



Available online at
ScienceDirect
www.sciencedirect.com

Elsevier Masson France
EM|consulte
www.em-consulte.com



DOSSIER ‘‘FORENSIC ETHICS’’ / *Studies*

Ethical issues in forensic psychology and psychiatry



Enjeux  thiques en psychologie judiciaire et psychiatrie

D.L. Shapiro (Ph.D.)

College of Psychology, Nova South-Eastern University, 3301 College Avenue, Davie, FL 33328, United States

Received 15 October 2015; accepted 10 January 2016
Available online 2 March 2016

KEYWORDS

Ethics;
Competence;
Informed consent;
Multiple relations;
Assessment

Summary Ethical issues in forensic practice have come into very sharp focus within the past year with the revelation that several psychologists were involved in the torture of detainees at Guantanamo. There was clearly great concern regarding the misuse of psychological tests and interventions in the service of torturing inmates. For instance, psychologists took techniques that had never been used in an interrogation and recklessly applied them to coercive interrogations, without any empirical evidence that these techniques were effective in such a setting. In addition, psychological testing was used to determine who was in need of ‘‘enhanced interrogation’’, again an area, which had no basis in research, in addition to the well-established ethical standard to do no harm. It was therefore, unethical at several levels. All of the mental health professions have in their ethics codes or specialty guidelines, statements regarding taking reasonable steps to avoid harming not only patients but also others with whom they may work. While this issue of involvement in torture is the most glaring example, we will also consider less dramatic instances, such as those where mental health professionals conduct assessments and treatments without really thinking through the consequences of these assessments. Several examples of these will be considered in detail including the use of assessments and treatments in competency for execution settings, and the involuntary commitment of ‘‘sex predators’’ based on assessment instruments with very limited validity. Some of the codes of ethics will be compared and contrasted to examine how extensively these problems are considered or where they may in fact be omitted. We will examine several areas of ethical concern in the Ethics Code of the American Psychological Association, the Code of Ethics of the Canadian Psychological Association, the Specialty Guidelines for Forensic Psychology, the Code of Ethics of the European Federation, and the Ethical Guidelines of the American Academy of Psychiatry and Law. However, there are a large number of other ethical standards, such as informed consent, competence, multiple relationships, and advertising that have varying degrees of attention in

E-mail address: psyfor@aol.com

the different codes and guidelines reviewed. For instance, much variability is noted in the scope of different codes, some of which are applied only to behaviors within the practitioner's professional role, and others more generically to all of a practitioner's behavior. In a similar manner, notable differences are seen in whether the code deals only with specific behavioral standards or whether it deals with aspirational principles as well. There are notable differences as well regarding the conflicts between ethics and the law, when a governing legal authority orders a mental health professional to do something that would violate parts of the ethics code such as confidentiality. Another important area we will consider is the concept of practicing only within the bounds of one's competence; some of the codes make it explicit just what the concept of competence entails, and others treat it as a more global concept. Some of them also deal with the need to include diversity issues in the definition of competence. The conflicts among different professionals regarding what is empirical or evidence based is also considered, along with a candid discussion of the fact that different codes, and in fact individuals using those codes have varying opinions on what constitutes "science". The concept of multiple relationships will also be explored extensively, especially looking at the issue of whether a therapist can testify as an expert witness or merely as a fact witness. While there is general agreement that a mental health professional should not serve in both roles with the same party, what exactly are the parameters of testimony if a therapist is called into court? Can he or she offer any kind of opinion testimony or just factual testimony? Informed consent is also treated somewhat differently in the different codes and guidelines. Notably some are very detailed, while others, are quite general. Growing out of these issues is another regarding examinees who will not participate in assessments. There are rather dramatic differences, which are explored in detail whether or not a practitioner can offer any kind of opinion on someone who refuses to be examined. The differences in the way confidentiality and privilege is handled will also be detailed as are issues regarding methodology, advertising, and use of assessment techniques. Finally, in a concluding section we will examine the strengths and weaknesses of each of the codes and guidelines and make suggestions for change so that we may eventually have a unified set of standards.

© 2016 Elsevier Masson SAS. All rights reserved.

MOTS CLÉS

Éthique ;
Compétence ;
Consentement
éclairé ;
Relations multiples ;
Évaluation

Résumé Les questions éthiques dans la pratique de la médecine légale ont été l'objet d'une grande attention l'année passée lors de la révélation que plusieurs psychologues avaient été impliqués dans la torture de détenus à Guantanamo. Il y avait clairement une grande préoccupation concernant l'usage inapproprié de tests psychologiques et d'interventions psychologiques dans le but de torturer des prisonniers. Par exemple, des psychologues se sont emparés de techniques qui n'avaient jamais été utilisées dans une interrogation et les ont appliquées sans considération pour des interrogations coercitives, sans aucune preuve empirique que ces techniques étaient efficaces dans un tel contexte. De plus, des évaluations psychologiques ont été menées pour déterminer qui nécessitait une « interrogation avancée », à nouveau dans un domaine qui n'avait aucune base dans la recherche, en plus du principe éthique bien établi de ne pas causer de dommages. L'éthique fut donc bafouée à plusieurs niveaux. Toutes les professions liées à la santé mentale ont dans leurs éthiques des codes ou des lignes de conduite spécifiques, des directives visant à prendre les mesures nécessaires pour éviter de faire du mal non seulement aux patients mais aussi aux autres gens avec lesquels ils sont amenés à travailler. Alors que cette question de l'implication dans des actes de torture est l'exemple le plus flagrant, nous considérerons également des cas moins spectaculaires comme ceux dans lesquels des professionnels de la santé mentale mènent des évaluations et des traitements sans vraiment mesurer complètement les conséquences de ces évaluations. Plusieurs exemples de ces cas-là seront examinés en détail, notamment l'utilisation d'évaluations et de traitements applicables sur les lieux d'exécution, ainsi que l'engagement involontaire de « prédateurs sexuels » basé sur des instruments d'évaluation ayant une validité très limitée. Quelques-uns des codes d'éthique seront comparés et mis en regard dans le but d'examiner dans quelle mesure ces problèmes sont pris en compte et dans quels cas ils ont pu être en effet omis. Nous examinerons plusieurs domaines de questionnement éthique dans le Code éthique de l'Association des psychologues américains, le Code éthique de l'Association des psychologues canadiens, les Directives spécifiques pour la médecine légale, le Code éthique de la fédération européenne et les Directives éthiques de l'Académie américaine de psychiatrie et de droit. Cependant, il

Download English Version:

<https://daneshyari.com/en/article/1097715>

Download Persian Version:

<https://daneshyari.com/article/1097715>

[Daneshyari.com](https://daneshyari.com)