

11-1 Introduction

As many of you are working fairly independently now, you have been making decisions and testing the limits of your own competence while being guided by **best practices**. You learned these practices by watching your site supervisor and coworkers demonstrate them as they addressed situations, made decisions, and took actions. Best practices are ways of conducting the work that members of a profession have agreed to abide by. In turn, your site has developed its own policies that reflect the best practices for its staff. Among other things, best practices ensure consistent and professional quality of service. If you were not provided a copy of the policies that guide the practices at your internship site, it would be wise to request a copy. When it comes to internships in general, examples of such documents include *CAS Professional Standards and Guidelines for Internship Programs* (Council for the Advancement of Standards in Higher Education, 2015), National Association of Colleges and Employers' (2011) *Position Statement: U.S. Internships*, and the National Society for Experiential Education's *Principles of Best Practices in Experiential Education* (1998/2009).

Regardless of how much we know about best practices or how closely we follow them, we are likely to encounter situations that make us uncomfortable or make us pause and think. You already may have experienced such situations and were unsure about which conclusions to draw, which decisions to make, or which actions to take. These situations are common in the world of professional work, and an internship is similar to this world in many ways. It, too, can be fraught with a number of issues that pertain to aspects of the intern's experiences. For the purposes of this chapter, an *issue* refers to a point that is in question or in dispute. Issues may be professional, moral, ethical, or legal, or any combination of these. In [Chapter 4](#), we discussed a number of issues you could face, and perhaps you have encountered some of them. In this chapter, you will learn about the ethical and legal issues common to many internships and discover reasoned ways to deal with them. It's a good idea

at this point to return to the chapters mentioned earlier and quickly review those discussions.

Parts of the discussion that follow may not be relevant for your specific internship. Interns using this book have varied academic majors, including professional studies (such as human services, business, nursing, education, and counseling), liberal arts (such as journalism, political science, psychology, sociology), and studies in the sciences, technology, engineering, and mathematics (STEM). If the discussion in this chapter doesn't respond to your particular needs, you will need to tap into the resourcefulness and guidance of your campus/program instructor or site supervisors to access the legal and ethical information pertinent to your specific field of study.

help

[Main content](#)

11-2A Look in the Rear View Mirror

LO 11.1

This is how I try to decide what to do: Think about it, talk about it, and try to look at it from every angle. Then I make a decision.

—Student Reflection

Most likely, you were a fledgling intern the first time you encountered some of the common internship workplace issues listed in [Table 11.1](#). You are no longer that neophyte, so this may be an opportune time to pay closer attention to those issues, which are organized by practice, integrity, and intervention but may fall into more than one category. As you peruse the issues, think about *why* you have been able to deal with some of them rather easily, *how* some challenged you in ways you didn't expect, and *which* of the issues have taken on different meaning as your internship moves forward.

Table 11.1

Common Internship *Workplace* Issues

| Practice Issues | Intervention Issues (<i>For the Helping Professions</i>) |
|--|--|
| <ul style="list-style-type: none">• Competence to do the work• Frequency and focus of supervision | <ul style="list-style-type: none">• Custodial issues/working with families *• Clinical issues |

- Consulting for guidance
- Education, credentials
- Diversity awareness & competence
- Grievance issues
- Dress norms for the site/profession
- Limitations to the scope of the work
- Licenses, certifications, standards
- Personal & professional deportment
- Managing the risks: decisions, ethical & legal liabilities
- Relationships with supervisors/staff

Integrity Issues

- Conflicts of Interest
- Dual/multiple-status relationships
- Obtaining information
- Disclosure of personal information
- Data maintenance & security
- Right to privacy
- Holding confidences, respecting colleagues
- Release of information to/about
- Upholding the integrity of clients
- *Social media **

- Choice of interventions
- *Distance counseling **
- Limitations to scope of responsibilities
- Client's right to self-determination
- Management of referrals
- Negligence, malpractice potential
- *Contagious, life-threatening diseases **
- Privileged information
- Confidentiality
- Managed care
- Boundary issues
- Size and nature of caseload
- Termination with clients
- Working with special populations
- Working with marginalized groups
- Abandonment by helping professional
- Obtaining information
- Release of information
- Sharing information with colleagues
- Emergency response during nonworking hours
- Legal and ethical practices
- *End-of-life issues **
- *Informed consent **
- Expectations & exceptions to confidentiality
- Dangerous-client cases (self and others)

| | |
|--|--|
| <ul style="list-style-type: none"> • Managing information technology (IT) devices • Attraction/intimate relationships • Title IX • <i>Personal values and character *</i> • <i>Personal, virtual relationships *</i> • <i>Gatekeeping issues *</i> • Health Insurance Portability and Accountability Act (HIPAA) • Family Educational Rights and Privacy Act (FERPA) | <ul style="list-style-type: none"> • Responses to court orders • Third-party payer requests • Values of benevolence, autonomy, nonmaleficence, justice, fidelity, veracity • Boundary issues • <i>Duty to warn, duty to protect *</i> |
|--|--|



Generally speaking, **practice issues** have to do with how you engage your profession and include such issues as educational preparation, diversity awareness, and cultural competence. **Integrity issues** have to do with the way you approach your work on a daily basis and include such issues as confidentiality, disclosure, and data recording and storage. **Intervention issues** are specific to the helping and service professions and have to do with working directly with clients. They include managing clinical issues, making referrals, and overseeing a caseload.

What to DO!

Vignette 1: Religious Insensitivity

You have information about a staff member at a regional civic organization who has a history of collaborating with your site on development initiatives. The staff member is demonstrating insensitivity to the religious values of the community that your site serves. It was recently announced that the staff member will become the acting director of the financial resources office affiliated with a local non-profit organization serving that community. It happens that you are a member of that community and of the same religious faith as most there. You have been thinking about applying for a position at that non-profit organization when your internship ends, but you are unsure about how to handle this situation. Should you voice your concerns to your site supervisor about the soon-to-be acting director of an office vital to the development of your community? Talk with your community's leaders about your concerns? Say nothing? Which other choices are there?

Vignette 2: Out-of-Office Disclosure in a Public Place

You are having lunch where many of the office staff eat, and you overhear two associates from your department talking about a high-profile contractor. You are stunned because you were told on your first day that the company's policy is no out-of-office discussion about the business of the corporation. You realize that policies are being violated, but you are not sure what to do about it.

You have your mid-internship evaluation the following week and don't want to bring attention to yourself. One of the two associates you overheard holding this conversation is your site supervisor.

Vignette 3 Conflicting Loyalties at the AA Meeting

At an Alcoholics Anonymous (AA) meeting, which you attend for personal reasons, you find out that your supervisor's patient is planning to leave the country in the next couple of weeks. Of particular concern is the fact that a friend told you that she overheard the patient threatening to hurt a former girlfriend. You had been told that what happens at AA meetings is confidential, and you know how strongly confidentiality is valued at your site and 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 be in conflict, and how to determine which responsibilities take priority over others.

What Are Your Next Steps in Each of These Vignettes?

Before considering the best practices you have been observing and the policies of your site that inform you about those next steps, give thought to these four guiding questions: *What? So What? Now What? Then What?*

Change font size

[help](#)

11-2a Questioning Your Own Professional Conduct

I have to make sure that I am not in the wrong place at the wrong time. I have to be careful ... because I don't want to be in a bad situation. I try to stay out of situations where I could be forced to make a bad decision.

—Student Reflection

When it comes to your own behavior, if you are not able to recognize an ethical issue for what it is, you will not be able to trust that your decisions are informed and your responses appropriate and reasoned. You need to be able to identify which kind of situation you are facing, and that assessment can be complicated when the situation doesn't fit neatly into any one category of issue.

In [Chapter 4](#), you read about the issues involved in questioning the professional behaviors of others. Since then, you have also been reading about other issues that may give you reason to question or pause and consider. You'll probably find that it's a

lot easier to spot (and judge) potentially unethical behavior in others than it is in yourself, so you need to have an attitude of honest self-examination. It is your own actions and decisions that you can control, not those of others, so the focus needs to be on looking honestly at what you are doing (Corey & Corey, 2015, p. 223).

Something to Think About!

In a Bind with the Site

Suppose you are a frontline staff member working with female victims of domestic violence. The agency is fully funded by corporate foundation money, and 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. This is not the type of issue that you expect to think about in your internship. Now, however, you do pause to think about the situation because although the corporation supports work you believe in, it also supports endeavors you believe are harmful.

Read on to learn how your situation can become even more complicated. A client at this domestic violence center sees you for outpatient support and bought you a newspaper subscription for daily delivery to your office. The client also brings pastries from her family's bakery to her weekly meetings with you.

Do you see any problems with either of these situations? Do you struggle to find the "right" answers?

CONSIDER This

How Compatible Are You?

Personal Competence & Professional Values?

Do you believe that there is a problem with accepting the gifts of a daily delivered newspaper or weekly pastry deliveries described previously? What would you say if, even though you *think* something is "wrong," there is more than a fleeting possibility that you might accept the daily deliveries and the weekly pastries?

Some of you may smile about that. Why? It seems that if guidelines about such situations are not clearly articulated, practitioners rely on their personal value systems and interpretations of the profession's ethics documents. And therein lies a known problem: Among practitioners, there is a discrepancy between knowing "what's right" to do and actually doing it (Jennings, Sovereign, Bottorff, Mussell, & Vye, 2005). So, if you know what's right to do but do not do it in this instance, you probably would not be alone in your failure to act ethically. If professionals believe there is an infraction of a clearly articulated professional code, they tend to do what they think they should do, especially if legal precedent exists. But if professionals don't believe that to be the case, then their actions are often inconsistent with what they thought was the right thing to do (Bersoff & Koepl, cited in Jennings et al., 2005; Bernard et al. and Smith et al., cited

in Jennings et al., 2005). Why, when you rely on your personal value system in such situations, might you not do “the right thing”? It has been suggested that some professionals are not honest and do not have integrity (Smith et al., cited in Jennings et al., 2005). There is also speculation that some professionals might not have the courage to act on what is “right” (Rest, cited in Jennings et al., 2005). The central issues here are personal values and personal character and whether there is compatibility between *personal competence* and the values of the profession.

This is yet another reason to understand yourself as an intern—to be aware of your value “buttons;” know what activates them; know when you see them playing out with clients, coworkers, or supervisors; and understand the effects of imposing your values on others (Dailey & Myers, 2016).

Regardless of the reason, you may be bumping up against issues at this stage of your internship that did not concern you in the past. Those issues can become complicated enough to be potential pitfalls for any aspiring or seasoned professional. When the issues are of an ethical or legal nature, the situation needs to be managed with reason and sensitivity. What is at stake is at least someone’s feelings and at most someone’s integrity, welfare, and even career. When the stakes are that high for someone else, they are also high for you, because your opportunities for employment and the future of your career could be compromised if your concerns are not justified and handled professionally.

THINK About It...

Not in a Million Years!

A number of situations lend themselves, conditionally or not, to questionable behaviors. Some situations are so obvious that mentioning them seems absurd. Even so, they do need to be mentioned explicitly because aspiring professionals, like seasoned professionals, are people too, and they have personal vulnerabilities that may compromise their ethical standards at times. We both have known and worked with individuals who committed improprieties that neither we, nor they, ever would have expected.

As you peruse the following list (in part taken from the book by Royse, Dhooper, & Rompf, 2018), ask yourself this question: To which improprieties could you—or someone you know—be vulnerable?

- Being sexually intimate with supervisors or clients
- Being dishonest or fraudulent in your actions
- Libelous or slanderous actions against clients
- Threatening or assaultive behaviors against clients or coworkers
- Misrepresenting one's status or qualifications
- Abandoning a client in need of services
- Failing to warn or protect appropriate parties of a violent client
- Failing to use reasonable precautions with self-injurious clients

• 11-3 Ethical Matters: Codes, Principles, & Issues

- *I try to confront ethical decisions by first asking myself what I think is right. If this gets me nowhere, I ask my coworkers, friends, relatives, professors, or anyone who I feel might have knowledge in that area or who has been in a similar situation ... Then I choose what I think is the best solution.*

• —Student Reflection

- At this point, you might be wondering how you have managed to survive for so long without knowing about ethical matters! This is exactly how our students felt after studying about them in a semester-long course. Chances are that your basic values have

served you well. Spending time during the internship thinking about the ethical issues that can develop can feel overwhelming; however, familiarizing yourself with them can feel quite manageable. Most likely, many possible ethical matters will include some you have never heard of as well as some that seem remotely familiar.

11-3a Talking the Talk

LO 11.2

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 you will learn from it.

- **Standards** refer 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.
- **Legal** suggests that someone is acting in accordance with the law.
- **Values** refer to what is intrinsically good, useful, and desirable.
- **Moral** refers to what is right or wrong conduct in its own right, based on broad mores such as religious principles.
- **Ethics** refers to the moral principles or rules of conduct of a particular profession (Corey, Corey, Corey, & Callanan, 2016; Pollock, 2012), such as the ethics of business, service professions, communications media, and so on.

• 11-3b Rules of the Trade

• LO 11.3

- 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, or codes*.
- It is precisely these types of documents that are reviewed when conflicting or questionable situations arise. Unfortunately, they do not always provide clear and decisive answers, but they do offer guidance for discussions, decisions, and actions. Technically speaking, there are differences between these documents, which are described in the [FOCUS on Practice](#) box that follows. If you are not interested in that level of detail, skip the box and read on.

• FOCUS on Practice

• Differences in the Documents

- You may better understand the discussion that follows if you have a copy of the ethics document that guides the professionals at your internship site.

• Codes

- If the document is titled 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. Codes may be living documents that evolve. They promote professional accountability and facilitate improved practice by protecting the professional from ignorance (e.g., protects the professional from malpractice lawsuits so long as the professional acts in accordance with

acceptable standards), protecting the public from the profession (e.g., protects the consumer from harm), and protecting the profession from the government (e.g., the profession governs and regulates itself, protects itself from internal struggles, and establishes agreed-upon standards of care).

- **Guidelines**

- Look at the document's title. If it contains the word **guidelines**, it reflects recommendations from professional groups for acceptable behaviors for the profession.

- **Policies**

- A **policy** comprises the procedures or course of actions set forth by an organization to ensure expediency and prudence and professionalism in getting the work done. All organizations have policy manuals that they give to their employees and may make available to their interns to read as part of their orientation to the work and workplace.

- **Principles**

- **Principles** are fundamental doctrines of the profession that are rooted in commonsense morality.

- **Regulations**

- If the document's title uses the term **regulations**, it contains dictates, typically from governmental authorities, and often specifies sanctions for not complying with those dictates.

- **Standards**

- If the title includes the word **standards**, the statements reflect the rules of behavior for the profession that have been drawn up by members of the profession itself and often carry civil sanctions and set the parameters for ideal behaviors.
- *Source:* VanHoose & Kottler, 1978, cited in Bradley, Kottler, & Lehrman-Waterman, 2001.

- As an intern, you are expected to be familiar with and live by the professional steering documents that guide the work of the staff at your site. If you have not already done so, ask your supervisor how to access the relevant document(s). After perusing them, if it is not self-evident, then ask your site supervisor which sections you should spend time reading. Becoming familiar with them will help you identify the issues that could be potentially problematic for you or any practitioner. Keep in mind that the standards documents describe the minimal expectations of ethical behaviors; they typically assure the public of the lowest bar of ethical practice that can be expected of the professional guided by those standards.
- **Ethical documents** exist for all professions, in part because it is the responsibility of a profession to regulate itself by developing and upholding such documents. Your site supervisor can refer you to website links for the ethical documents of the profession in which you are interning.
- **What to DO!**
- Consider the following vignettes while using the ethical document that guides your work at the site.
- **Vignette 1: Nur**
- **Nur** is political science student interning with you at a state senator's office. Nur spends most of the time engaging with others on social media. Nur's family members are important constituents and close personal friends of the senator and well known in the political party at the national level. Nur has no intention of doing the work given to the interns daily and has suggested on more than one occasion that the errors with the outreach to the community were yours. The person supervising the interns is in charge of personnel issues, including hiring new employees. That supervisor is related to Nur's aunt, and you are applying for the position

that just opened in the office. You feel as if you are between the proverbial rock and a hard place.

- **Vignette 2: Isabella**

- **Isabella** is a social science intern at a non-profit agency serving an indigenous population in a U.S. territory. She is passionate about the mission of this organization, which inspired her to take an interest in its financial solvency. She became alarmed by the information she gleaned from the databases to which she has access. Isabella reached out to a friend of her family on the mainland who leads a well-endowed family foundation known for its work in developing countries. Isabella pleaded with this friend, who is the CEO of the foundation, to make a substantial gift to the agency because she believed that the agency would go bankrupt and the needs of the community would not be met. Her internship supervisor confronted Isabella when the CEO of the foundation contacted the executive director of the non-profit agency.

- **Vignette 3: Charlie**

- **Charlie** is an IT intern who has been offered a very lucrative position with a globally embedded company upon the completion of his internship. He just needs to provide his final evaluation, and he will have his dream job. That evaluation is still six months away. Charlie is supporting and caring for his young child as a single father, and he needs a salary *now*. He knows his work is excellent based on past evaluations and decides to recreate the evaluation form, enter prior assessment scores and comments, and change the date of the final supervision meeting to this month and sign his supervisor's name.

- **What Are the Next Steps in Each of These Vignettes?**

- Before considering the ethical document that guides your work, think in terms of the four guiding questions: *What? So What? Now What? Then What?*

- In Which Ways Do the Ethical Documents Inform You about How These Situations Should Be Handled?
- Were the codes or standards useful to the discussions? If so, how? If not, how did the *principles* document inform your thinking and, in Nur's situation, your actions?

11-3c For the Helping Professions

Working Within Managed Care

Interns and staff in the helping professions have to live with divided loyalties on a daily basis: doing what is best for their clients and living within the demands of a managed care environment. The necessity of adopting a set of values congruent with the treatment conditions determined by managed care could raise ethical issues for the helping professional in areas of informed consent, confidentiality, abandonment, utilization review, and competence (Corey & Corey, 2015, p. 247).

Working with the Codes

The documents listed in this subsection help clarify responsible ways to carry out the work of an internship in the helping professions, whether within a managed care setting or not. Your site supervisor will advise you as to how to access the ethical document(s) with which you are expected to comply. If you are in doubt as to which document governs your work, your state's licensing board can advise you. For an extensive list and full texts of the documents, see *Codes of Ethics for the Helping Professions* (Corey & Corey, 2015). The following is a list of some of documents used in the helping professions:

- American Association for Marriage and Family Therapy (AAMFT), *Code of Ethics* (2015). www.aamft.org
- American Counseling Association (ACA), *Code of Ethics* (2014). www.counseling.org
- American Mental Health Counselors Association (AMHCA). *Code of Ethics* (2010). www.amhca.org
- American Music Therapy Association (AMTA), *Code of Ethics* (2008). www.musictherapy.org
- American Psychological Association (APA), *Ethical Principles of Psychologists and Code of Conduct* (2010). www.apa.org
- American School Counselors Association, *Ethical Standards for School Counselors* (2010). www.schoolcounselors.org
- Association for Addiction Professionals (NAADAC), *Code of Ethics* (2011). www.naadac.org
- Canadian Counselling and Psychotherapy Association (CCPA), *Code of Ethics*. www.ccacc.ca/home.html
- Commission on Rehabilitation Counselor Certification, *Code of Professional Ethics for Rehabilitation Counselors* (2010). www.crccertification.com
- National Association of Social Workers (NASW), *Code of Ethics* (2008). www.socialworkers.org
- National Organization for Human Services (NOHS), *Ethical Standards for Human Service Professionals* (2015). www.nationalhumanservices.org

What to DO!

Professor Ed Neukrug of Old Dominion University uses the following vignettes in his textbook for human services students in their introductory course. You have come a long way in your thinking since those early days in your studies. Consider the following vignettes by applying the ethical document that guides your work. When doing so, consider how differently you would have thought about the situations without the knowledge and skills you have gained through your experiences in the field and your internship.

- You have heard one of your colleagues make racist remarks. What should you do? What can you do?
- A client of yours is asking you to advocate for her child, whom she suspects is learning disabled. Your client asks you to call the school and request testing for the child. The school has thus far refused to perform such testing. Should you do this?
- A colleague of yours states that she is a credentialed human services professional. Actually, she has not obtained any credential. What, if anything, should you do?

Source: Neukrug, 2017b, pp. 25–26.

11-3d Ethical Principles and Ethical Values

I believe that it is better to overthink than to be impulsive and regret a choice later on. I do know that the ethical decisions and choices I make in life are a reflection of my values and character. I know that not every ethical decision I make in life is going to be easy or the right choice. But I believe that I have good values, and that will help me with my decisions.

—Student Reflection

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 a conflict that you are experiencing. 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. They describe the behaviors to which the professional and the profession as a whole are expected to aspire. If you are not in the helping professions, you will need to ask your site supervisor to direct you to the document of

principles that guides the work in your field, and then spend some time thinking about them in relation to the work you are doing at the site.

A Civic Commitment

As You Sow

Founded in 1992, As You Sow (n.d.) is a non-profit organization whose vision is “a safe, just, and sustainable world in which protecting the environment and human rights is central to corporate decision making.” Its mission is to “promote environmental and social corporate responsibility through corporate dialogue, shareholder advocacy, coalition building, and innovative legal strategies.” It aspires to be a national leader in “shareholder advocacy, moving companies to take greater responsibility for the social and environmental impact of their operations.” Interns and fellows can be placed with its Digital Strategies and Communications teams, and in its Responsible Sourcing Network Cotton Program.

Source: <http://www.asyousow.org/about-us/our-team>

11-3e For the Helping Professions

The Six Principles That Guide Your Work

For those of you in the helping professions, this section explores the **six fundamental principles** that are commonly accepted as reflecting the highest level of professional functioning (Corey et al., 2016). These principles are based on the work of Kitchener (1984) and of Meara, Schmidt, and Day (1996) and probably look very familiar to you. They can guide your work as well as your decision making. When using them, 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 the commitment to do "good," as demonstrated by carrying out work with competence and without prejudice. This principle affirms the clients' right to 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.
- **Nonmaleficence** 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.

THINK About It...

How Do Your Ethical Values Measure Up?

In recent years, researchers have identified eight ethical values used by master therapists in the helping professions. These ethical values take on added importance when you think about how practitioners use codes of ethics and their personal value systems when making decisions about ethical issues and dilemmas (Jennings et al., 2005). How do the values cited here figure into the

earlier decision you made about the daily newspaper delivery and the weekly delivery of baked goods?

Building and Maintaining Interpersonal Attachments

- Relational connection
- Autonomy
- Beneficence
- Nonmaleficence

Building and Maintaining Expertise

- Competence
- Humility
- Professional growth
- Openness to complexity and ambiguity

• 11-4 Legal Matters: Laws, Interpretations, & Applications*

• LO 11.4

- An important part of making an ethical decision is being aware of the laws that are relevant to your work. Some of you are developing a familiarity with the law, especially if you are interning in legal settings or if statutes and legal guidelines closely direct your work. Others may know little about this aspect of your work. In this section, we suggest 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 readers who are interning in the criminal justice system, legal mandates govern much, if not all, of your work. For those interns working with dependent individuals, such as minors, elders, and persons 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). Students who are interning with a legislator, advocating for clients in class-action suits, or interning in hospitals, human resources departments, or mediation services, are working with laws. For

interns in a government agency, the statutes or laws that govern the agency directly affect your work.

- A number of legal issues are particularly relevant to interns who work directly with clients, most of which have ethical dimensions as well (Corey et al., 2016; Kiser, 2016; Neukrug, 2017b). 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, 2016). The list does not stop here, but we will.
- Your responsibility as an intern is to know the legal basis for your organization, if there is one; 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; McBride, 2016). 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.

• 11-4a Rules of the Trade

• LO 11.5

- Let's start at the beginning with the legal framework. There are two ways of thinking about laws that are useful to our discussion: in terms of the sources of law or in terms of the focus of law.
- **Sources of Law**
 - In the United States, law derives from constitutions (*constitutional law*, from state and federal constitutions), legislatures and governmental agencies (*statutes* and *regulations*, respectively), and *common law* (*case law* from prior decisions by trial courts or appeals courts).
- **Focus of Law: Criminal or Civil**
 - **Criminal law** refers to a group of statutes that define criminal offenses against the state and specific punitive measures such as

imprisonment and fines to right a wrongdoing. Many interns work with criminal law on a daily basis—for example, those in criminal justice settings, legal offices, domestic violence agencies, or protective work with dependents.

- **Civil law**, of which tort law is an example, seeks to resolve disputes between people by enforcing a right or by awarding payment or what is referred to as *damages*. Its primary intent is to repair rather than to punish behavior, as is the intent of sanctions for criminal matters. Many interns work with an aspect of civil law known as 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 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 with the American Civil Liberties Union deal with constitutional rights, which involve civil law as well as criminal law.

11-4b Talking the Talk

As with ethical matters, there is a terminology specific to legal matters. Again, we will take some liberties and use working definitions where possible so that you have a sense of the language and implications. The information in this section is typically what interns most want to know, but it is very technical and not possible to describe without a great amount of detail. So, on the one hand, we risk oversimplifying a complex body of information, and on the other hand, we risk boring you or causing you undue concern. We have done our best to choose a middle ground and worked with two attorneys, one of whom is Professor of Law, to make sure we got it right for you! We advise you, though, throughout this discussion and throughout your internship, to bring all matters to your supervisors if you do not have an understanding of them.

General Legal Matters

In this section, we consider those legal matters that have general relevance to your internship: torts, negligence, and malpractice, a form of ordinary negligence.

Torts

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: *negligence torts*, *intentional 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/program instructor.

For an act to be a **negligence tort**, all three of the following elements must be present:

- A legal duty, owed by one person to another
- A breaking (*breach*) of that duty
- Harm caused as a direct result of the action or inaction

Case in Point

If you are interning at a home health care agency and you 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, by doing so in a way that does not reflect the standards of care for the home health care profession (S. Eisenstat, Personal communication, September 2012). 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.

Negligence

The term *negligence* is a term you are sure to have heard and realize that you do not want to be part of your internship! We have broken down its description so you can easily access it when you have a need to know more. Negligence torts 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:

- **Gross or aggravated negligence**, meaning reckless or willful behavior.
- **Ordinary negligence**, or failing to exercise the care that an ordinarily prudent person would use in the same situation—that is, failing to act as a reasonable person would (*Briggs v. Spaulding*, 141 U.S. 132,

11 S.Ct. 924, 35 L.Ed. 662). This is the tort that is more likely to be of concern to you as an intern.

Case in Point

An example of *ordinary negligence* occurs when officers (e.g., police, probation, corrections, parole) fail to perform duties owed to those under their supervision or remanded to their custody or when they perform their duties inadequately. 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 (S. Eisenstat, personal communication, September 2012). 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 another issue that you do not want to be part of your internship! Malpractice, a form of ordinary negligence, refers to an act that you perform in your professional capacity and for which you are 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 (S. Eisenstat, personal communication, September 2012).

Case in Point

If you are an intern at a residential facility for emotionally disturbed 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 or your supervisors

most likely would face a malpractice lawsuit (S. Eisenstat, Personal communication, September 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.

Situations That Increase Liability

Being *liable* or having a *liability* refers to a breach of duty or obligation to another person. It is important to know that there are situations that tend to or could increase your liability for a malpractice lawsuit. For example, your liability for malpractice could be increased if:

- You fail to use acceptable procedures or you use interventions for which you are not trained.
- You do not choose a reasonable form of intervention.
- You do not warn others about or protect others from potential danger.
- You do not secure informed consent appropriately.
- You do not disclose to your client the possible consequences of services and interventions (S. Eisenstat, personal communication, September, 2012).

It is important to keep in mind that disclosures may violate the client's right to confidentiality. Deciding whether to disclose information or not often places the decider between a rock and a hard place: disclosing and facing a lawsuit 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 (S. Eisenstat, personal communication, September, 2012). Again, it is important to discuss potential malpractice situations with your supervisors.

What to DO!

Consider the following vignettes, not from the professional or ethical perspectives that you have been using up to this point, but rather from the perspective of a potential legal issue. Legal commentaries are provided following each vignette.*

Vignette 1: Toby

Toby is a biology intern in a startup company. He has a blog, about which he informed his peer interns and coworkers at the site. Toby's internship has not been moving forward as planned, and he is slowly disengaging from his relationships at the site and the work. He wonders if he is slipping into disillusionment this late in his internship. On a particularly bad night, Toby wrote disparaging things about his immediate supervisor on his blog and shared confidential information about the work at this startup company.

Aside from ethical and professional issues, are there legal issues about which Toby needs to be concerned?

Commentary: Yes, there are potential legal issues, and Toby should be concerned. A published (such as in a public blog), untrue accusation against the character of a person that affects his or her reputation or injures otherwise them in their business or profession could be libel (a tort) under state law (See, for example, *Bright v. Los Angeles Unified School Dist.*, 51 Cal.App.3d 852; *Crab v. Curtis Pub. Co.*, 441 Pa 432). The breach of confidentiality itself could be another tort (depending on the company's policies) as well as the harm to the business that may occur. At the least, Toby's behavior likely would be considered unethical. The best course of action for Toby would have been not to make disparaging statements in his blog in the first place and not to reveal information that might be confidential. Having done so, Toby should remove those posts from his blog immediately to prevent any further damage. Toby also needs to meet with his campus/program supervisor for guidance.

Vignette 2: Isabella

Isabella is an art history intern who is working in the archives of a prestigious, nationally recognized museum in a major European city. Isabella lost the internship when she did not meet the required competencies after two evaluations. When Isabella was fired, she was in possession of materials belonging to the museum. She refused to turn over these materials, claiming that

they belonged to the person who worked on them, and Isabella was the only person who worked on them.

Aside from the professional and ethical issues, are there legal issues here about which Isabella needs to be concerned?

Commentary: Yes, there are potential legal issues, and Isabella should be concerned. Taking property without the owner's consent is a crime (stealing, theft) throughout the United States that could lead to imprisonment and/or fines (see, for example, *People v. Sims*, 29 Ill.App.3d 815). Isabella needs to discuss the issues and concerns about the ownership of the materials with the campus/program supervisor, as well as learn about the laws that relate to stealing and theft in the host country.

Vignette 3: Philomena

Philomena is a public administration intern in the office of a member of the U.S. Congress. Shortly after beginning her internship, she was asked to accompany the congressman to his home district, which is also her home. The trip would have involved just the two of them traveling together across country. She declined the invitation, citing a wedding she had to attend that weekend. She received three invitations for overnight travel during her first month at the internship site, and two invitations for trips abroad. Philomena decided to leave this internship because of the subtle and not-so-subtle sexual innuendos coming from the congressman and his director of internships, who was the site supervisor. She resigned without talking the issue over with her campus/program supervisor or peers and informed them of her decision in the next seminar class. Philomena secretly taped her exit interviews with the congressman, which were conducted alone, and with the director of internships, who also was her site supervisor and had twice asked her on dates.

Aside from the professional and ethical issues, are there legal issues about which Philomena needs to be concerned?

Commentary: Yes, there are potential legal issues for Philomena in this situation. Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act. States may have laws that are even stricter. The U.S. Equal Opportunity Employment Commission (EEOC) defines sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment,

unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment"

(<https://www.eeoc.gov/eeoc/publications/fs-sex.cfm>). In this case, it would have been helpful if Philomena had directly informed the congressman and her site supervisor that the conduct was unwelcome and asked them to stop, but that can be difficult to do. In such cases, or if the behavior continues, the intern should inform the campus/program supervisor and ask for guidance.

Federal law (USA) permits recording telephone calls and in-person conversations with the consent of only one of the parties involved [see 18 USC 2511(2)(d)]. However, some states require the consent of all parties being recorded. While there may be a constitutional right to openly record public officials, that right would not extend to the director of internships; in any case, the recording was secretly conducted. Philomena should consult with her campus/program supervisor as to the "wiretapping" laws of the state in which the recording was made.

Relevant Legal Matters*

I just wished I had known exactly what the supervisor is legally supposed to do ... Then I would have been able to point to something in writing. It was very hard knowing the supervisor was wrong but not having anything to point to and say "this is what you are supposed (sic) to be doing for me."

—Student Reflection

The legal matters of most relevance for many interns come under the general categories of standards of care and supervisory malpractice. The former is more relevant to those in the service and helping professions and is addressed in the *For the Helping Professions* section that follows. The latter is of relevance to all interns and is addressed following the *For the Helping Professions* section. Again, these are complex areas of inquiry, and it is not possible for us to address them adequately in one chapter on ethical and legal matters. Even so, we hope to give you a way of thinking about these issues so that you can discuss these matters with supervisors and become better informed about these important areas of practice.

11-4c For the Helping Professions

Laws and the Helping Professions

Another way of thinking about law when it comes to the helping professions is to separate the laws according to the aspects of the work (Garthwait, 2017). For example, some laws regulate the *services* or *actions* that you perform for a client. Other laws regulate the *work* of the human services agency, such as working with youth, working with elders, or working with mentally ill individuals. Still other laws regulate the *practice* of the profession, such as deportment, licensing, and supervision issues.

Standards of Care

A matter that is both ethical and legal in nature and that affects the work of the intern in the helping professions on a daily basis is that of a **reasonable standard of care**. Interestingly, this area of potential legal matters is neither universally nor directly addressed in the ethical standards for the helping professions. Kiser (2016, p. 80) 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.

Competence and the Helping Professions

The issue of **competence** is both a legal and ethical matter in the helping professions. Incompetence is a major contributing factor in causing harm, violating one of the six ethical principles that guide the work of the helping professions (Corey & Corey, 2016, p. 152). Ethically speaking, competence is necessary if practitioners are to protect and serve their clients. Legally speaking, incompetence in this context renders practitioners susceptible to malpractice lawsuits (p. 152).

What to DO!

Below are two more vignettes that Professor Neukrug uses in his introductory text for human services students. When you read them, the ethical and professional issues they bring up might jump out at you at this point—and that would be good! In this exercise, you should consider whether these situations pose legal concerns.

Vignette 1: Mandatory Reporting

Your agency has implemented a new policy that states all clients who are using illegal drugs will be reported to the police. You vigorously oppose such a policy and decide to ignore it. Aside from any professional or ethical issue, what do you need to think about when it comes to potential legal issues in this situation?

Something to Think About

- Are there legal reasons not to report such drug use? For example, is your internship in a medically related field, and if so, is the work that you do affected by and protected under laws such as the Health Insurance Portability and Accountability Act (HIPAA; U.S. Department of Health and Human Services, 2002)? What about doctor–patient confidentiality?
- How would you know that the clients, in fact, are using drugs? Would you be in a position to directly observe them using drugs?
- How would you know the drugs were obtained illegally?

- Did you sign an agreement or contract setting out the terms of your internship? Did you agree to comply with the policy that you could be fired or pursued for breach of contract if you did not comply with the policies?

Vignette 2: Attending Choice Rallies

You decide to attend a pro-choice (or pro-life) rally even though some of your clients may see you there and be turned off by your political affiliation. Aside from the professional or ethical issues you need to consider, what do you need to think about when it comes to the potential legal issues in this situation?

A Commentary & Something to Think About

The First Amendment to the U.S. Constitution grants people the right to various forms of free expression—freedom of speech, religious expression, and the press, among others. In addition, the First Amendment prohibits Congress from “prohibiting ... the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

- Would you attend the rally only on your own time?
- Did you wear or carry any of your site’s branded gear, such as a uniform, hat, or T-shirt?
- Are you representing yourself in the capacity of an intern at the agency?
- Did you sign an agreement or contract setting out the terms of your internship? If so, did you agree to comply with a policy that prohibits such activity?
- Did you agree to comply with a policy stating that you could be fired or pursued for breach of contract for not complying with this policy?

Vignette 3: Unauthorized Disclosure of Information

We know first hand how this final vignette occurs in many variations and creates an awkward situation for the intern, the internship moving forward, and for those who are privy to the conversation.

Akia was with other interns after work at a café close to the internship site and decided to invite a coworker from human resources to join them. What Akia didn’t expect was to hear the coworker discuss personal information on Akia’s application in front of the other interns. Aside from the professional and ethical issues that Akia will learn about once Akia discusses this matter with the

campus/program supervisor, what does Akia need to think about when it comes to potential legal issues in this situation?

Something to Think About

- If Akia is interning in a federal agency, could the coworker's actions be governed by the Federal Privacy Act, which applies to federal officials (not private employers)? (For more information on this act, see <https://www.justice.gov/opcl/conditions-disclosure-third-parties>.)
- If Akia is interning in a state or municipal agency, are there laws in that state or municipality that could inform Akia about the situation
- If Akia is interning in a medically-related organization, are there laws that protect Akia as an intern, unpaid or otherwise, in this situation? For example, does HIPAA apply?
- Does Akia have a disability? If so, would the Americans with Disabilities Act inform Akia about the situation Akia is in?

In all three of these scenarios, it is wise for the intern to inform the campus/program supervisor immediately about what took place and work with that supervisor to determine if there are legal issues involved and what the next steps could be.

Source of vignettes: Neukrug, 2017b, pp. 25–26. *Source of legal commentaries:* K. Scholmy, personal correspondence, October 4, 2017.

Supervisory Malpractice

Supervisory malpractice is a legal matter of relevance to all interns. 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 supervisors agree to supervise interns, they accept responsibility for all of their work, including work with clients, and for their behavior during the internship. If this

responsibility sounds pretty serious, it is. There are three areas of **supervisory malpractice lawsuits** that you should know about: **quality of supervision, vicarious liability**, and **obligations to the intern**.

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 that 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 whoever may have been injured as a result of improper supervision, become the **plaintiffs** (i.e., the parties who bring the complaint), and your supervisor becomes the **defendant** in such a lawsuit for negligence (S. Eisenstat, personal correspondence, September 2012).

Case in Point

You have been directed to conduct an in-home assessment to determine whether removal of a child is warranted 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 intervention 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 (S. Eisenstat, personal communication, September 2012).

We hope such memories are never a 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.
Practica 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
determinatio
n is decided
upon by the
facts of the
specific case
(S. Eisenstat,
personal
communicati
on,
September
2012).

In the case of
paid
internships
where the
employee
acts
negligently,
it is the
agency—not

the supervisor—that 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 (S. Eisenstat, personal communication, September 2012).

Obligations to the Intern

At this point in your understanding of liability, you may be wondering under which circumstances your supervisor incurs potential liability because of failure to meet obligations to you. Four major sources of such liability have been identified (Harrar et al., 1990, cited in Falvey, 2002), which are important to recognize so that you know what you can request of the supervisory relationship:

- If the supervisor is derelict in carrying out supervisory duties or 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
unders
tand
the
needs
of the
client,
the
superv
isor's
liabilit
y can
increas
e.

- If your
superv
isor
assigns
you
tasks
that
the
superv
isor
knows
you
are not
traine
d
adequ
ately
to
perfor
m,
then
the
superv

isor's
risk of
liabilit
y can
increas
e.

All of these
conditions
make good
common
sense, and
our
experience is
that students
know
intuitively
when they
are being
shortchange
d or
otherwise
not being
given quality
supervision.
Even so,
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.

11-5 Grappling with Dilemmas*

LO 11.6

Moral courage is the ability and willingness to do the right thing even though others might disapprove of you or exclude you. Moral courage means acting on your values even when your actions are contrary to the values, beliefs, or expectations of people around you.

—Ervin Staub, University of Massachusetts, Amherst

A **dilemma**—be it ethical, legal, professional, moral, or all four—refers to a struggle over alternative courses of action that can resolve a situation. To complicate things, the choices of courses of action tend to be correct in their own right, but they conflict with each other. A dilemma, then, is a situation in which you face more than one justified course of action—that is, two “right” ways of responding.

Our interns tell us that once they develop an understanding of the issues and become comfortable with the language, they begin to see the issues in their daily work. It just so happens that interns often tend to develop this awareness at the same time they are moving into collegial-like relationships with supervisors. Consequently, they are much more apt to talk about incidents, behaviors, and concerns at this point in the internship than they were a couple of months earlier.

11-5a Recognizing Dilemmas

The first hurdle in grappling with a dilemma is to recognize one when you see it, which is no easy feat. Experience tells us that recognizing dilemmas is quite challenging for both undergraduate and graduate students, as well as for experienced professionals. Often, students cannot readily name ethical issues when they see them, nor do they have a language to describe or discuss situations that might be ethical in nature.

A course in applied ethics (sometimes taught within the major) will help students become aware of the relevant ethical issues, learn the “language” of applied ethics, and begin to develop the reasoning and problem-solving skills necessary to succeed in

the profession. For example, in the field of criminal justice education, a study of the effects of a one-semester, elective course in criminal justice ethics suggests that students' values appear to shift in one measurable and noteworthy way following such a course—namely, from having concerns about their personal gain to having concerns about issues of social justice and the welfare of others (Lord & Bjerregaard, 2003). If you have not studied or discussed ethical issues academically, you may feel particularly underprepared for these challenges. We hope this discussion will help you frame your understanding of the issues and learn which questions to ask.

FOCUS on Practice

Typical Types of Dilemmas

There are three basic types of ethical dilemmas derived from issues that may affect you to varying degrees.

- **Primary dilemmas** result from your own decisions or circumstances and directly affect you. Examples: knowingly working with a customer of the internship site whose sister you have dated; agreeing to work under the supervision of a staff member from whose family you are renting an apartment.
- **Secondary dilemmas** result from another person's decisions or circumstances and may directly affect you. Example: working with a community collaborator whose wife, unbeknownst to you, is the loan officer at the bank that handles your family's mortgage, business loans, and financial accounts.
- **Tertiary dilemmas** are dilemmas of which you are aware because of work circumstances and may directly affect you if work circumstances change. Example: learning that a staff supervisor in another department entered into a business relationship with your closest friend.

11-5b Walking the Walk

You certainly will be (and likely already have been) exposed to ethical issues during your internship. You may even have experienced an ethical dilemma. If that happens, remind yourself that you are no stranger to facing difficulties and that

you have what it takes to work your way through yet another challenge.

Regardless of the situation, you will need a way of *thinking*—a framework—making ethical decisions. Your education has been preparing you to demonstrate learning in intellectual and practical skills, personal and social responsibility, and integrative and applied learning (Rhodes, 2009). One of those skill sets—thinking critically—is particularly relevant to assessing ethical situations and making responsible decisions about them. Although you may have heard the term **critical thinking** constantly throughout your education, we'll refresh your understanding of what it means to think critically about an issue, a situation, a decision, or an action. Critical thinking is considered “a habit of mind” in which you can comprehensively explore issues, ideas, artifacts, and events before accepting or formulating an opinion or conclusion (Rhodes, 2009). It is one of the habits of the mind you read about in [Chapter 1](#). When you think critically, you apply the following skills:

- Use standards of reasoning such as clarity, precision, accuracy, relevance, depth, and breadth.
- Assess and evaluate.
- Weigh alternative perspectives.
- Evaluate all views objectively.

Examples of critical thinking skills include articulating ideas, asking significant questions, and remaining open to contradictory ideas (Alverno College Productions, 1985).

Why so much thinking, you ask? Thinking deeply and in demanding ways are essential to a high-quality learning experience. It can help you make wise choices—choices that most likely will help you reach your goals (Gibbs & Gambrel, 1996, p. 6) and are necessary in a High Quality Internship.

[Main content](#)

11-5cFor the Helping Professions

Using the Six Fundamental Principles to Guide Your Decisions

Use the following checklist to evaluate potential areas of ethical and legal misconduct. The questions that form the checklist are based in part on models of ethical decision-making that identify the six fundamental principles of moral behavior that guide the work in the helping

professions: autonomy (*self-determination*), beneficence (*in the best interest of the client*), nonmaleficence (*to do no harm*), justice (*fairness to all*), fidelity (*honest promises and honored commitments*), and veracity (*being truthful*). This list addresses such qualities of ethical acts as universality, morality, and reasoned and principled behaviors (Corey et al., 2016; Kitchener, 1984; Meara et al., 1996; Pollock, 2012).

Ask Yourself ...

- Is the action in the best interest of the client? *Consider the six fundamental principles of moral behavior.*
- Does the action violate the rights of another person? *Consider constitutional rights as well as your duty to justice.*
- Does the action involve treating another person only as a means to achieve a self-serving end? *Consider the end-in-itself motive and the utilitarian perspective.*
- Is the action under consideration legal? Is it ethical? *Consider the laws and your legal duties; consider your civic and ethical duties and the components of an ethical act.*
- Does the action create more harm than good for those involved? *Consider the principles of nonmaleficence and beneficence.*
- Does the action violate existing policies, regulations, procedures, or professional standards? *Consider the duty to your professional role.*
- Does the action promote values in culturally affirming ways? *Consider the principles of nonmaleficence and beneficence and the duty to care.*

Change font size

[help](#)

[Main content](#)

11-5dWork the Problem! The Ten Reasoned Steps to Resolving Dilemmas

LO 11.7

I find that when I think about the whole situation (ethical decision), I realize that unethical decisions have a lot of repercussions ... People lose their jobs, and I don't want to get into trouble.

—Student Reflection

There are many ethical decision-making models to guide you in developing critical thinking skills. Some are specifically intended to deal with ethical or legal matters in the helping professions (see, for example, Corey & Corey, 2016; Corey et al., 2016; Gibbs & Gambrill, 1996; Kenyon, 1999; Kiser, 2016; Kocet & Herlihy, 2014; Mandell & Schram, 2012; Neukrug, 2017a; Rothman, 2002; Tarvydas, 1997, cited in Tarvydas, Cottone, & Claus, 2003; Woodside & McClam, 2011). Professor Ed Neukrug's (2017a) summary of categories of ethical decision-making models makes clear that there are choices of models (problem-solving, principles and virtue ethics, social-constructionism,

developmental), and the responsibility is yours to decide which approach is best for you. We want to familiarize you with the [Reasoned Decision-Making Model](#) before you make that choice.

Reasoned Decision-Making Model

The Ten Reasoned Steps to Resolving Dilemmas

1. Identify the dilemma
2. Consult the codes
3. Consider the laws
4. Consult with colleagues
5. Question the motives
6. Brainstorm the strategies
7. Consider the consequences
8. Test the values
9. Decide diligently
10. Assess objectively

The *Ten Reasoned Steps to Resolving Dilemmas* approach is an engaged model resulting from our experience in instructing students over many years in professional, ethical, and legal issues across different academic disciplines, both graduate and undergraduate. The model reflects the wisdom evident in existing models (Close & Meir, 2003; Corey et al., 2016; Kiser, 2016; Kocet & Herlihy, 2014; Neukrug, 2017a) and provides an integrated perspective that underscores the importance of thinking critically and practically, considering the context, testing one's values, ensuring discussion and collegial collaboration, implementing reasoned responses, and assessing them objectively.

Given that there are neither “right” nor “wrong” answers to dilemmas, you can anticipate ambiguity when dealing with them. It is important to challenge yourself to consider the dilemma from multiple perspectives.

1. Identify the Dilemma

Collect as much information as you can about the context of the situation, such as who is involved, who might be affected, how time and place matter, and what the known history of the situation is. Note situational variables. Identify the issues and their potential complications and implications. Recognize critical factors and put aside the unimportant ones.

If you suspect a *value* conflict in your work with clients, supervisors, or coworkers, or with the site's philosophy or mission, awareness of your effect on the client, staff, or site is critical to moving beyond this point. Teasing apart the value(s) that are in conflict can be done using the technique of bracketing, which means being able to set aside—as in suspending, *not* changing—your values (Kocet & Herlihy, 2014). In that way, you can work *with* the clients or staff and remain at the site without imposing your values on them or the site.

2. Consult the Codes

Review the ethical documents of your profession, the policies and regulations of your agency, and your state's regulations and guidelines for practice. Identify the aspects of those documents that apply. Determine how compatible your personal values are with those of the profession. When consulting the codes, demonstrate the responsibility and diligence expected of a reasonable professional under the circumstances.

3. Consider the Laws

Chances are you are just becoming familiar with the laws—both civil and criminal—that are relevant to your work. If you don't yet have that information, ask your site supervisor how to access it. Spend time perusing the laws and ask your site supervisor questions about them, especially how they apply to the types of dilemmas your coworkers—and now you—face in your work. When consulting relevant laws, demonstrate the responsibility and diligence expected of a reasonable professional under the circumstances.

4. Consult with Colleagues

Engage with informed coworkers and supervisors to discuss and discover a range of ways of considering the situation. Given the responsibility to make a reasoned decision, openly broaching the topic with colleagues and consulting with them are ways to demonstrate “acting in good faith” and to test your thinking and justifications. When consulting with colleagues, demonstrate the responsibility and diligence expected of a reasonable professional under the circumstances. Choose your colleagues wisely.

5. Question the Motives

Think through which changes you hope to bring about in the attitudes, behaviors, or circumstances in question. Consider and hold multiple perspectives as you question motives—yours as well as others'—carefully and repeatedly. Are all the voices of those affected by the situation heard in the goals you want? Consult with a colleague about whether there may be motives on your part of which you are not aware. Choose your colleague wisely.

6. Brainstorm the Strategies

Identify all possible courses of action, including the absurd. Some may prove useful, although unorthodox. Consider the client's perspective. Is the client's voice heard in your list of options? Discuss options with others and focus on the practical ones. Again, choose your colleagues wisely.

7. Consider the Consequences

Think about the consequences of each strategy for all involved in the situation. Thoughtfully assess plans. Identify consequences from various perspectives, and question each of the consequences. Remember to include the perspectives of those affected by the choices.

8. Test the Values

When the codes do not provide enough substance or guidance, use the document of principles for your professional field to help you think through a dilemma. The guiding principles for the helping professions are discussed in this chapter as an example of using such a document.

9. Decide Diligently

Consider carefully the information you have. The more obvious the dilemma, the clearer the course of action; the more obscure the dilemma, the more difficult the choice. Although hindsight may teach you differently, the best decision under these circumstances is a well-reasoned decision with which you can live.

10. Assess Objectively

Give yourself time to live with the decision you made so you can see its effects and learn from your choices. Once the effects are no longer immediate, consider whether you would make the same choice again, and why (or why not). If you want to change the outcome, consult with colleagues as to the wisdom of such a decision; they likely have had experiences from which you can benefit. Determine through conversations whether making a different decision at this point in time is reasonable and possible and if so, what would be the best way to move matters forward.

Obviously, it is neither practical nor reasonable to walk through a 10-step model each time you face a dilemma. Some dilemmas will be easy to resolve, others won't. This model is intended to guide you through challenging situations. Once you have worked through process a few times, you'll have a good sense of how to move yourself through the core steps of making reasoned, responsible decisions.

Reasoned Decision Making

The Four Core Steps

1. **Identify factors** (context, the issues, situational variables, priorities)
2. **Consult** (codes, laws, principles, policies, colleagues, civic responsibility)
3. **Know yourself** (motives, values, perspectives, biases, unfinished business)
4. **Strategize** (options, consequences, decisions, assessments)

Change font size

[help](#)

[Main content](#)

11-5e Exceptions to Reasoned Decisions

There is an area of internships where the Reasoned Decision-Making Model may not be relevant to the work—namely, the field of crisis intervention services. These services include natural disasters and international disaster responses, hospital-based and other institution-based work, and crisis services in the community.

The conditions in crisis work are such that they make following ethical codes virtually impossible (Zankas, Meyer, & James, 2017, p. 518). Typical ethical decision-making models are not practical for crisis intervention work because of the immediacy and urgency of the work. However, that doesn't preclude taking the time to consider the implications of your actions (p. 530) or being knowledgeable about the codes and laws affecting your profession and your role (p. 522).

Mental health practitioners are guided by the five evidence-based principles for trauma intervention: *promoting safety, calming, self- and collective efficacy, connectedness, and hope* (Hobfoll et al., 2007, cited in Zankas et al., 2017, p. 521). They provide assistance, normalize the experience, support resilience or strength-based responses in clients, and advise on referrals for those persons experiencing intense reactions to crises or disaster (Halpern & Tramontin, 2007, cited in Zankas et al., 2017, p. 521). These workers have life experience; are assertive, creative, persistent, poised, and resilient; and can think on their feet (James & Guiland, 2017, p. xvi). They often are "influenced by their own personal biases and values, the client's worldview, administrative directives, and ethical, legal, moral, and political contexts of the situations" (Zankas et al., 2017, p. 518).

Ethical codes do not address specifically the unique circumstances of providing crisis services, leaving members of their professional organizations "on their own to make decisions based upon personal reflection regarding their desire to help, their personal values, and the opportunity to be of benefit to others in order to avoid committing ethical transgressions" (Tjeltvier & Gottlieb, 2010, cited in Zankas et al., 2017, p. 519). Ethical guidelines are regularly encroached upon during crisis work (p. 518), and workers in such situations are often forced to select the best course of action even though that means they may infringe upon one or more ethical principles. Discerning which ethical principle comes first depends on the context and factors involved within a specific crisis or disaster (p. 519). During emergencies, ethical standards can be fluid, adjusting to the context of the situation (p. 522).

Having a fundamental understanding of basic ethical principles and their own values can support crisis workers in ethical decision making. Validating their actions and decisions can be done by triaging individuals following a crisis or disaster, using naturalistic decision-making models, or engaging in reflective practice approaches, which involve thinking about the reasons for entering this type of work, the actions taken during a crisis response, and ways that the response could be improved (Cottone & Tarvydas, 1998, cited in Zankas et al., 2017, p. 531).

If the focus of your internship is crisis work, then your site supervisor is the best person to guide you in how the professional staff handles ethical issues, dilemmas, and decision making.

Change font size

[help](#)

[Main content](#)

Chapter Review

11-6a Conclusion

You have done a lot of reading about issues in this chapter, many of which were probably new to you. Along the way, you have become familiar with some terminology and become aware of areas of concern that you could face in both your internship and your chosen profession. This chapter is intended to give you a way of organizing your thinking about issues that are part of a profession and a way to respond to them. We encourage you to use this chapter as a resource throughout your internship and to consider taking related academic coursework if you have not already done so.

As you continue to develop your sense of competency and professional identity while learning to deal with issues that may arise related to professional behavior, you will soon approach a celebrated, sometimes bittersweet time in your journey. When it is time to enter the Culmination Stage, you will have the opportunity to reflect on what you have accomplished and how you have actualized your goals through the internship, embrace the relationships you have developed, and appreciate the experience you have had. You are emerging from that experience as an informed and engaged professional, accomplishing the High Quality Internship you created for yourself through relationships, challenges, competent work, and commitment.

Change font size

[help](#)

[Main content](#)

Chapter Review

11-6bWhat Does This Mean to Me?

Select your most meaningful entries for reflection.

Checking in

This is a good time to revisit your personal system of ethics. Consider the following questions:

1. Which values best describe your system and to what do you attribute their bases?
2. What is it about your system of ethics that you like, and what would you like to change?

Personal Ponderings (Select the more meaningful)

It's also time to revisit your approach to making ethical decisions and your ways of reacting to allegations.

1. When you consider your approach to making ethical decisions, what is it about your style that you like and are proud of? What would you like to change about it? Why is that? What best describes your approach: Thoughtful? Impulsive? Expedient? Something else? Combination of approaches?
2. Think about how you might react to an allegation, complaint, or legal charge brought against you. Would it matter if you were *not* responsible for the resulting damages? Would it matter if you *were* responsible but denied being so?

Experience Matters (For the Experienced Intern)

You've had your share of observing and living with the kinds of issues described in this chapter during employment, career, or other internships. Which similarities and differences have you noticed in the issues in this internship and in your previous experiences? What are the implications of those similarities and differences? What are your next steps if the implications are not favorable to your future plans?

Civically Speaking

As you think about your site's civic connections and commitments to the community, give thought to their ethical and legal implications. Are you challenged by any of them? If so, does that surprise you? Given what you now know, how does that affect your future education or career choices?

Seminar Springboards

Bring a copy of the ethical document that guides your work at the site and prepare to discuss an ethical or legal dilemma that occurred or nearly occurred at the site within the context of that document. Then, with your peers, discuss the same dilemma using a peer's ethical document from another field. Are there differences in the discussion about the dilemma, and if so what are they? What is your take-away message from considering the dilemma from more than one perspective?

Change font size

[help](#)