cases for part-time private practice from practitioner’s full-time employment entity)
The Current Practice Environment: Considerations and Constraints?

Questions concerning cultural competence in the administration and interpretation of diagnostic materials.

Cultural competence issues in interacting with families and those whom we serve.

Ethics and the Law

Legal

Moral

Illegal

Immoral

How Is the ASHA Code Organized?

• The fundamentals of ethical conduct are described by Principles of Ethics and by Rules of Ethics.
• Principles of Ethics form the underlying philosophical basis for the Code of Ethics.
• Rules of Ethics are specific statements of minimally acceptable as well as unacceptable professional conduct.

Codes of Ethics, Disciplinary Powers, and Processes Differences/ Similarities

• Professional Organizations – American Speech-Language-Hearing Association; American Academy of Audiology
• Regulatory Agencies – Iowa Board of Speech Pathology and Audiology

Principles within Code of Ethics

Principle I
• Responsibility to persons served professionally and to research participants

Principle II
• Responsibility for one’s professional competence

Principle III
• Responsibility to the public

Principle IV
• Responsibility for professional relationships
Common Themes of Ethics Inquiries (ASHA)

- Documentation lapses
- Billing and coding
- Conflicts of interest
- Employer demands
- Supervision issues
- Sexual misconduct
- Client abandonment
- Confidentiality


ASHA Board of Ethics (BOE) Jurisdiction

ASHA Board of Ethics only has jurisdiction over:

- Members of ASHA – Certified and Noncertified
- Nonmembers holding the CCC
- Applicants for membership and/or certification


Ethics Complaints & BOE Powers

No anonymous complaints

Iowa Board of Speech Pathology and Audiology

Public Sanctions

- Censure (essentially a public reprimand)
- Suspension (individual remains member/certified, paying dues/keeping up with certification requirements; shorter duration of time than revocation, e.g., 6-12 months, no requirement to petition the BOE for reinstatement)
- Revocation (individual’s membership/certification revoked; to rejoin, individual must petition the BOE for reinstatement which can be rejected; must then meet any new certification standards/requirements)
- Withholding (like revocation, but for applicants and former members/certified individuals)

Potential Sanctions of the Board of Ethics

- **Revocation** (individual’s membership/certification revoked; to rejoin, individual must petition the BOE for reinstatement which can be rejected; must then meet any new certification standards/requirements)
- **Withholding** (like revocation, but for applicants and former members/certified individuals)
- **Cease and Desist** (letter to immediately stop conduct that violates Code of Ethics)

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Iowa Board of Speech Pathology and Audiology SANCTIONS

- Issue a citation and warning
- Require additional education or training
- Require reexamination
- Probation
- Civil penalties not to exceed $1000
- Order a physical or mental evaluation, or order alcohol and drug screening within a tie specified by the board

Iowa Administrative Code 645-304.3(272C)

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Sanctions and Factors to be Considered by Iowa Board

- Prohibit permanently, until further order of the board, or for a specific period the licensee’s engaging in specified procedures, methods, or acts
- Suspension (until further order of the board, or for a specific period)
- Revocation
- Such other sanctions allowed by law as may be appropriate

Iowa Administrative Code 645-304.3(272C)

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Public Disclosure of Sanctions: Online

www.asha.org/practice/ethics

In 2017, the Board imposed Censure on a school-based SLP with 16 years’ experience who was already publicly-disciplined by the XXXXX licensing board, because she failed to properly document and provide services based on students’ IEPs; failed to accurately document therapy sessions; and falsely documented sessions that were not conducted.

The ASHA Leader, April 2017, 22(11), 63. doi.org/10.1044/leader.AN7.22112017.63
In 2018, the Board imposed Suspension of membership for 12 months on an SLP who falsified records, submitted billing for services not provided, and forged a patient’s signature; and failed to report her Settlement Agreement with the XXXXX licensure board to ASHA Standards and Ethics.


In 2018, the Board imposed Suspension of membership for 6 months on an audiologist who attested to completing required continuing education on his license renewal application, failed to provide documentation supporting completion of required continuing education as required by XXX state licensure board, failed to respond to the board’s audit requiring evidence of continuing education, failed to pay the board’s imposed fine, and failed to self-report the professional discipline he received from the board to ASHA Standards and Ethics.


In 2017, the Board imposed Withholding of Membership and Certification for 8 years as well as a Cease-and-Desist Order on a school-based SLP with 10 years’ experience who pled guilty in X State criminal court to two felonies of sex/sexual battery with adolescent students from the high school where she was employed.


Iowa Board of Speech Pathology and Audiology Discipline and Public Action

Case No. 18-0184 - Speech-Language Pathologist

January 15, 2019 Combined Statement of Charges, Settlement Agreement, and Final Order

• Charged with billing for services which were not rendered
• Licensee self-reported billing for speech-language therapy services which were never provided.
• Sanction - Probation

Iowa Board of Speech Pathology and Audiology Discipline and Public Action

National Practitioner Data Bank (NPDB)

The intent is to protect the public, improve the quality of health care and deter fraud and abuse in the health care system by providing information about past adverse actions of practitioners, providers, or suppliers to authorized health care entities and agencies.


Who must report and what must be reported to the National Practitioner Data Bank (NPDB)?

- Federal and State Government Agencies including Licensure Actions (result of formal proceeding)
- (Also, medical malpractice judgments and settlements, Medicaid & Medicare exclusions, health-care related criminal convictions and civil judgments, DEA actions, etc.)

Report Trends 1990 - 2017
- 428 reports for audiologists
- 1667 reports for SLPs

Number of NPDB Reports by Practitioner Type 09/01/1990 - 12/31/2016

<table>
<thead>
<tr>
<th>Report Type</th>
<th>Audiologists</th>
<th>DEA</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clinical Privileges/Panel Membership Action</td>
<td>5</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Government Administrative Action</td>
<td>5</td>
<td>7</td>
<td>12</td>
</tr>
<tr>
<td>Health Plan Action</td>
<td>8</td>
<td>2</td>
<td>10</td>
</tr>
<tr>
<td>Judgment or Conviction</td>
<td>13</td>
<td>66</td>
<td>79</td>
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<tr>
<td>Malpractice Payment</td>
<td>56</td>
<td>20</td>
<td>76</td>
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<tr>
<td>State Licensure Actions</td>
<td>295</td>
<td>1476</td>
<td>1771</td>
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<tr>
<td>Total NPDB Reports</td>
<td>378</td>
<td>1573</td>
<td>1951</td>
</tr>
</tbody>
</table>

A code of ethics does not make a person ethical nor is it the mechanism by which we solve ethical problems.

Ethical Decision-Making Model

Am I facing an ethical dilemma here?

What are the relevant facts, values & beliefs?

Who are the key people involved?

Ethical Use of Social Media

Consider...

➢ Breach of Confidentiality
➢ Misrepresentation of services, products, level of expertise, credentials, etc.
➢ Defamation

https://www.asha.org/Practice/ethics/Ethical-Use-of-Social-Media/

Defamation

➢ Defamation laws vary from state to state.
➢ Defamation laws are generally intended to protect individuals and organizations from false factual statements that could harm their reputations.
➢ The term defamation can include verbal and written statements that are factually false.


Elements that establish defamation

➢ A false factual statement about the aggrieved party
➢ Uttered or published by a defendant
➢ Heard or read by a third party
➢ Causing economic injury to one’s reputation (e.g., significant loss of income, sponsorship, etc.)

Core Competency Statements for IPP:

Values/Ethics

Competency 1. Work with individuals of other professions to maintain a climate of mutual respect and shared values. (Values/Ethics for Interprofessional Practice)

Specific Values/Ethics Competencies:

VE1. Place interests of patients and populations at center of interprofessional health care delivery and population health programs and policies, with the goal of promoting health and health equity across the life span.
VE2. Respect the dignity and privacy of patients while maintaining confidentiality in the delivery of team-based care.
VE3. Embrace the cultural diversity and individual differences that characterize patients, populations, and the health team.
VE4. Respect the unique cultures, values, roles/responsibilities, and expertise of other health professions and the impact these factors can have on health outcomes.

VE5. Work in cooperation with those who receive care, those who provide care, and others who contribute to or support the delivery of prevention and health services and programs.
VE6. Develop a trusting relationship with patients, families, and other team members (CIHC, 2010).
VE7. Demonstrate high standards of ethical conduct and quality of care in contributions to team-based care.
VE8. Manage ethical dilemmas specific to interprofessional patient/population centered care situations.
VE9. Act with honesty and integrity in relationships with patients, families, communities, and other team members.
VE10. Maintain competence in one’s own profession appropriate to scope of practice.
2020 CERTIFICATION STANDARDS

Effective: January 1, 2020

• Who? All individuals who hold the CCC-A and/or CCC-SLP
• What? Out of 30 required professional development hour for certification maintenance, at least 1 hour must be in the area of ethics.
• When? Beginning with certificate holders in the January 1, 2020-December 31, 2022 certification maintenance interval.
• How often? Each 3-year maintenance interval.