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Recognizing and Dealing with Everyday Ethical Dilemmas in the Workplace

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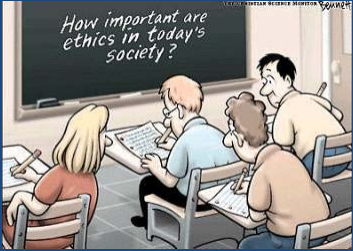
Before We Go Further.....



...Let's Start with a few General Reminders

The Importance of Ethics

- Ethics and Professional Conduct is one of the most important areas of your training (and continuing education) as a behavior analyst.



A Reminder for Everyone.....

- Re-read the BACB Professional and Ethical Compliance Code for Behavior Analysts
– READ IT! STUDY IT! KNOW IT! FOLLOW IT!



10.06 Being Familiar with This Code.

Behavior analysts have an **obligation to be familiar with this Code**, other applicable ethics codes, including, but not limited to, licensure requirements for ethical conduct, and their application to behavior analysts' work. **Lack of awareness or misunderstanding of a conduct standard is not itself a defense to a charge of unethical conduct.**

Ethical Issues in Different Professions

- What are some of the factors that make behavior analysis somewhat unique when it comes to potential ethical dilemmas?

What Makes Behavior Analysis Unique?

- There must be a scientific basis for treatment.
 - A clear demonstration of experimental control is necessary to verify that our treatments are effective

What Makes Behavior Analysis Unique?

- Treatment is often carried out by others, under the supervision of a BCBA or LABA

What Makes Behavior Analysis Unique?

- In many settings, the BCBA or LABA is working in a setting in full view of other professionals and administrators who have no knowledge of behavior analysis

What Makes Behavior Analysis Unique?

- Behavior analysts often work with vulnerable populations who are unable to advocate for themselves and protect themselves from harm

What Makes Behavior Analysis Unique?

- Behavior analysts sometimes work with individuals who have incredibly complex cases and engage can engage in dangerous and sometimes life-threatening behaviors

Frequent Ethical Problems That Behavior Analysts Report

1. **The right to effective behavioral treatment**
 - a. Funding issues
 - b. Data taking (and data faking)
 - c. Non-evidence based treatments are preferred by some stakeholders
 - d. Competing lines of authority on a treatment team

Most Frequent Ethical Problems That Behavior Analysts Report

- 2. Responsibility to recommend scientifically supported and most effective treatments
 - a. Parents often want choices of which treatments their child receives
 - b. Competing professions and other theories

Most Frequent Ethical Problems That Behavior Analysts Report

- 3. The need for appropriate data-based assessments and accurate baseline data before implementing treatments

Most Frequent Ethical Problems That Behavior Analysts Report

- 4. Multiple relationships and conflicts of interest

Most Frequent Ethical Problems That Behavior Analysts Report

- 5. Functional assessment; lack of resources and support to do a functional (experimental) analysis

Most Frequent Ethical Problems That Behavior Analysts Report

- 6. Environmental conditions that hamper the implementation of treatment

Most Frequent Ethical Problems That Behavior Analysts Report

- 7. How others view our profession
 - a. Parents
 - b. Other professionals with whom we interact
 - c. The general public

Most Frequent Ethical Problems That Behavior Analysts Report

- 8. Breaching confidentiality (often done inadvertently)

Everyday Ethical Dilemmas

- How many of you would say that you face ethical dilemmas on a at least an occasional basis? On a semi-regular basis? On a daily basis?

Questions

1. Have you ever had a stakeholder (client, parent/guardian, employer, school employee, teacher, OT, etc.,) ask about implementing a treatment or suggest using a treatment approach that was not scientifically supported, and may not meet the standard of a client's right to effective treatment?

Questions

2. Have you ever been asked to give advice or provide suggestions on someone who was not your client?

Questions

3. Have you ever felt that you were provided with inadequate resources to implement an effective behavior-change program, or to effectively serve your client(s)?

Questions

4. Have you ever received an invitation from a client to attend a social event, or received a gift from a client (or given a gift to a client)?

– Hint: remember what the BACB definition of a client includes!

Questions

5. Have you ever implemented a treatment for the reduction of problem behavior without first:
- conducting a functional assessment, or
 - after conducting a functional analysis or a descriptive or indirect assessment, with inconclusive results

Questions

6. Have you ever kept a client's service record in an unsecured location?

Reminder: A client's service record includes, but is not limited to, written behavior-change plans, assessments, graphs, raw data, electronic recordings, progress summaries, and written reports.

Questions

7. Have you ever had a conversation about your clients outside of the workplace? Have you ever had such a conversation in the workplace, but in a public area (e.g., cafeteria, hallway)?

Review

1. Have you ever had a stakeholder (client, parent/guardian, employer, school employee, teacher, OT, etc., ask about implementing a treatment or using a treatment approach that was not scientifically supported, and may not meet the standard of a client's right to effective treatment?

- 1.01 Reliance on Scientific Knowledge- Behavior analysts rely on professionally derived knowledge based on science and behavior analysis when making scientific or professional judgments...
- 2.09 Treatment/Intervention Efficacy- (a) ...Behavior analysts always have the obligation to advocate for and educate the client about scientifically supported, most-effective treatment procedures...

Questions

2. Have you ever been asked to give advice or provide suggestions on someone who was not your client (e.g., a family member, another student in the classroom, the child of a neighbor, etc.)?

• **1.05 Professional and Scientific Relationships**

(a) Behavior analysts provide behavior-analytic services only in the context of a **defined, professional, or scientific relationship or role.**

Questions

3. Have you ever felt that you were provided with inadequate resources to implement an effective behavior-change program, or to effectively serve your client(s)?

• **4.06 Describing Conditions for Behavior-Change Program Success.**

Behavior analysts **describe to the client the environmental conditions that are necessary** for the behavior-change program to be effective.

• **4.07 Environmental Conditions that Interfere with Implementation.**

(b) ...behavior analysts seek to eliminate the environmental constraints, or identify in writing the obstacles to doing so.

Questions

- 4. Have you ever received an invitation from a client to attend a social event, or received a gift from a client?

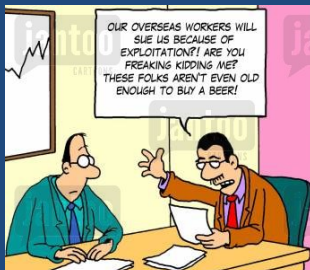
- **1.06 Multiple Relationships and Conflicts of Interest**

(a) Due to the potentially harmful effects of multiple relationships, **behavior analysts avoid multiple relationships.**

(d) **Behavior analysts do not accept any gifts from or give any gifts to clients** because this constitutes a multiple relationship.

1.07 Exploitative Relationships

(a) Behavior analysts do not exploit persons over whom they have supervisory, evaluative, or other authority such as students, supervisees, employees, research participants, and clients.



Questions

5. Have you ever implemented a treatment for the reduction of problem behavior without first:
- conducting a functional assessment, or
 - after conducting a functional analysis, or a descriptive or indirect assessment with inconclusive results

- 3.01 Behavior-Analytic Assessment-
(a)...When behavior analysts are developing a behavior-reduction program, **they must first conduct a functional assessment.**

(b) Behavior analysts have an **obligation to collect and graphically display data...in a manner that allows for decisions and recommendations** for behavior-change program development.

Questions

6. Have you ever kept a client's service record in an unsecured location?

2.07 Maintaining Records. RBT

(a) Behavior analysts maintain appropriate confidentiality in creating, storing, accessing, transferring, and disposing of records under their control, whether these are written, automated, electronic, or in any other medium.



Questions

7. Have you ever had a conversation about your clients outside of the workplace? Have you ever had such a conversation in the workplace, but in a public area (e.g., cafeteria, hallway)?

2.06 Maintaining Confidentiality

(a) Behavior analysts have a primary obligation and take reasonable precautions to protect the confidentiality of those with whom they work...

(d) Behavior analysts discuss confidential information ... only for appropriate scientific or professional purposes and only with persons clearly concerned with such matters.

(e) Behavior analysts must not share or create situations likely to result in the sharing of any identifying information (written, photographic, or video) about **current clients** within **social media contexts**.

The Dangers of Social Media



Recognizing and Dealing with Potential Ethical Dilemmas

Bailey and Burch, 2016

Recognizing and Dealing with Potential Ethical Dilemmas

- I. Recognizing a potential ethical dilemma
- II. Analyzing the complexity of the dilemma
- III. Developing an action plan to address the dilemma

I. Recognizing a Potential Ethical Dilemma

- Recognizing a potential ethical dilemma requires some judgements about the degree of “right and wrong”



I. Recognizing a Potential Ethical Dilemma

- Degrees of Right and Wrong
 - Not every behavior that is “inappropriate” is technically “wrong” or unethical
 - Unwise
 - Inappropriate
 - Unprofessional
 - Unethical
 - Shades of grey

I. Recognizing a Potential Ethical Dilemma

- Let’s Talk Politics for a Moment



Unprofessional Behavior



“Without mentioning any names, certain questionable liberties have been taken with our corporate dress code.”

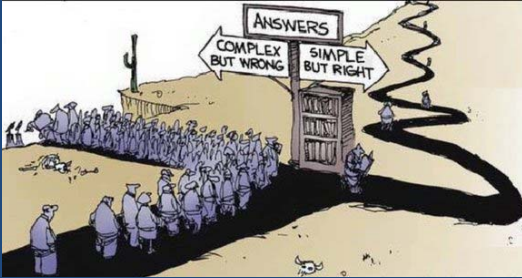


I. Recognizing a Potential Ethical Dilemma

- The BACB Professional and Ethical Compliance Code for Behavior Analysts will *help you* to determine if you have encountered an ethical conflict
- No ethical code can specify all potential ethical issues that could arise

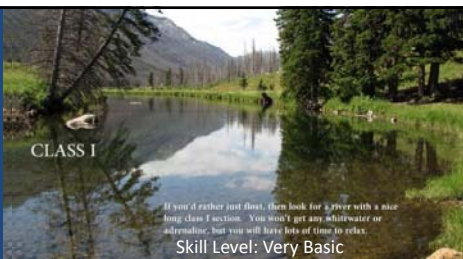


II. Analyzing the Complexity of an Ethical Dilemma




II. Analyzing the Complexity of an Ethical Dilemma

- Whitewater Rafting (Bailey and Burch, 2016)




- Level 1: Minor violation of the ethics code and/or client's rights.
- No physical/psychological harm.
 - Within the certificant's ability to resolve.
 - Skill level: BCaBA



CLASS II
For those of you looking for a little bit more of a current but not actual whitewater, try your raft on a river with some Class II rapids.
Skill Level: Basic Paddling Skills

Level 2: Moderate violation of the ethics code and/or violation of client's rights.


- Some probability of harm
- Within the behavior analyst's ability to resolve; solution often involves a single step
- Skill level: BCBA



CLASS III
Groups looking for a more exciting experience should opt for a Class III rapid. You can get plenty of whitewater action with or without a river guide.
Skill Level: Advanced Paddling Skills

Level 3: Serious violation of the ethics code and/or violation of client's rights.


- Increased probability of harm.
- Within the behavior analyst's ability to resolve, with assistance from others
- Skill level: BCBA with at least 2 years experience



CLASS IV
If your group is looking for a challenge, take on some Class IV rapids and get ready to paddle. Look to a professional river guide & safety gear to get you through them.
Skill Level: Requires the assistance of an expert guide

Level 4: Serious violation of the ethics code and/or serious violation of client's rights.

- Probable harm.
- NOT in the behavior analyst's ability to resolve alone
- Skill level: BCBA with more than 3 years of experience



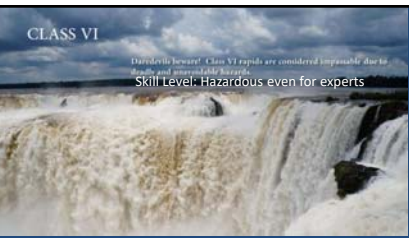
CLASS V

Get ready to practice and prepare. At the most extreme whitewater considered possible, Class V rapids are the ultimate challenge.

Skill Level: Advanced/Expert whitewater experience

Level 5: Serious violation of the ethics code and/or serious violation of client's rights.

- High probability of harm.
- NOT in the behavior analyst's ability to resolve; multi-step solution required; some politics involved; some potential risk for the behavior analyst
- Skill level: BCBA-D with at least 2 years of **supervisory experience** plus at least 1 year of **administrative experience**



CLASS VI

DANGER! Beware! Class VI rapids are considered impassable due to their extreme difficulty and size.

Skill Level: Hazardous even for experts

Level 6: Serious violation of the ethics code and/or serious violation of client's rights.

- Significant probability of harm.
- NOT in the behavior analyst's ability to resolve; multi-step solution required; inter-agency or inter-office politics and/or legal issues involved; behavior analyst is at risk of firing or having criminal charges filed
- Skill level: Senior-level BCBA-D with at least 5 years of supervisory experience plus experience on a HRC (or similar)

Analyst charged with abuse of teen
 jriley@courier-journal.com The Courier-Journal
 May 08, 2009 01:03 AM

A behavioral analyst at Our Lady of Peace psychiatric hospital is facing a felony criminal abuse charge a year after he allegedly allowed a 17-year-old girl to **beat her head on a floor** more than 120 times while trying to determine the cause of the teen's self-injury behavior.

██████████, 28, "wantonly abused" a "physically or mentally helpless" teen on May 13, 2008, by placing her in a situation that may have caused her serious physical injury, torture or cruel confinement, according to an indictment handed up yesterday by a Jefferson County grand jury.

The indictment came after a report in August from state Cabinet for Health and Family Services inspectors that concluded that the hospital "failed to ... assure the safety of the patient."

The report indicated that as many as three employees -- including ██████████ -- watched the session involving the girl, which consisted of **five 10-minute segments**, inspectors reported.

██████████ a spokeswoman for Attorney General Jack Conway, said yesterday that she did not expect any other employees to be charged at this time.

Staff members conducting the session disregarded an order from the patient's doctor to put a helmet on her if she began banging her head, the state report said.

The behavioral analyst in charge of the session -- identified as Dillen by the attorney general's office -- later told inspectors that despite the doctor's order, it was his decision when to have the helmet put on, and that nurses were not present because "they would stop the session."

After the patient hit her head on the tile-over-concrete floor 129 times, intermittently biting her arms, employees put a helmet on her. She then stopped banging her head, the report said.

"The patient appeared dazed, as she swayed back and forth while knocking on the door to get staff's attention to let her out of the room," the report said.

[redacted] who is facing up to five years in prison on the second-degree criminal abuse charge, will be arraigned Monday in Jefferson Circuit Court. The case was referred to the Kentucky attorney general's office by the health services cabinet's Child Protective Services section in July.

[redacted] the president of Our Lady of Peace, declined to answer specific questions -- including whether Dillen was disciplined over the incident or if he is still employed -- but released a statement saying the situation has been "very difficult for everyone involved."



- The Good: Classification system
- The Bad: Difficulty judging categories
- The (Sometimes) Ugly: Dealing with the ethical dilemma

III. Developing an Action Plan to Address the Dilemma (Bailey and Burch, 2016)

1. Was there an actual ethical (or legal) violation, or was the incident simply inappropriate or unprofessional?

Steps to Consider when Dealing with a Serious Ethical Dilemma

2. Who are all the people involved?

- You (the BCBA, BCaBA, RBT, etc.)
- Your primary client
- Your other clients:
 - Parents/family
 - Other BCBA's or therapists
 - Your direct supervisor
 - The head of your agency
 - Other organizations (including the funding source)

Steps to Consider when Dealing with a Serious Ethical Dilemma

3. Develop an action plan...and more than one contingency plan!

Steps to Consider when Dealing with a Serious Ethical Dilemma

4. Evaluate your skills, and how much influence/leverage you have over decision-makers

Steps to Consider when Dealing with a Serious Ethical Dilemma

- 5. Risk Assessment for your action plan (and your contingency plans)
 - To the client
 - To other BCBA's or therapists
 - To the family
 - To your direct supervisor
 - To the head of the agency
 - To other agencies
 - **And to YOU**

Potential Hidden Traps

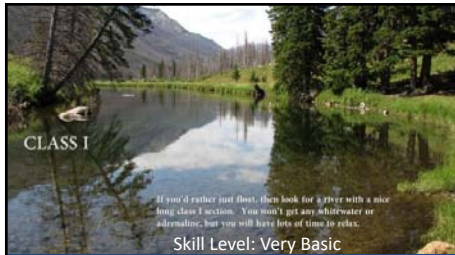


Steps to Consider when Dealing with a Serious Ethical Dilemma

- 6. Implement the plan (and the contingency plan(s) if necessary)

Steps to Consider when Dealing with a Serious Ethical Dilemma

7. Document, document, document!



Level 1: Minor violation of the ethics code and/or client's rights.
-No physical/psychological harm.
-Within the certificant's ability to resolve.
-Skill level: BCaBA

Steps to Consider when Dealing with a Serious Ethical Dilemma

1. Was there an actual ethical (or legal) violation? What was it (or what were they)?
2. Who are all the people involved, and how does this situation impact on all of them?
3. Develop an action plan (and more than one contingency plans)
4. Evaluate your skills, influence, and leverage for your action plan, and for your contingency plan
5. Risk Assessment
6. Implement the plan
7. Document!

A More Challenging Scenario

- Role-Play Scenario:
- 1:1 teacher of a child with significant behavioral challenges; The teacher is a relatively new BCBA
- The BCBA's supervisor
- Parent of that child
- Narrator

Scenario: A relatively new BCBA is providing home-based services for a 3-year-old boy with autism, who has significant behavioral challenges. The boy has a twin-brother, who is also receiving 1:1 services from another BCBA who works at the same agency. The services of both boys are being funded by an insurance company

The supervisor calls the BCBA first thing in the morning:

Supervisor: I know you normally work with Timmy, but the BCBA who normally works with John was in a car accident on his way to work. I need you to work with both boys today.

BCBA: That's going to be tough. Both of the twins need 1:1, so dealing with both of them will be difficult. Besides, I don't know anything about the brother's programming. I have never seen his behavior program, or any of his curricula. I wouldn't know what to do with him.

Supervisor: This is just for today; just make it work.

BCBA: Um, ok. I will do my best.

So, the BCBA struggles through the day. She felt like she got nothing accomplished, because with 2 of them, she couldn't implement any formal programming. She was barely able to simply manage the 2 boys. The next day the same thing happened

Supervisor: Look, the other BCBA was pretty seriously hurt in the car accident. I need you to work with both boys again.

BCBA: Look, I really struggled yesterday. I'm not sure I can do that again.

Supervisor: Just make it work

BCBA: I don't know how to make it work.

Supervisor: Look, I PAY you to figure out how to make things work. Just do it.

This went on all week, and on Monday morning, when the BCBA came to the house to work with both children, the parents spoke to her.

Parent: Last week, the twins' behavior in the evenings was not so good. In fact, their behavior seemed to get worse as the week went on, and things were pretty bad over the weekend. They seemed more irritable and restless, they had a lot more problem behavior, and they didn't seem to communicate as much as they normally do. Did you notice anything different about them last week? Any idea of why this may have happened? Are there any problems that I should know about?

BCBA: Um....Well... this happens sometimes. There sort of "ups and downs" happen every once in a while. You know, "Two steps forward, one step back".

Parent: Oh, ok. Well, we trust you; I just hope this week is a little better

The BCBA has continued to speak to her supervisor, and has gotten nowhere. But, she decides to speak to him one last time.

BCBA: I just feel like I am being asked to do something that just can't be done. I think that it would be unethical to continue working under these circumstances-- my client has a right to effective behavioral treatment, so I feel like need to stop working with the brother...right away.

Supervisor: Are you saying that you will abandon the brother? Isn't that a violation of the ethical code? Look, I am trying to resolve this situation...just hang in there a little longer.

BCBA: I don't know if I can. I'm curious, though: Are we still billing as though both brothers are still getting 1:1 treatment?

Supervisor: That's a business matter; just stick to providing ABA services.

BCBA: But I don't think that I...

Supervisor: Look, we're done here. Just do what you are told, and if you can't, I'll find someone else who will.

Steps to Consider when Dealing with a Serious Ethical Dilemma

1. Was there an actual ethical (or legal) violation? What was it (or what were they)?
2. Who are all the people involved, and how does this situation impact on all of them?
3. Develop an action plan (and more than one contingency plans)
4. Evaluate your skills, influence, and leverage for your action plan, and for your contingency plan
5. Risk Assessment
6. Implement the plan
7. Document!

Regardless of the Level of the Ethical Dilemma you are Dealing with....

- ..Remember your core ethical principles

Core Ethical Principals

1. Do No Harm
2. Respect Autonomy
3. Your Work Must Benefit Others
4. Being Just (A.K.A, treat others the way you want to be treated)
5. Be Truthful, Honest, and Faithful
6. Treat People with Dignity
7. Treat People with Care and Compassion
8. Pursue Excellence
9. Accept Accountability

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