Ethical Responsibilities
March 7, 2013

Complexity of Supervisory Ethics
Supervisors need to know and consider:
• Their professional code of ethics
• Federal laws and their state’s legal regulations
• Standard of practice in area
• Participants’ cultural values
• Participants’ disciplines
• Personal values of supervisor-supervisee-client system

Supervisor’s Ethical Responsibilities
[Todd and Storm (2002). The complete systemic supervisor, 26-40.]
• To clients: informed consent re: supervisee’s credentials and participation in supervision
• To supervisees: prevent them from being “in over their heads” & help them provide quality service to clients
• To the profession and public at large: supervisors are gatekeepers
Responding to Supervisory Gatekeeping Challenges

- Distressed or impaired
- Understand context before intervening
- Increase interaction and oversight
- Ensure due process
  - Performance based contracts
  - Timely written feedback
  - Written remediation plan — including letters of concern
  - In training programs, therapy is not an appropriate remediation tool (ADA)

Standard of Care

- Does not require perfection; is a minimum standard like a “C” student and is based on the average practitioner.
- Determined by consensus among practitioners of a certain practice or method.
- Not determined by outcome (e.g., client suicide) “as long as the therapist has engaged in a coherent and documented process of legal, ethically and clinically appropriate treatment.”

Standard of Care for MFT Supervision

To provide supervision consistent with the standard of care in the field, supervisors need to:
- Select supervisees with due care
- Have a clear written policy which defines the scope of (supervisor’s and) supervisees’ responsibilities
- Monitor their performance (raw data)
Effective Supervisory Practices

• Strong working alliance – first and foremost
• Clear written contract based on initial screening
• Consider developmental stages
• Active, open culture of feedback—e.g., Outcome Management
• Strength based supervision with attention to trainee’s goals and areas of growth
• Establish mutual accountability

AAMFT Code of Ethics (2012)
Major Subsections

• Responsibility to clients
• Confidentiality
• Professional Competence and Integrity
• Responsibility to Students, Employees, and Supervisees
• Responsibility to Research Participants
• Responsibility to the Profession
• Financial Arrangements
• Advertising

Confidentiality & Informed Consent

• Supervisor reviews confidentiality as well as the limits of confidentiality with the supervisee. This is included in the written supervisory contract.
• Supervisor ensures that the supervisee’s clients are informed about and consent in writing to the supervision process including who is doing the supervision.
Supervisory Multiple Relationships
[Storm, Peterson & Tomm, in Todd & Storm,(2002). The complete systemic supervisor, pp. 253-254.]

Three Types:
1. Mentoring relationship
2. Combination of social, business or other personal connections with the supervisory role
3. Combination of supervision and therapy

AAMFT Code of Ethics (2012)

1.3 Multiple Relationships. “Marriage and family therapists are aware of their influential positions...and avoid exploiting the trust and dependency of [clients]. Therapists ...make every effort to avoid conditions and multiple relationships with clients that could impair professional judgment or increase the risk of exploitation. ...When the risk of impairment or exploitation exists due to conditions or multiple roles, therapists document the appropriate precautions taken.”

AAMFT 2012 Code re Exploitation

• 3.9 “Marriage and family therapists do not engage in the exploitation of clients, students, trainees, supervisees, employees, colleagues, or research subjects.”
• 4.3 “Marriage and family therapists do not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the therapist and student or supervisee. If a supervisor engages in sexual activity with a former supervisee, the burden of proof shifts to the supervisor to demonstrate that there has been no exploitation or injury to the supervisee.”
Multiple Relatedness Exercise


“Think of situations in your work, as a supervisor or as a therapist, that could be characterized as multiple relatedness. In each occasion, what were the different roles you had relative to each other? How many of these relationships were unavoidable, or relatively unavoidable, for either party? What about each relationship enhanced your professional development? What about each relationship was detrimental to each relationship? If anything, how could that detrimental influence have been avoided or minimized?”

Discussion Scenario

You complete a supervision session and your supervisee says,

- “I’m going to lunch, do you want to join me?” Do you go? On what do you base your decision?
- The same supervisee has an extra ticket to the opera and you’re an avid opera fan. Do you accept this extra ticket? Why or why not?
- Would there be a difference if s/he were just offering a ticket and not going along?

[From Where to draw the line? (Video #534). Washington, DC: AAMFT]

Dual and Multiple Relationships

- Inherent in the supervisory relationship
- Problem arises when there is a covert dual agenda in the relationship. (Kaiser, p. 64)
- When sharing information supervisor considers whether this places a burden on the supervisee.
Supervisors & Multiple Relationships: Best Practice Recommendations

- Supervisors should avoid becoming therapists to their supervisees.
- When supervisors choose to mentor their supervisees in nonsexual multiple relationships, the supervisor is responsible for preventing harm and carefully weighing the potential benefits and costs.


Considerations for Possible Multiple Relationships with Trainees

1. To what extent the trainee’s needs will be met
2. To what extent my needs will be met
3. Whether this is personal or professional
4. Harm that could result
5. Worst case scenario and how likely it is to happen
   - What can be done to lessen it happening
   - What can be done if it occurs

Considerations for Possible Multiple Relationships with Trainees

6. Unique aspects of the relationship with the trainee to consider
7. Own vulnerabilities/blind spots that could impair objective judgment
8. The initiator of the idea for a relationship
   - Trainee’s freedom to decline if idea mine
9. Options and their risks and benefits
Case Scenario: Too Close to Home

(Storm, Peterson & Tomm in Todd & Storm, The complete systemic supervisor, pp. 256-257)

You have been supervising David, an MFT with a master’s degree, for six months. He contracted for private supervision with you because the mental health center where he works has no formally trained MFT staff. During supervision, David expresses frustration with a case that involves a young child’s behavioral problems. He notes: “This is too close to home.” He then asks you to provide therapy to his 11 year old son who is having difficulties in school. He and his wife know of your reputation with children and their parents. The only other trained MFT is over 250 miles away. What is your response? Would your response be different if you and David worked for the same agency?

Safeguards in Multiple Relationships

• Consult with a third party – e.g., mentor.
• Consider power differentials and be transparent.
• Discuss potential benefits and costs with the trainee and the third party consultant.
• Specify expectations in writing & include safeguards for processing concerns.
• Monitor the situation.
• Ask: Am I acting as an ethically responsible supervisor?

Supervisors are Key

(Mowery, R., Family Therapy Magazine, Sept./Oct. 2009, 32-33.)

“If laws and professional regulations serve as the floor, below which we cannot go, then ethics are the ceiling that we reach for. In reality, therapy happens in the middle of the room.”

How do supervisors help supervisees consider ethics from the middle of the room, looking up toward the ceiling, rather than the floor?
Mowery’s 7 Ps

1. What do I presuppose about the nature and source of morals and ethics?
2. What kind of person do I want to be?
3. What duties or obligations push me in certain directions?
4. What are the possible future consequences (long or short term, psychological, emotional, physical, economic, private/public) that might pull me in certain directions?

Mowery’s 7 Ps, cont’d

5. What are the contextual perspectives of all those who will be affected by my decision?
6. What are the qualities of the relationships in which I want to participate?
7. What does particular experience say about this specific situation?

Identifying Our Own Ethical Preferences Using the 7Ps

As you look over the questions, pay attention to which one or two seem to have the most influence on your thinking. Then consider:
- Are these these questions the same when you are dealing with an ethical issue as a therapist as when you are in a supervisory role?
- Ask yourself why you answered as you did.
- Which of the questions have you usually focused on in supervision in general, not just when ethical issues are involved?
Ethical Theory

Ethical Principles

Ethical Rules

Kitchener’s model of ethical justification


“Ethical rules prescribe standards of behavior that individuals and groups use to guide and judge their behavior as well as other peoples’ behavior.”

- AAMFT Code of Ethics
- Federal/State Laws
- Agency Policies

Ethical Principles


“Ethical principles take precedence over personal and group values.” They include:

- Autonomy
- Nonmaleficence
- Beneficence
- Fidelity
- Justice
**Ethical Theory**


Metalevel from which to evaluate ethical decisions when ethical principles are in conflict. Kitchener cites two ethical theories.


- **Universalizability:** “...an act is ethical only if ‘it can be unambiguously generalized to all similar cases.’”

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**Universalizability, cont’d**

Ask yourself three questions:
1. If I were in a similar situation, would I want my therapist to make this decision?
2. If my family were in a similar situation, would I want their therapist to make this decision?
3. If other people were in a similar situation, would I want their therapist to make this decision?

*Need unequivocal “yeses” to all three questions or the clinical decisions (or the clinical decisions) may not be ethical.*

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**Balancing Principle**


When ethical principles conflict, an ethical decision is one that produces the least amount of *avoidable* harm to all individuals, **even if the decision limits the possible benefits received from the therapist.** Weigh all possible benefits that clinical decisions may produce against all possible costs.
Dilemma

Your supervisee, Eric, brings up an ethical dilemma regarding a couple who are seeing him to improve their marriage. While leaving a club one evening, he saw the husband passionately kissing someone who isn’t his wife. He needs help figuring out what to do. What steps will you take to help Eric think through his dilemma and make an ethical decision?

Ethical Genogram

Kitchener’s intuitive level includes immediate “knee jerk” reactions to the ethical situation as well as personal ethical beliefs.

Once trainee completes genogram, supervisor dialogues with trainee about ethical decision-making styles in his/her family. Process can indicate types of ethical dilemmas that trainee might find hard to recognize or might overly react to.

### Table 1

Questions for Ethical Genogram

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<th>Question</th>
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<td>1. How did you feel when you first saw your friend make a particular decision?</td>
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<td>2. How did you react when your friend made a particular decision?</td>
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<tr>
<td>3. If someone recommended a particular decision, how did you react?</td>
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<td>4. In what situations did you find yourself recommending a particular decision?</td>
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<td>5. If someone recommended a particular decision, did you consider the decision ethical?</td>
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<td>6. Did you ever question your friend’s decision-making style?</td>
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<td>7. Have you ever made a decision that your friend later regretted?</td>
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<td>8. How did you feel when your friend made a decision you disagreed with?</td>
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<td>9. If someone else recommended a particular decision, did you agree or disagree?</td>
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<td>10. Did you ever feel strongly that your friend was wrong?</td>
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<td>11. How did you feel when someone else recommended a particular decision?</td>
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<td>12. Did you ever feel that you were being influenced by someone else?</td>
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Integrating the Ethical Genogram with Ethical Principles


Authors describe use of exercises to explore how trainee prioritizes Kitchener’s ethical principles at the critical-evaluative level. Trainee rank orders the definitions of the principles by importance and then rank orders short vignettes, each of which represents a principle, by difficulty. The supervisor and trainee discuss the congruities or differences between the two exercises as part of the learning process of ethical practice.

| TABLE 2
Suggested Facilitation and Synthesis Questions |
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<td>1. What insights have you learned about your family of origin’s influence on your ethical decision-making processes?</td>
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<td>2. Have you noticed any changes in these influences over time?</td>
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<td>3. With this new information, what do you think exists in some areas that you would have difficulty making a decision about whether to take action?</td>
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<tr>
<td>4. How can you use additional resources to help guide your decision?</td>
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<tr>
<td>5. What steps can you take right now to help you make better ethical decisions?</td>
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| TABLE 3
Ethical Principles Definition Exercise |
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<td>&lt;<strong>Ethical Principles Definition Exercise</strong>&gt;</td>
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- **Beneficence**
  - I believe that combating ignorance to protect people from harm by introducing unproven hypotheses and accepting new potential ways of harm. (Beneficence)

- **Nonmaleficence**
  - I believe that all individuals have the right to self-determination, and that they should have the freedom to choose their own direction in life. (Autonomy)

- **Fidelity**
  - I believe that I am obligated to maintain clients trust (Fidelity). |

**NOTE:** Answers shown in parentheses.
Identifying Personal Ethical Decision-Making Style


- Authors developed an ethical decision-making feedback form based on the ethical genogram and the ethical principles exercises.
- Form identifies areas of conflict as well as areas of strength.
- Form also includes an area for the supervisor and trainee to list “strategies for improvement/important points to remember.”
Supervisory Dilemma

A friend of one of your interns is leaving town and has asked her if she knew anyone who could use a second hand bicycle she is leaving behind. Independently of that, the intern’s client said he needed a bike to get around since he’s almost broke and can’t afford gas. The intern wants to give the bike to the client.

• What issues, if any, do you see here?
• How would you help the intern figure out what to do?
• Would it be different if the intern were a male?

[Based on a query on the heroicaigencieslistserve]

AAMFT Resources

• “Legal Guidelines for Family Therapists”
• “AAMFT Legal and Risk Management Plan”
• AAMFT Ethics Complaint Process

AAMFT Ethics Complaint Process

[In Family Therapy News (2003), June/July]

• “Paper review process” initiated by the AAMFT Ethics Committee “when a member has been disciplined by another professional association or regulatory board or convicted of a felony or misdemeanor related to his or her qualifications or functions...” or by a complainant who must have first-hand knowledge about the issue or be able to provide relevant testimony related to it.
• All applicants and members are held to the Code, as are resigned members for one year after resignation.
Legal Aspects of Supervision

Important to think like a chess player: 3-4 steps ahead.
• Supervisor is respondent superior.
• Supervisor has “fiduciary duty.”

Two types of supervisory liability:
• Direct
• Vicarious

Laws

• Laws differ from state to state.
• A chart compiled by the Guttmacher Institute of all states’ minor consent laws can be found at www.guttmacher.org/statecenter/spibs/spib_OMCL.pdf

Key Federal Laws

• HIPAA – Health Insurance Portability and Accountability Act – privacy of individually identifiable health information
• Title 42 – Part 2 – Confidentiality of Alcohol and Drug Abuse Patient Records – applies if you get federal money for any purpose
• FERPA – Family Educational Rights & Privacy Act Regulations
Risk-Management Redefined


“The best and truest kind of ‘risk management’ isn’t motivated by … fear of taking a wrong step…; it’s based on therapeutic competence; knowledge of the laws and codes of ethics; a deep commitment to our clients’ welfare; our own maturity, professional development, and common sense; and our ability to think critically, work only within our scope of practice and competence, and carry out … [a clearly thought out and well documented]… ethical decision-making process.”

Take Away Philosophy Paper Exercises

Think of an ethical dilemma you or your trainee encountered. Describe the dilemma and how you used ethical decision-making to work it through.

Think of a dual or multiple relationship you’ve encountered. Describe it. Then outline the process you went through to decide whether or not to engage in the relationship.