WEEK 2: ETHICAL ISSUES IN COUNSELLING

LAW VS ETHICS VS MORALS

- **Ethics:** refer to rules provide by an external source. **Morals:** refer to an individual's own principles.
- Ethics are governed by professions, law or by government.
- If you practice ethically you will not break the law.
- You can work within the law but not be ethical.
- Be clear about what is "the law" and what is an "ethical guideline."
- Some of the legal information in book is not true in Australia.
- New "failure to disclose" child sex abuse in Victoria upon all adults. Exclusion for "confidential communication."

DIFFERENT TYPES OF ETHICS

- **Mandatory ethics:** involves a level of ethical functioning at the minimum level of professional practice.
- **Aspirational ethics:** focuses on doing what is in the best interest of clients – involves the highest standards of thinking and conduct
- Fear based ethics
- Concern based ethics
- **Positive ethics:** is an approach taken by practitioners who want to do their best for clients rather than simply meet minimum standards to stay out of trouble

MANY PROFESSIONS HAVE ETHICAL CODES

The term "professional" historically means people who have professed an oath.

Latin = profiteri. Pro = before + fateri = acknowledge => "to acknowledge before."

When you enter a profession, you acknowledge to adhere to the codes that have been previously established – "Codes of ethics"

ETHICS IN COUNSELLING PRACTICE

- Understand the ethical principles and it will generally lead to good ethical decisions.
- Not just a list of rules – acknowledges that there are grey areas in these areas.
- Don't just avoid punishment – become best practitioners possible.
- Most of the time, being an ethical psychologist is aligned with being a good psychologist.
- "Positive ethics shifts the emphasis from following rules and avoiding discipline…encouraging psychologists to reach highest ethical ideals" (Handelsman et al, 2009)
- Sometimes there is a cross over between what is an ethic, legal, clinic, moral, practical or business consideration.

PSYCHOLOGY BOARD – PROTECTING THE PUBLIC

Psychology Board of Australia – makes the rules for psychologists – they sit under the AHPRA.

- "Working in partnership with AHPRA to protect the public and guide the profession."
- Australian Health Practitioner Regulation Agency (AHPRA) have adopted the APS ethical code.

APS – FOR THE MEMBERS

Australian Psychology Society (APS)

- Looks after the interests of psychologists (AHPRA looks after the interests of the public; protects them from psychologists)
- The Australian Psychology Society (APS) is the largest professional association for psychologists in Australia, representing over 21,000 members.
- "The APS is committed to advancing psychology as a discipline and profession. It spreads the message that psychologists make a different to people's lives, through improving scientific knowledge and community wellbeing."
- They are there as a service to psychologists themselves, not necessarily acting on behalf of the community (just like the Australian Medical Association (AMA) and other groups)

APS CODE OF ETHICS

APS has ethical codes that if not followed by members – they can be booted out of the group.

- General principle A: Respect for the rights and dignity of people and peoples
- General principle B: Propriety
- General Principle C: Integrity

All of it relates to minimum standards and expectations, professional conduct that does not meet these standards is unethical and subject to review by the APS.

Members are also reminded that lack of awareness or misunderstanding of an ethical standard is not itself a defence to an allegation of unethical conduct.

GENERAL PRINCIPLE A

The **General Principle A:** Respect for the rights and dignity of people and peoples, combines the principles of respect for the dignity and respect for the rights of people and peoples, including the right to autonomy and justice.

GENERAL PRINCIPLE B

The **General Principle B:** propriety, incorporates the principles of beneficence, non-maleficence (including competence) and responsibility to clients, the profession and society.

GENERAL PRINCIPLE C

The **General Principle C:** integrity, reflects the need for psychologists to have good character and acknowledges the high level of trust intrinsic to their professional relationships, and impact of their conduct on the reputation of the profession.

CLIENT'S NEEDS BEFORE THE COUNSELLORS'

- Need to constantly monitor "whose needs are being met?" – Am I making these decisions with the interests of the patient at the forefront?
- Monitor our own needs, our personal problems and our sources of countertransference
- **Transference:** unconscious shifting of fantasies/feelings towards therapist (patient develops strong emotions towards the therapist; patient beings treating the therapist as not as a therapist anymore)
- **Countertransference:** when we as therapists react in emotional ways, or lose objectivity because own issues are triggered (therapist has strong emotions towards the therapist)

PROFESSIONAL MATURITY

- There will no doubt be a period of time where new psychologists may feel that you're not benefiting your client
- It is not unethical to meet your personal needs through your professional work but it must not harm the client
- Never at the expense of the client's needs
- We have to avoid at all times harming or exploiting clients

ETHICAL DECISION MAKING

- Our codes of conduct educate the public and the professionals
- Make us accountable and, when enforced, the public are protected from unethical practices
- When working through any ethical dilemma, there is rarely just one course of action to follow.

- Ancient Greek dilemma. Di = two + lemma = proposition/argument. Two **opposing** propositions.
- Practitioners may make different decisions; neither may be wrong or unethical.

STEPS IN ETHICAL DECISION MAKING

- Identify the problem or dilemma
- Who will be affected by the decision?
- Who is the client?
- Consult colleagues and codes of ethics
- Consider the local and applicable laws and regulations
- Brainstorm various possible actions
- Decide what to do and take action
- Document the process and assess the results
- Assume responsibility for the consequences

INFORMED CONSENT

- **Informed consent:** involves the right of clients to be informed about their therapy and to make autonomous decisions pertaining to it
  - It is an ethical and legal requirement of all health practitioners
  - Essential and basic foundation
  - It means the client is informed about what therapy they are having and they give their permission for it
  - Far broader than covering yourself legally
  - Good idea to have an information sheet and consent form

CONFIDENTIALITY

- **Confidentiality:** is an ethical concept, and in most states it is the legal duty of therapists not to disclose information about a client
- **Privileged communication:** is a legal concept that protects clients from having their confidential communications revealed in court without their permission
- Limits of confidentiality always should be outlined at the start of the first session

Exceptions to confidentiality and privileged communication

There is a legal requirement to break confidentiality in cases involving:

- Child abuse
- Abuse of elderly
- Abuse of dependent adults
- Danger to self or others
- A client under the age of 16 is the victim of incest, rape, child abuse, or some other crime
- The therapist determines that the client need hospitalisation
- Information is made an issue in a court action
- When clients request that their records be released to them or to a third party

EXAMPLES OF BOUNDARY CROSSING DILEMMAS

- A client has given me a gift – should I accept it? **Depends on the gift.**
- My client sobs when we end our sessions and says she just needs a bit more time as her pain is so bad – should I extend our sessions? **No – slippery slope (things that lead from one thing to another and another)**
- A student at the school I work at has no lunch money – should I lend him money? **No – changes the relationship too much**
- My client has followed me on Twitter. What do I do? **Not really**

MULTIPLE RELATIONSHIPS IN COUNSELLING

- Used to be called "dual" but not more commonly known as "multiple"
- Can be sexual or non-sexual, and occur when a counsellor assumes two or more roles simultaneously or sequentially with a client
- Examples include: teacher and therapist, supervisor and therapist, providing therapy to a friend, seeing client socially, etc.
- Not all multiple roles are prohibited, but should try to be avoided. If unavoidable they need to be **managed well.**
- **Sexual relationships with a current client is unethical, unprofessional, exploitative and illegal.**

PERSPECTIVES ON MULTIPLE RELATIONSHIPS

- Sometimes they are unavoidable
- Apart from sexual intimacy, there are sometimes no black and white solutions
- Boundary issues can be dealt with by effectively dealing with the power differential – this is the key element

WAYS OF MINIMISING RISK

- Does the benefit outweigh the potential harm?
- Need to safeguard against potential harm and exploitation
- Set clear boundaries at first session, and always have clear informed consent, and clear expectations
- Involve clients in discussions and decisions and document outcomes of these discussions
- Consult with fellow peers, work under supervision where possible
- Keep up the self-monitoring, "whose needs are being met?"

ADVERTISING – NATIONAL LAW

A person must not advertise a regulated health service, or a business that provides a regulated health service, in a way that is:

(a) is false, misleading or deceptive or is likely to be misleading or deceptive; or (b) offers a gift, discount or other inducement to attract a person to use the service or the business, unless the advertisement also states the terms and conditions of the offer; or (c) uses testimonials or purported testimonials about the service or business; or (d) creates an unreasonable expectation of beneficial treatment; or (e) directly or indirectly encourages the indiscriminate or unnecessary use of regulated health services.

SOCIAL MEDIA AND AHPRA

The new social media policy introduced by AHPRA and the National Boards complements the updated guidelines for advertising and the Code of Conduct. The key message of the new social media policy is clear:

- **Health practitioners must be aware that their professional obligations apply to their online activities in exactly the same way as a face-to-face consultation with a patient.**
- When using websites such as Facebook, Twitter and LinkedIn, health professionals must ensure that patient confidentiality is not breached. For example, a dermatologist cannot post unauthorised 'before and after' photographs of a patient on a Facebook page. The new social media policy makes it very clear that this conduct is unacceptable even if the social networking site has the highest possible privacy settings in place.

ADVERTISING – SOCIAL MEDIA

- ‘A practitioner must take reasonable steps to have any testimonials associated with their health service or business removed when they become aware of them’
- ‘The guidelines make it clear that health practitioners are responsible for all of the content on social networking pages that they control or administer. This standard applies regardless of who posted the content. This means that health practitioners are required to remove a testimonial or any other content from their own social networking page if it breaches the updated advertising guidelines or the National Law.

EVIDENCE-BASED PRACTICE

- Specific interventions for specific problems based on empirical evidence
- What you do in therapy should be supported by research
- This seems straightforward but highlights a controversy in the profession
- What research? Must it be RCTs? Must it be in peer-reviewed journals?
- Depends on your theoretical orientation
- It is very relevant with third party insurers (e.g. TAC, Medicare, HBA, WorkCover

CHALLENGES WITH EBP

Three principles of EBP should be:

1. Best available research, relying on clinical expertise, and taking into consideration the clients’ characteristics, culture and preferences
2. Human need and change is complex and difficult to predict and measure
3. Not all clients have defined, categorized disorders

Many have existential concerns that don’t fit with any diagnostic category and don’t lend themselves to symptom-based outcomes
Doesn’t cover those seeking more meaning and fulfilment in their lives

ETHICAL ISSUES FROM A MULTICULTURAL PERSPECTIVE

- Ethical practice requires that we take the client’s cultural context into account in counselling practice
- Current theories should be expanded to include a multicultural perspective
- Therapists should focus on both individual and environmental factors

The role of assessment and diagnosis in counselling

- **Assessment:** consists of evaluating the relevant factors in a client’s life to identify themes for further exploration in the counselling process
- **Diagnosis:** which is sometimes part of the assessment process, consists of identifying a specific mental disorder based on a pattern of symptoms. Both assessment and diagnosis can be understood as providing direction for the treatment process

A danger of the diagnostic approach is the possible failure of counsellors to consider ethnic and cultural factors in certain patterns of behaviour.

- Unless cultural variables are considered, some clients may be subjected to erroneous diagnosis.