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# Lesson Proper for Week 14

## INTERNSHIP PROFESSIONAL, ETHICAL, AND LEGAL ISSUE

### INTERNSHIP ISSUES

We have grouped issues pertaining to internships into two general areas: internship role issues across academic disciplines and student affairs programs; and, internship work issues across professions, which include practice, intervention, and integrity issues. Two of the categories—internship role and practice issues—tend to apply to all interns; the remaining two categories—intervention and integrity issues—are particularly relevant to the helping and service professions as discussed in this chapter. Of course, each profession addresses integrity issues in its own way, and if you are not in the service or helping professions, your site supervisor is best informed to discuss that category with you. We do, though, describe situations that interns may face in each of these four categories. As you read the examples, consider your own internship and situations that could occur.

Internship role issues listed in Table 13.1 apply to all interns. Although this may seem unnecessary to say, your role, first and foremost, is that of an intern. It is easy—very easy—to lose sight of that fact as you slip into the role for the professional work—after all you became an intern to be in that professional role!

### Internship Role Issues

The issues identified in Table 13.1 deal specifically with your role as an intern and the issues of academic integrity, competence, and supervision. When you were first introduced to these issues in Chapter 3, you were a fledgling intern; now that you have been in the role for some time, we suggest that you review them in terms of how



well they are being addressed in your internship and what different meanings they have taken on since you first perused them.

- Academic integrity issues include a quality field site, responsible contracts, and a seminar class that ensures a “safe place” for reflective discussions (Rothman, 2000).
- Competence issues include knowing your limitations and finding a balance between challenging work and a realization you have exceeded your level of competency. It is important that you know the limits of your skills and seek help as needed (Gordon & McBride, 2011; Taylor, 1999, p. 99).
- Supervision issues include the assignment of an appropriate supervisor who knows how to supervise interns in particular and can appropriately address such issues as client abandonment, deportment, attraction in the supervisory relationship, legal and policy issues, and quality evaluations of the intern’s competencies.

## **INTERNSHIP WORK ISSUES**

### **Practice Issues**

This set of issues involves how you engage your profession and includes such issues as educational preparation, diversity awareness, and dressing for the role. An example of a dilemma that falls into this category is your having information about a teacher in a residential school who is demonstrating insensitivity to the culture of a student’s family, is misrepresenting qualifications to work with such families, and is now being promoted to a supervisory teacher of your work group at the site. It happens that you and the student share a similar cultural identity. It also happens that you and this teacher have had difficulties working together in the past. You wonder whether you should disclose your concerns to your site or campus supervisors, talk directly with the teacher, or say nothing.

### **Intervention Issues**

This set of internship issues involves working directly with the clientele. The work includes managing the clients’ issues, making referrals, and overseeing a caseload. An example of a dilemma that would fall into this category is finding out at an Alcoholics Anonymous (AA) meeting, which you attend for personal reasons, that your supervisor’s patient is planning to leave the country in the next couple of weeks. Of particular concern is that a friend told you that she overheard the patient threatening to hurt a former girlfriend. You had been told that what goes on at AA meetings is confidential, and you know how strongly confidentiality is valued in your future profession. You wonder how to uphold your responsibilities to all the parties involved (i.e., the patient, the friend, AA, and your profession), many of which seem to conflict, and how to determine which responsibilities take priority over others.



TABLE 13.2

## Internship Work Issues Across Professions

### *Practice Issues*

(All Interns)

- Competence in doing the work
- Frequency and focus of supervision
- Consultation
- Education
- Diversity awareness
- Grievance issues
- Limitations in the scope of practice
- Credentialing/license standards and requirements
- Advertising for services
- Dressing for the role
- Relationships with supervisors and staff
- Managing the risks of physical danger and legal liabilities

### *Integrity Issues*

(Helping/Service Professions)

- Dual/multiple status relationships
- Obtaining information
- Disclosure of information
- Recordkeeping
- Informed consent
- Privileged information
- Right to privacy
- Confidentiality
- Upholding the values of benevolence, autonomy, nonmaleficence, justice, fidelity, veracity

- Exceptions to confidentiality, including abuse/neglect cases
- Dangerous-client cases (self and others)
- Third-party payer requests
- Responses to court orders
- Release of information to clients
- Duty to warn and protect
- The integrity of clients
- Attraction/intimate relationships (emotional, physical, sexual)

### *Intervention Issues*

(Direct Service/Helping Professions)

- Clinical issues (transference and countertransference)
- Limitations on scope of responsibilities
- Client's right to self-determination
- Management of referrals
- Size and nature of caseload
- Termination
- Working with special populations
- Abandonment by therapist
- Obtaining information
- Release of information
- Sharing information with colleagues
- Emergency response during nonworking hours
- Differences in legal and ethical practices
- Individual vs. group vs. marriage and family interventions



These issues concern the way you approach your work on a daily basis and include such issues as confidentiality, disclosure, and recordkeeping standards. An example of a dilemma in this category is your being out to dinner and overhearing the conversation of a technician who works at your placement site who does not know you but whom you recognize. The conversation is about a customer, and the technician identifies enough data so that you recognize the customer from a meeting earlier that week. You know from your orientation period that the organization has a policy that company personnel are not supposed to talk about customers outside of the office, or at the very least, they must not disclose any identifying information about the customer's profile. The person with whom the technician is speaking is your child's teacher. Neither of them saw you, and you are not sure what to do. You realize that something inappropriate has occurred, but you are hoping to be hired at the end of your internship. You are hesitant to pursue the issue for fear of making the wrong move.

## **PROFESSIONAL ISSUES: A WORLD OF RESPONSIBILITIES AND RELATIONSHIPS**

Once your concerns focus on developing competence, it is quite common to pay attention to aspects of your professional deportment as well as and in relation to that of your supervisors and co-workers. You are discovering another layer of what it means to be a professional.

### *Questioning the Professional Conduct of Others*

You may not have even been aware of when you began noticing how others manage themselves in their professional roles, but at some point, it started to take on meaning for you. For example, you may find yourself paying a lot of attention to the ways staff members go about their work, deal with clients, or conduct themselves with colleagues. Perhaps you are beginning to look at others not just in terms of their roles but as professionals with moral, ethical, and legal, responsibilities to their work, to clients, to the organization, to the community, and to you. You may even be tuning into the subtleties of their overall conduct or their specific behaviors and becoming aware of possible improprieties in how they go about their work.

The improprieties that you observe did not begin when you first noticed them; in all likelihood, it is you who have changed and you can now see what has been there all along. There are a number of possible reasons for this change. First, staff members tend not to disclose questionable or surreptitious aspects of themselves so readily with interns or new employees but rather tend to act as they are expected to act in their roles (Kanter, 1977). Consequently, they tend to shield questionable behaviors and attitudes from interns until they get to know them better. Another explanation is that you have been so busy with your increasing responsibilities that you have not had time to notice these behaviors or even think that there was something to notice. A third possibility is that you held stereotypes that needed to change before you were willing or able to see situations for what they were.

### *Questioning Your Own Professional Conduct*



When it comes to your own behavior, you have a number of dimensions to consider. Two especially important ones are illustrated in the example that follows: direct service and civic professionalism. Suppose you are a frontline staff member working with female victims of domestic violence. The agency is fully funded by corporate foundation money and the agency is housed in a well-furnished and comfortable space donated by the company. The person who was instrumental in securing this support is a good friend of your family. As you spend some time exploring information about the corporation, you learn that it has investments that you consider to be socially and environmentally harmful: perhaps investments in Sudan or in manufacturing plants that are known polluters or child-labor abusers. This is not an integrity issue as you are used to thinking about them. However, you certainly are pausing to think about the situation you find yourself in, where the corporation supports work you believe in but also supports endeavors you believe are harmful. What will you do?

In terms of your own behavior, it comes down to whether you are able to recognize issues as ethical ones when dealing with them. In this instance, the situation just became more complicated. A client of yours at the center bought a newspaper subscription for you for daily delivery to your office (what a convenience!); she also has been bringing pastries from her bakery for her weekly meetings with you (how tempting!). Do you see a problem with these situations? Do you struggle for the “right answer” after realizing this is an ethical issue?

We find that the areas of professional relationships and professional confidences are particularly challenging for some interns. Perhaps they are for you also. We'll be exploring those areas in the next section.

## **Respecting Relationships**

When an intern is engaged in more than one relationship (role) at the same time (or sequentially) with someone or someplace connected to her internship, the situation is referred to as dual or multiple relationships (Corey, Corey, & Callanan, 2011). The nature of these roles can vary from being an acquaintance, friend, or business client, to being an intimate—emotionally, physically, or sexually (Dorland, 1974, cited in Malley & Reilly, 2001; Gordon & McBride, 2011; Royse, Dhooper, & Rompf, 2012). Such relationships can be difficult to manage as can dual relationships that involve clients. Another group of dual relationships that interns may have to deal with are the collegial ones, which refers to your relationships with the co-workers, peers, supervisors, and yes, professors who are involved in your internship (Malley & Reilly, 2001).

All of these relationships need to be managed so that your professional obligations are upheld. You may want to take a moment to think about what you could do, what you would do, and what you should do if your commitment to the profession was being compromised by how you were handling one of these relationships (Rothman, 2002). All such relationships are fraught with complexity and ethical issues. If you are in a potentially compromising relationship, it is best to seek consultation immediately.

## **Special Relevance to the Helping and Service Professions Safeguarding Confidences**

Another area that tends to challenge interns' own professional conduct is that of confidences. This issue is rather pervasive and involves clients' rights (to privacy, privileged communication, and confidentiality) and information disclosure. These principles are ones that you are obliged to honor in your role as intern, so it is important that you



understand them. Although confidentiality and disclosure are professional issues, they can also be ethical and even legal issues, depending on the laws that govern the work of the profession (Eisenstat, personal communication, Sept. 2012).

### **Privacy, Privileged Communication, and Confidentiality**

The clients' rights that you deal with on a daily basis probably include privacy, privileged communication, and confidentiality. Privacy refers to the constitutional and statutory rights of your clients to decide when, where, how, and what information about them is disclosed to others by you (Corey, Corey, & Callanan, 2011; Eisenstat, personal communication, Sept., 2012). Privileged communication is a legal concept, and the right to such communication belongs exclusively to the client. This concept protects your client from the forced disclosure of information in legal proceedings (Corey, Corey, & Callanan, 2011). You need to check with your supervisor to determine whether clients who see you in a helping or service capacity lose their right to privileged communications because of your status as an intern. If so, the client needs to know that, and your supervisor needs to guide you in informing the client. Confidentiality is a legal, professional, and ethical matter that protects the client in a therapeutic relationship from having information disclosed by you without explicit authorization (Corey, Corey, & Callanan, 2011). Your status as an intern also has direct implications for whether the clients you work with are protected by confidentiality statutes. Again, you need to discuss this matter with your supervisor, and your clients will need to be informed.

### **Disclosure of Information**

The issues of what information can be disclosed and to whom can become complicated when you consider disclosing information to your colleagues (while on-site or socially) or to your peers (in the seminar class). In both instances, you have a responsibility to the privacy rights of the client and, at the very least, to be familiar with and follow the policies of the agency, disguise all identifying data, and give much thought to the question "Why do I need to tell this information to someone?" The issue of disclosure in the world of the helping and service professionals also applies to cyberspace and its information highway. Be it e-mail, chat rooms, bulletin boards, blogs, text and instant messages, tweets, or postings on social media sites, interns need to have an informed command of this aspect of their workplace. Also, remember that when you use these electronic means of communication to discuss clients or other sensitive issues, the sites are not always secure.

The electronic obtaining and releasing of information, along with maintaining that information for the agency, can be difficult for the intern to negotiate appropriately. Whether you are working with databases or releasing information, it is important that you make informed decisions and do so carefully. The agency has its policies to safeguard the maintenance of information as well as forms to ensure that all criteria are met before information is released by you. If you have not yet reviewed them, this is a good time to do so.

## **ETHICAL ISSUES: A WORLD OF PRINCIPLES AND DECISIONS**





You might be wondering how you have managed to survive for so long without knowing about ethical issues! This is exactly how our students feel after studying them in a semester-long course.

Chances are that your basic values have served you well. However, the list of potential issues can be overwhelming, even after several readings. Most likely, there are many that you have never heard about and many that seem remotely familiar. Reading through them is a good start. Now that you are becoming familiar with the language of ethics, even if you do not yet know much of what it entails, it is a good time to go ahead and identify the situations that already may have surfaced in your internship and how satisfied you are with your handling of them.

### *Talking the Talk*

In order to have a useful discussion about these issues, there must be a shared language for communicating and a common understanding of the problem. In the section that follows, we identify some of the terms that are frequently used in discussions of ethical matters and their working definitions. It might take you some time to take in the essence of the meanings, so do not be concerned if there seems to be too much to grasp the first time you read through this section. The more you return to it for guidance, the more familiar it becomes and the more you will learn.

Let's start with the term standards. When used generically, the term refers to guidelines or codes that govern the behavior of members of a given profession. Ethical suggests that someone is acting in accordance with professional standards, codes, guidelines, or policies, and legal suggests that someone is acting in accordance with the law. Values refer to what is considered intrinsically good, useful, and desirable; moral refers to what is considered right or wrong conduct in its own right, based on broad mores such as religious principles; and ethics refers to the moral principles or rules of conduct of a particular profession (G. Corey, Corey, & Callanan, 2011; Pollock, 2012), such as the ethics of business, service professions, communications media, and so on.

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### *Rules of the Trade*

In addition to having a common language, it is important to have access to common resources. For one thing, although your understanding of the issues in your professional field has just begun, you are still responsible for acting in accordance with the values and standards of that profession. These values and standards are embodied in ethical documents variously referred to as guidelines, standards, regulations, policies, principles, and codes.

It is precisely these types of documents that are reviewed when conflicting or questionable situations arise. Unfortunately, they don't necessarily lend themselves to clear interpretations or resolutions of ethical or professional conflicts. However, they do provide guidelines for behavior and discussions. Technically speaking, there are differences between these documents, which are described in the section that follows.

## **Differences in the Documents**



If the document is titled guidelines, it reflects recommendations from professional groups for acceptable behaviors for the profession. If the title reads standards, the statements reflect the rules of behavior for the profession that are drawn up by members of the profession itself and that often carry civil sanctions and set the parameters for ideal behaviors. If you have heard your supervisor or field instructor talking about accreditation teams or visits, they are referring to an assessment of the site or academic program based on designated standards of behavior for the profession.

If, on the other hand, the document is called regulations, it contains dictates typically from governmental authorities and often specifies sanctions for not complying with them. Undoubtedly, you were given a copy of your site's policy manual by the end of the first week in the field. A policy refers to the procedures or course of actions set forth by an organization to ensure expediency and prudence in getting the work done. All organizations have policy manuals that they give employees and hopefully interns to read as part of their orientation to the work and workplace. Principles are fundamental doctrines of the profession that are rooted in commonsense morality.

Finally, if the document is called a code, its statements reflect beliefs about what is right and correct professional conduct. Codes often include standards of practice along with statements that embody the values of a profession. Like the Learning Contract, codes tend to be living documents that continually evolve. They promote professional accountability and facilitate improved practice by protecting the professional from ignorance (e.g., from malpractice suits so long as the professional acts in accordance with acceptable standards), protecting the public from the profession (i.e., protects the consumer from harm), and protecting the profession from the government (i.e., the profession governs and regulates itself, protects itself from internal struggles, and establishes agreed-upon standards of care) (VanHoose & Kottler, 1978, cited in Bradley, Kottler, & Lehrman-Waterman, 2001).

## **What You Need to Know Now**

It is important that you know the resources of your future profession. Your site supervisor can be very helpful in identifying them for you. Another very helpful resource is the book *Codes of Ethics for the Helping Professions*, which includes the full text of codes for fifteen professional specialties (Corey & Corey, 2011). Membership in such organizations can be expensive, but it is well worth the fee (most have a student category of membership with lower fees). The majority of national organizations can provide members with much information and have access to many resources. In addition to a variety of support services, such as casebooks and libraries of instructional videos, many also offer legal counseling and services when necessary.

If you have not done so already, ask your supervisor for a copy of the ethical document that guides your co-workers, for that document should also guide you. We suggest that you take the time to read it. Some of you will be looking at a two-page document; others will be reading 20 pages of professional rules! Reading the shorter documents is a reasonable exercise. However, if you are bound by the American Counselor Association's (ACA, 2005) code or that of the American Psychological Association (APA, 2010), reading such lengthy documents is perhaps not a reasonable undertaking. What is expected of you, though, for the purposes of the internship is to become familiar with the categories of codes and those categories relevant to your specific field experience. Bring the document to seminar class. Unless you and all your peers are in the same specialty (e.g., the helping profession or business work), the documents you collectively bring to class will be varied in specialty area, length, and intent.





Regardless of how detailed the codes may be or how many times you read them, there may be no answers forthcoming to help you resolve the conflict you experience. When ethical codes fail to provide a direction toward a solution, then the ethical principles of the profession can help guide your decisions. Ethical principles, as mentioned earlier, are fundamental doctrines of the profession rooted in commonsense morality. If you are not in the helping professions, you may want to locate those principles that guide the work in your field and spend some time thinking about them.

How might you answer the question “What ethical values are relevant to your profession?” Would they be the values that you read about in your academic coursework preparing you for your profession? Presumably so. Would they be the values that you see in practice at the internship site—the ones you are encouraged to demonstrate? Again, presumably so. There is an operating assumption that the ethical values you see in practice are the ones that the professionals believe best inform them when it comes to making ethical decisions; we also know that they will draw upon their personal value systems at times.

### **Special Relevance to the Helping and Service Professions**

#### *The Six Principles to Guide Your Work*

For those of you in the helping professions, we list below the six ethical principles that are commonly accepted as reflecting the highest level of professional functioning (Corey, Corey, & Callanan, 2011). The principles are based on the works of Kitchener (1984) and Meara, Schmidt, and Day (1996) and probably look very familiar to you. These principles have more than one purpose: they can guide your work as well as your decision-making. When using these principles to guide your decisions, be as honest with yourself as possible, as this type of authenticity will be invaluable to the quality of the decisions and the personal insight you develop.

- Autonomy refers to the clients’ freedom to control the direction of their lives by making decisions that reflect their wishes; this principle affirms the clients’ right to self-determination.
- Beneficence refers to commitment to do “good,” as demonstrated by carrying out work with competence and without prejudice. This principle affirms the clients’ dignity and promotes the clients’ welfare.
- Justice refers to treating others with fairness, regardless of gender, ethnicity, race, age, religious affiliation, sexual orientation, ability, religion, cultural background, or socioeconomic background. This principle affirms the clients’ right to equality in services.
- No maleficence refers to avoidance of doing harm; this principle affirms the clients’ right to respect.
- Fidelity refers to having a trustworthy relationship of honest promises and honored commitments; this principle affirms the clients’ right to informed consent before committing to interventions.
- Veracity refers to being truthful in dealings with clients; this principle affirms the clients’ right to full disclosure.



## LEGAL ISSUES: A WORLD OF LAWS AND INTERPRETATIONS

An important part of making an ethical decision is taking an engaged approach to knowing the laws that are relevant to and affect your work. Some of you are developing a familiarity with the law, especially if you are interning in legal settings or your work is closely directed by statutes and legal guidelines. Others of you may know little about this aspect of your work. In this section, we will give you a way of thinking about legal matters so you can make better sense of this aspect of your field experience.

All internships are affected to some degree by legal issues. For those of you interning in the criminal justice system, legal mandates govern much if not all of your work. For those of you working with dependent individuals, such as minors, elders, and those with special needs, the intent and extent of your work are largely affected by legal statutes, especially in the area of protection; i.e., abuse, neglect, and exploitation. If you are interning with a legislator, advocating for clients in class-action suits, or interning in hospitals, human resource departments, or in mediation services, you are working with laws. If you are interning in a government agency, your work is affected by the statutes or laws that govern the agency.

A number of legal issues are particularly relevant to interns who work directly with clients, most of which have ethical dimensions as well (see Kiser, 2011). Such issues include, but are not limited to, liability and malpractice; confidentiality, privileged communication, and privacy; disclosure of information; end-of-life decisions; consultations with specialists; crisis intervention; suicide prevention; termination of interventions; intimacy with clients; duty to protect intended victims from violence; and informed consent (Birkenmaier & Berg-Weger, 2010; Kiser, 2011). The list does not stop here, but we will.

Your responsibility is to know the legal basis, if there is one, for your organization; the laws that affect and govern your work; and the ways in which you are bound by those laws in carrying out your responsibilities (Berg-Weger & Birkenmaier, 2010; Gordon & McBride, 2011). The best way to learn about these matters is to bring your questions and concerns to your supervisors. The following sections will help to prepare you for those discussions.

### *Talking the Talk*

As was the case with ethical matters, there is a terminology specific to legal matters in fieldwork that you need to know. Again, we will take some liberty and use working definitions where possible so that you have a sense of the language and implications. We know that the information in this section is typically what interns most want to know about legal matters. However, the information is very technical, and it is not possible to describe it without a great deal of detail. So, on the one hand, we risk oversimplifying a complex body of information, and on the other hand, we risk boring or causing you undue concern. We will do our best to choose a middle ground. We advise you, though, throughout this discussion and throughout your internship, to bring all matters to your supervisors if you do not have a working understanding of them.



A tort is a civil wrong or injury done to another that is not based on an obligation under a contract. There are three types of torts: intentional torts, negligence torts, and strict liability torts. For the purposes of your internship, it is the negligence tort that is of most concern to you, your site supervisor, and your campus instructor.

For an act to be a negligence tort, there must be a legal duty, owed by one person to another, a breaking (breach) of that duty, and harm caused as a direct result of the action. For example, if you are interning at a home health care agency and you voluntarily assume responsibility for an elder in the community, you are then in what is referred to as a special relationship with that person. Your duty to your client would be considered breached if you fail to provide the standards of care of the home health care profession; you could do this either by failing to take certain required actions or, if you did act, doing so in a way that does not reflect the standards of care for the home health care profession. It makes sense to raise the issue of breach of duty with your supervisor so you can better understand how you could be at risk for such lawsuits (Eisenstat, personal correspondence, Sept. 2012). Negligence torts, then, can result when you fail to exercise a reasonable amount of care (standard of care) in a situation that causes harm to another person or to a thing. The basis for the negligence tort can involve doing something carelessly or failing to do something you are supposed to do.

There are two forms of negligence: ordinary negligence (i.e., failing to act as a reasonable person would) and aggravated negligence (i.e., reckless or willful behavior). It is the ordinary negligence tort that is the more likely concern in your internship. An example of ordinary negligence occurs when officers (e.g., police, probation, corrections, and parole) fail to perform duties owed to clients or inmates or when they perform duties inadequately (Eisenstat, personal correspondence, Sept. 2012). For example, correctional officers have a duty to check regularly on the inmates under their care. If a correctional officer fails to do so and an inmate commits suicide, then the officer could be found negligent in terms of his or her supervisory responsibilities. So, it makes sense to raise the issue of negligence and the potential pitfalls you face with your supervisor so that you can better understand how you could be at risk for such lawsuits.

## **Malpractice**

The term malpractice is one you are sure to have heard and know enough about that you do not want it to be a part of your field experience. Malpractice, a form of ordinary negligence, refers to an act that you perform in your professional capacity for which you are being sued. This type of lawsuit charges professional misconduct or unreasonable lack of skill on your part that results in injury or loss to your client. For example, if you are an intern at a residential facility for emotionally challenged adolescents and you fail to take the precautions that are ordinarily provided by other residential facilities/workers in the profession, and your actions or lack thereof result in one of the residents committing suicide, then you most likely would face a malpractice lawsuit (Eisenstat, personal correspondence, Sept. 2012). Again, it is important to bring up the issue of malpractice with your supervisors so you can better understand how you could be at risk for such lawsuits.

It is important to know that there are situations that tend to increase your liability for a malpractice lawsuit. (Being liable or having a liability means a breach of duty or obligation to another person.) For example, if you fail to use acceptable procedures or you use interventions for which you were not trained, or you fail to choose a reasonable form of intervention, your risk of liability increases significantly. And it does not stop there. If you fail to



warn others about or protect others from potential danger, or you fail to secure informed consent appropriately, or you fail to disclose to your client the possible consequences of services and interventions, then your risk of liability could increase. Such disclosures may violate the client's right to confidentiality; deciding whether to disclose or not often places the discloser between a rock and a hard place: disclosing and facing a suit from the client for violating his or her rights to confidentiality or not disclosing and facing a lawsuit if harm comes to the client or third party. Again, it is important to discuss potential malpractice situations with your supervisors.

### *Rules of the Trade*

In addition to having an understanding of the terminology, it is important to have an understanding of the legal framework. Let's start at the beginning with laws. A useful way of thinking about laws is how they are classified. For example, laws can be classified according to how they come into existence. Laws in the United States derive from our constitutions (constitutional law, from state and federal constitutions), our legislatures and governmental agencies (statutes and regulations, respectively), and our common law (case law from prior decisions by trial courts or appeals courts).

Another way laws are classified is by the nature of their focus: criminal or civil. Criminal law refers to a group of laws that seeks to resolve disputes between the government and people. Criminal law seeks punitive measures such as imprisonment and fines to right a wrongdoing (Eisenstat, personal correspondence, Sept. 2012). Many interns work with criminal law on a daily basis; for example, those in criminal justice settings, legal offices, domestic violence agencies, and protective work with dependents.

On the other hand, civil law, of which tort law is an example, seeks to resolve disputes between people by enforcing a right or awarding payment or what is referred to as damages. Its primary intent is to repair rather than punish behavior, as is the intent of sanctions for criminal matters (Eisenstat, personal correspondence, Sept. 2012). An aspect of civil law that many interns work with is mental health law. This body of law regulates how the government takes care of or responds to people with mental health challenges. If you are interning in a mental health clinic, hospital, residential setting, or a community shelter, your work is affected by this body of law.

In some instances, students deal with both civil and criminal law. For example, interns at offices of the American Civil Liberties Union deal with constitutional rights, which involve both civil law as well as criminal law.

Another way of thinking about law and the helping professions is to separate the laws according to the aspects of the work (Garthwait, 2011). For example, there are laws that regulate the services or actions that you can give to a client. There are laws that regulate the work of the service agency, such as working with youth, working with elders, and working with mentally ill individuals. And there are laws that regulate the practice of the profession, such as department, licensing, and supervision issues.

### *Relevant Legal Matters*



The legal matters of most relevance to interns come under the general categories of standards of care and supervisory malpractice. Again, these are complex areas of inquiry, and it is not possible for us to address them adequately in one chapter on ethics and laws. However, we hope to give you a way of thinking about them so that you can discuss these matters with supervisors and become better informed about these important areas of practice.

## **Standards of Care**

A matter that is both ethical and legal in nature and affects the work of the intern in the helping professions on a daily basis is that of reasonable standard of care. Interestingly enough, this area of potential legal matters is neither universally nor directly addressed in the ethical standards for the helping professions. Kiser (2000, p. 122) has described the components of a reasonable standard of care as including, but not limited to, knowledge of the clients and services being given; delivery of services and interventions based on sound theoretical principles; reliability and availability of services to clients; taking the initiative and acting on behalf of client and public safety; adherence to ethical standards of the profession in relation to client care; and systematic, accurate, thorough, and timely documentation of client care.

## **Supervisory Malpractice**

The second legal matter is that of supervisory malpractice. In this instance, it is the behavior of the supervisor that comes under legal as well as ethical scrutiny. As you may be aware, your supervisor is liable for your work because when your supervisor agreed to supervise you, he or she accepted responsibility for all of your work, including your work with clients and for your behavior (deportment) during the internship. If this responsibility sounds pretty serious, it is.

Quality of Supervision Failure to supervise the professional staff appropriately has been the cause of a growing number of malpractice suits (Sherry, cited in Falvey, 2002). This type of lawsuit concerns the quality of supervision given to the intern. The legal scrutiny a supervisor faces in such a lawsuit results from alleged negligence in carrying out supervisory responsibilities and from subsequent injury or damages. You, the intern, along with whomever may have been injured as a result of improper supervision, become the plaintiffs (i.e., the ones who bring the complaint), and your supervisor becomes the defendant in such a lawsuit for negligence. For example, you have been directed to conduct an in-home assessment to determine the removal of a child based on alleged neglect by the parents. In the process of conducting the interview, the mother becomes despondent, leaves the interview, goes into the bathroom, and slashes her wrists. During the invention that ensued, you are cut by the same instrument the mother used on herself, and you require medical care. If your supervisor did not prepare you adequately to respond to and manage the range of possible reactions to such an interview, your supervisor's risk for liability for failing to train you adequately increases substantially. Such preparation could include, but not be limited to, having you observe and/or conduct such an interview under the direct supervision of an experienced worker or talking with you about the potential for self-destructive reactions to such interviews. In this scenario, the client could sue both the intern and her supervisor (and potentially the agency and the campus) for negligence, and the intern could



sue the supervisor and agency and campus for their negligence in properly training her, which led to her injuries. (Eisenstat, personal communication, Sept. 2012). We hope you will never have such memories as part of your internship.

**Vicarious Liability** Another type of negligence liability on your supervisor's part is vicarious liability. Under vicarious liability, your supervisor could be held responsible for your negligence even if your supervisor did not act negligently. This area of law can become very complicated.

Ordinarily, there must be some form of salary to create an employer employee relationship, as in cooperative education placements. Practice or service-learning placements, however, typically do not pay for the student's work; internships can be paid, but many are not. Ultimately, the question comes down to whether there is sufficient oversight of the intern—how to do the work, the hours of the work, salary, and so on— that one could argue the level of control that the company exercises over the intern is sufficient to create an employer-employee relationship. This is decided upon by the facts of the specific case.

In the case of paid internships where the employee acts negligently, it is the agency, not the supervisor (since it is the agency paying the salary), who is vicariously liable. Of course, if the supervisor also acts negligently, the agency can be vicariously liable for the supervisor's actions as well. In the case of unpaid internships, vicarious liability can still exist, but once again, it would exist between the "employer" and the intern/employee and not the supervisor and the intern/employee, unless the supervisor is also the employer. If there is a campus supervisor involved in the internship in addition to the organization's employee who oversees the intern's day-to-day work, the agency could argue it lacks sufficient control over the student because a second supervisor is involved and that it is the college or university that should be held vicariously liable for failing to adequately supervise the intern. This scenario of vicarious liability is not likely to arise in a typical internship.

The more likely scenario would be the injured party suing the field site and/or the campus for their negligent supervision of the intern. However, both the agency and the campus could be sued through their own negligence and vicariously through the intern's negligence. The two lawsuits are not mutually exclusive; both can be brought (Eisenstat, personal correspondence, Sept. 2012). **Obligations to the Intern** At this point in your understanding of liability, you may be wondering under what circumstances does your supervisor incur potential liability because of her or his failure to meet obligations to you? Four major sources of such liability have been identified (Harrar, et al., 1990, cited in Falvey, 2002). We think it's important to note them so that you are more informed about what you can request of the supervisory relationship.

- If the supervisor is derelict in carrying out supervisory duties for planning your internship, the direction of your internship, or the outcome of your work, then your supervisor's liability can increase.
- If your supervisor gives you inappropriate advice about a treatment intervention that you use, and the intervention is to the detriment of the client, the supervisor's liability can increase.
- If your supervisor fails to listen attentively to your comments about a client and in turn fails to understand the needs of the client, the supervisor's liability can increase.
- If your supervisor assigns you tasks that the supervisor knows you are not trained adequately to perform, then the supervisor's risk of liability can increase.





All these conditions make good common sense, and our experience is that students know intuitively when they are being shortchanged or otherwise not being given quality supervision. However, seeing them in print can be most affirming for an intern. Similarly, it is helpful for practicum students to be aware of these rights as they go about their work in the field.

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## Graduation Announcement



**BESTLINK COLLEGE  
OF THE PHILIPPINES**

# ANNOUNCEMENT

Due to the insistent demand of BCP graduates and alumni and the IATF pronouncement of the low Alert Level Status, and in coordination with the DepEd and CHED, the BCP Administration is happy to announce that face-to-face graduation rites will proceed as scheduled.

<u>Level</u>	<u>Date of Graduation</u>	<u>Venue</u>	<u>Graduation Fee</u>	<u>Downpayment</u>
SHS	July 16, 2022	MV Campus	P 1,000.00	P 200.00
College	July 10, 2022	PICC	P 4,000.00	P 500.00

Balance must be paid two (2) weeks before the date of graduation.





**BESTLINK COLLEGE  
OF THE PHILIPPINES**

# **SCHEDULE GRADUATION PHOTOSHOOT**

**College Department Batch 2021-2022  
(Main Campus)**

**May. 23 & 30 - CRIM**

**May. 24 & 31 - EDUC**

**May. 25 & Jun. 01 - BSBA/BSOA/BSAIS/ENTREP**

**May. 26 & Jun. 02 - BSIT/BLIS/BSP/BSCpE**

**May. 27 & Jun. 03 - BSHM/BSTM**

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**BESTLINK COLLEGE  
OF THE PHILIPPINES**

# **SCHEDULE GRADUATION PHOTOSHOOT**

**Bulacan Branch Batch 2021-2022**

**May 28**

**8am - 12nn: Senior High School**

**12nn - 5pm: College Department**





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## **Activities**

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-  Forums
-  Quizzes
-  Resources



