

Applying the ASHA Code of Ethics to Workplace Dilemmas

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Disclosure Statement

- ✓ *Financial* – Patti Solomon-Rice is receiving an honorarium and travel support for presenting at the 2018 KSHA convention. She is a paid employee of San Francisco State University as an Associate Professor.
- ✓ *Nonfinancial* – Patti Solomon-Rice was a member of the ASHA Board of Ethics from 1/1/13 – 12/31/16. She was 2015 Chair of the Board of Ethics and 2016 Chair of the Ethics Education Subcommittee.

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Learning Objectives



- 1) To summarize the 2016 Code of Ethics.
- 2) To explain workplace dilemmas that could lead to violations of the Code of Ethics.
- 3) To discuss how to file and respond to a complaint.
- 4) To describe the adjudication process.
- 5) To apply the Code of Ethics to workplace situations.

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Overview 2016 Code of Ethics

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Rationale for Periodic Revisions to the ASHA Code of Ethics

Code review and revision is a cyclic, mandated task of the ASHA Board of Ethics and is completed to enhance the currency, accuracy and comprehensiveness of this Cardinal Association document.

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CONSISTENCIES ACROSS THE CODE OF ETHICS:

- 1) Fundamental purpose of the Code of Ethics
- 2) Underlying philosophical basis for the Code in four principles that confirm our responsibility:
 - ❖ to persons served professionally and to research participants, both human and animal
 - ❖ for one's professional competence
 - ❖ to the public
 - ❖ for professional relationships

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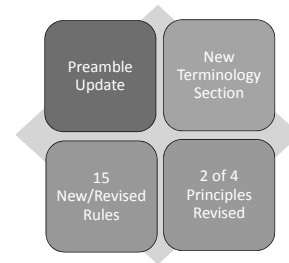
Organization of the 2016 Code of Ethics

- ✓ Preamble
- ✓ Terminology section
- ✓ Four principles of ethics
- ✓ Associated rules for each principle (ASHA 2015)



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2016 Code of Ethics Revisions



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Preamble Update

- More detailed
- Explains history of Code
- Sets context for Code's use
- "... is a framework and focused guide for professionals in support of day-to-day decision making related to professional conduct."
- States who the Code applies to

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- Definitions were added; some words are legal terms and others might be open to interpretation, for example:

New Terminology Section

- Crime
- Diminished decision-making ability
- Fraud
- Impaired practitioner
- Informed consent
- Misrepresentation
- Nolo contendere
- Publicly sanctioned
- Self-report

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15 New/Revised Rules

- Rule changes and additions address themes and incorporate insights that have emerged from actual adjudicated cases:
 - ☐ Research conduct
 - Principle I, Rule A. Individuals shall provide all clinical services and scientific activities competently. (Revision)
 - Principle II, Rule C. Individuals who engage in research shall comply with all institutional, state, and federal regulations that address any aspects of research, including those that involve human participants and animals. (New)

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New / Revised Rules continued...

- ☐ Evidence based and independent clinical judgement
 - Principle IV, Rule B. Individuals shall exercise independent professional judgment in recommending and providing professional services when an administrative mandate, referral source, or prescription prevents keeping the welfare of persons served paramount. (Revision)
- ☐ Client abandonment
 - Principle I, Rule T. Individuals shall provide reasonable notice and information about alternatives for obtaining care in the event they can no longer provide professional services. (Revision)



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New / Revised Rules continued...



- ❑ Impaired practitioner
 - Principle I, Rule S. Individuals who have knowledge that a colleague is unable to provide professional services with reasonable skill and safety shall report this information to the appropriate authority, internally if a mechanism exists and, otherwise, externally. (New)
- ❑ Work place service delivery coercion
 - Principle II, Rule F. Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct clinical activities that compromise the staff member's independent and objective professional judgment. (New)

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And More New / Revised Rules ...

- ❑ Use of technology
 - Principle II, Rule G. Individuals shall make use of technology and instrumentation consistent with accepted professional guidelines in their areas of practice. When such technology is not available, an appropriate referral may be made. (New)
- ❑ Intra- and inter-professional collaboration
 - Principle I, Rule B. Individuals shall use every resource, including referral and/or interprofessional collaboration when appropriate, to ensure that quality service is provided. (Revision)

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And More New / Revised Rules ...



- ❑ Self-disclosure
 - Principle IV, Rule S. Individuals who have been convicted; been found guilty; or entered a plea of guilty or nolo contendere to (1) any misdemeanor involving dishonesty, physical harm—or the threat of physical harm—to the person or property of another, or (2) any felony, shall self-report by notifying ASHA Standards and Ethics... (New)
 - Principle IV, Rule T. Individuals who have been publicly sanctioned or denied a license or a professional credential by any professional association, professional licensing authority or board, or other professional regulatory body shall self-report by notifying ASHA Standards and Ethics... (New)

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Almost done...



- ❑ Financial disclosure and honesty in reporting
 - Principle III, Rule D. Individuals shall not defraud through intent, ignorance, or negligence or engage in any scheme to defraud in connection with obtaining payment, reimbursement, or grants and contracts for services provided, research conducted, or products dispensed. (Revision)
 - Principle III, Rule G. Individuals shall not knowingly make false financial or nonfinancial statements and shall complete all materials honestly and without omission. (New)

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And last, but NOT least...

- ❑ Reporting members of other professions
 - Principle IV, Rule N. Individuals shall report members of other professions who they know have violated standards of care to the appropriate professional licensing authority or board, other professional regulatory body, or professional association when such violation compromises the welfare of persons served and/or research participants. (New)
- ❑ Compliance with local, state and federal laws, regulations
 - Principle IV, Rule R. Individuals shall comply with local, state, and federal laws and regulations applicable to professional practice, research ethics, and the responsible conduct of research. (New)

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- ❖ Principle III
(responsibility to the public)
- ❖ Principle IV
(responsibility to the profession)

2 Principles Revised

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Revisions to Principle III

- Wording simplified to clarify the meaning
- Examples removed because they are in the rules of this Principle

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2010r Code of Ethics Principle III

Individuals shall honor their responsibility to the public by promoting public understanding of the professions, by supporting the development of services designed to fulfill the unmet needs of the public, and by providing accurate information in all communications involving any aspect of the professions, including the dissemination of research findings and scholarly activities, and the promotion, marketing and advertising of products and services.

2016 Code of Ethics Principle III

Individuals shall honor their responsibility to the public when advocating for the unmet communication and swallowing needs of the public and shall provide accurate information involving any aspect of the profession.



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Revisions to Principle IV

Wording edited to enhance its aspirational nature.

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2010r Code of Ethics

Individuals shall honor their responsibilities to the professional and their relationships with colleagues, students, and members of other professions and disciplines.

2010r Rule A: Individuals shall uphold the dignity and autonomy of the professions, maintain harmonious inter-professional and intra-professional relationships, and accept the professions' self-imposed standards.

2016 Code of Ethics

Individuals shall uphold the dignity and autonomy of the professions, maintain collaborative and harmonious inter-professional and intra-professional relationships, and accept the professions' self-imposed standards.



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Link to 2016 ASHA Code of Ethics

<http://www.asha.org/policy/ET2016-00342>

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➔ Common Violations of the Code of Ethics

- ◆ Documentation lapses
- ◆ Employer demands
- ◆ Use and supervision of support personnel
- ◆ Clinical fellowship mentoring/student supervision
- ◆ Client abandonment (Bupp, 2012)

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And More Common Violations...

- Reimbursement for services
- Business competition
- Impaired practitioners
- Affirmative disclosures (Bupp, 2012)



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Filing a Complaint

Complete a Complaint Form for Alleged Violation of the Code of Ethics

- ◆ Written statement of complaint citing principles and rules violated
 - ◆ Additional documents and evidence corroborating and supporting allegations
 - ◆ Copies of related correspondence of the same allegations files with another agency (e.g. state licensure board)
 - ◆ Signature
- (ASHA 2018a)

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Responding to a Complaint

Facts and evidence provided in response might include the following:

- 1) Response to each allegation
 - 2) Copies of communications regarding the incident
 - 3) Signed and dated witness statements
 - 4) Other materials and evidence to refute the claims and support the response
 - 5) Descriptions of actions taken to mitigate or rectify the situation
- (ASHA 2018b)



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The Adjudication Process

- ⇒ Initial consideration hearing
 - ⇒ Insufficient evidence
 - ⇒ Violations
 - Codes and principles violated
 - Proposed sanction
 - Extent of disclosure
 - Right to request further considerations
 - Right to request appeal to Board of Directors
- (ASHA 2016)

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Sanctions for Violating the Code of Ethics

- ❖ Reprimand (not public)
 - ❖ Censure (public disclosure)
 - ❖ Suspension (public disclosure with period of time stated)
 - ❖ Revocation (public disclosure with period of time stated; respondent must reapply for certification and meet current standards at the end of revocation period)
 - ❖ Withholding (CF positions; respondent not currently certified)
- (ASHA 2016)

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Let's Adjudicate!

- 1) Break into small groups of five.
- 2) Discuss the scenario and whether the respondent has violated the ASHA Code of Ethics.
- 3) If so, determine which principles and rules were violated within the closed set of choices.
- 4) If so, determine the sanction for the violation.



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CF Mentorship/Student Supervision

An ASHA certified SLP is supervising a graduate student at her work setting for three months. ASHA CAA requirements state the student must be observed a minimum of 25% of the time. The SLP observes 100% of the time during month 1, 50% of the time during month 2, and 25% of the time during month 3, except during the final week of month 3, when she observes 10% of the time. The SLP is working at the setting during the final week of month 3.

- No records are kept of observation times by the SLP or the student intern.
- The student intern is concerned that she has not been adequately supervised and files a complaint with the ASHA Board of Ethics.
- Has the certified SLP violated the ASHA Code of Ethics?

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CF Mentorship/Student Supervision



Possible Code Violations

- 1) Principle I, Rule G: Individuals who hold the CCC may delegate to students tasks related to the provision of clinical services that require the unique skills, knowledge, and judgement that are within the scope of practice of their profession only if those students are adequately prepared and are appropriately supervised...
- 2) Principle III, Rule A: Individuals shall not misrepresent their credentials, competence, education, training, experiences, and scholarly contributions.
- 3) Principle IV, Rule I: Individuals shall not knowingly allow anyone under their supervision to engage in any practice that violates the Code of Ethics.

Possible Sanctions

- Reprimand
- Censure
- Suspension
- Revocation
- Withholding

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Client Abandonment

An ASHA certified SLP has been working at job 1 for 20 hours/week and asks her supervisor if her hours can be increased to 40 hours/week. Her supervisor states there are not enough clients to increase the SLP's hours, but as soon as there are more clients, her hours will be increased.

The SLP finds a second job requiring her to work 20 hours/week and begins working at both job 1 and job 2. However, suddenly, her hours are increased to 40 hours/week at job 2, which now allows her to obtain benefits. She cancels her afternoon clients at job 1 and tells her supervisor she will no longer be working at job 1. She then goes to job 2 to work with clients that afternoon.

- The SLP's supervisor files a complaint with the ASHA Board of Ethics, providing records of scheduled clients who were cancelled and reports/billing that were left unfinished.
- Has the SLP violated the ASHA Code of Ethics?

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Client Abandonment



Possible Code Violations

- 1) Principle I, Rule T: Individuals shall provide reasonable notice and information about alternatives for obtaining care in the event that they can no longer provide professional services.
- 2) Principle III, Rule B: Individuals shall avoid engaging in conflicts of interest whereby personal, financial, or other considerations have the potential to influence or compromise professional judgement...
- 3) Principle IV, Rule D: Individuals shall not engage in any form of conduct that adversely reflects on the professions...

Possible Sanctions

- Reprimand
- Censure
- Suspension
- Revocation
- Withholding

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Reimbursement for Services

An ASHA certified SLP is providing home health services for a home health care agency and is paid per each visit billed. Notes accompany the billing, which list the client's name and period of time the services were provided.

The home health care business office notices that, over a period of weeks, the SLP is billing for services in which different patients are receiving services at the same time. The billing office contacts the SLP and the SLP's supervisor. The SLP denies overbilling for services. The supervisor contacts the patients and discovers the SLP was billing for some services not provided.

- The supervisor files a complaint with the ASHA Board of Ethics, providing copies of the billing irregularities and signed statements from patients stating the SLP did not provide some of the services that were billed.
- Has the SLP violated the ASHA Code of Ethics?

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Reimbursement for Services



Possible Code Violations

- 1) Principle I, Rule Q: Individuals shall...accurately record and bill for services provided... and shall not misrepresent services provided...
- 2) Principle III, Rule D: Individuals shall not defraud through intent... in connection with obtaining...reimbursement... for services provided...
- 3) Principle IV, Rule E: Individuals shall not engage in dishonesty, fraud, deceit, or misrepresentation.

Possible Sanctions

- Reprimand
- Censure
- Suspension
- Revocation
- Withholding

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References

- American Speech-Language-Hearing Association. (2010r). *Code of Ethics* [Ethics]. Available from www.asha.org/policy.
- American Speech-Language-Hearing Association. (2015). *Code of Ethics* [Ethics]. Available from www.asha.org/policy.
- American Speech-Language-Hearing Association. (2016). *Practices and procedure of the board of ethics*. [Ethics]. Available from www.asha.org/practice/ethics.
- American Speech-Language-Hearing Association. (2018a). *Filing a complaint of alleged violation of the ASHA code of ethics*. [Ethics]. Available from www.asha.org/practice/ethics.
- American Speech-Language-Hearing Association. (2018b). *Guidelines for responding to a complaint of an alleged violation of the ASHA code of ethics*. [Ethics]. Available from www.asha.org/practice/ethics.
- Bupp, H. (2012). 9 upsetting dilemmas. *The ASHA Leader*, November 2012, 17, 10-13.

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Additional Questions?



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Thank You!

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