AMERICAN ASSOCIATION OF STATE PSYCHOLOGY BOARDS

AASPB CODE OF CONDUCT

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AASPB CODE OF CONDUCT

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FOREWORD

AASPB CODE OF CONDUCT

Enclosed is the AASPB Code of Conduct which was approved by the Delegates to the Annual Meeting in October, 1990. Since that meeting several suggestions for minor revisions were incorporated by the Model Licensure Committee which was responsible for the previous draft versions.

It is important to note that this version of the Code of Conduct began with the review and distillation of similar codes from fourteen (14) U.S. and Canadian jurisdictions. These fourteen were selected as representative from twenty-seven (27) U.S./Canadian regulatory codes. The rules contained in the Code reflect suggestions of many jurisdictions and many concerned individuals following the review of former drafts of the Code. The rules contained in the Code also reflect much debate and scrutiny by the Model Licensure Committee which spent approximately two years in the drafting stage.

The committee that prepared the various drafts, as well as the approved version of the Code, represented considerable geographic and professional diversity, yet was able to reach an essentially enthusiastic consensus on nearly all of the rules contained in the Code. Generally favorable reaction by many boards and board members, as well as the vote of the delegates, supports the impression that a consensus Code of Conduct is possible.

Certain concepts should be kept in mind while reviewing and applying the rules contained in the Code. Regulatory rules of conduct protect the public welfare by assuring that the client of a licensed

psychologist can have a reasonable, legally protected, understanding of the rules that will govern the professional's behavior in the professional relationship. Effective rules of conduct, in the opinion of the committee, have several characteristics of note:

1. They pertain to the process or "mechanics" of the professional relationship, not to the content of the professional judgment itself. They set the boundaries within which the professional relationship functions and are not intended to determine or dictate professional judgment as such.

2. They primarily protect the public interest. They secondarily protect the interests of the profession only as they assure public confidence and trust in the predictability of the professional relationship.

3. They are as nonintrusive as possible, interfering as little as possible with professional work while still accomplishing their necessary function of protecting the public from exploitation secondary to particular characteristics of the professional relationship.

4. They are essentially unambiguous concerning what behavior is acceptable and what is not.

5. Among other functions, they assure the creation/existence/ retention of appropriate information with which the regulatory board can judge compliance with or deviation from its requirements.

6. They are sufficient unto themselves, without dependence for interpretation on additional explanatory materials, since they will be applied in a judicial/legal context interpreting the regulatory code of which they are a part, and the explanatory material would not be an incorporated part of the regulatory code.

7. They are nonoptional and always pertain. They are coercive, not advisory or aspirational. They are nontrivial, to the extent that any violation is basis for formal disciplinary action, including loss of licensure.

Rules of conduct differ in function in critical ways from a professional association ethics code, with which they are sometimes confused. The professional association ethics code is the profession's own standards and guidelines to its own professionals about how to handle the professional-client relationship. Its ultimate purpose is to protect the welfare and integrity of the profession, although it accomplishes these functions partially by structuring professional behavior such as to build confidence in the profession, by much the same process as do the rules of conduct. It may, and usually does, incorporate the basic concepts or structure of regulatory rules of conduct as those are herein conceptualized. Rules of conduct in a professional association ethics code may be dealt with in less detail or specificity, however, than is desirable for a regulatory code. They also often address aspirational or advisory issues as well as coercive ones, and professional matters as well as regulatory matters.

At least one recent court ruling, White v. N.C. State Bd. of Examiners, 388 S.E.2nd 148 (N.C. App. 1990) highlights some distinctions between aspirational ethics code language and enforceable regulatory code of conduct language. In this case, which involved the utilization of the American Psychological Association's "Ethical Principles of Psychologists", a reviewing court held that the preambles to the various ethical principles could not be used as the basis for disciplinary action against a psychologist. At the same time, this

court upheld the use of certain specific principles in such disciplinary proceedings. The questionable use of principles adopted by a professional association, was one of the reasons that the AASPB Executive Committee directed the development of this Code of Conduct. Board members and attorneys involved in disciplinary proceedings based on codes of conduct or ethical principles should review White v. N.C. State Bd. of Examiners, supra for its most instructive language.

The primary work in drafting the Code was done by the AASPB Model Licensure Committee consisting of David Rodgers, OH (Chair); Stephen DeMers, KY; Terez Retfalvi, NB; Norma Simon, NY; Robert Tipton, VA; Randolph P. Reaves, AL.

AASPB views this Code as one which may change over time as opinions regarding the proper conduct of psychologists evolves. We trust that it will be a useful and productive document for boards, board members, staff and board attorneys. As always we welcome your comments and suggestions.

Gerald T. Jorgensen, Ph.D.
President

AASPB MODEL CODE OF CONDUCT

I. INTRODUCTION

A. Purpose. The rules within this Code of Conduct constitute the standards against which the required professional conduct of a psychologist is measured.

B. Scope. The psychologist shall be governed by this Code of Conduct whenever providing psychological services in any context. This Code shall not supercede state, federal or provincial statutes. This Code shall apply to the conduct of all licensees and applicants, including the applicant's conduct during the period of education, training, and employment which is required for licensure. The term "psychologist," as used within this Code, shall be interpreted accordingly.

C. Responsibility for own actions. The psychologist shall be fully responsible for his/her own professional decisions and professional actions.

D. Violations. A violation of this Code of Conduct constitutes unprofessional conduct and is sufficient reason for disciplinary action or denial of either original licensure or reinstatement of licensure.

E. Aids to interpretation. Ethics codes and standards for providers promulgated by the American Psychological Association, the Canadian Psychological Association, and other relevant professional groups shall be used as an aid in resolving ambiguities which may arise in the interpretation of this Code of Conduct, except that this Code

of Conduct shall prevail whenever any conflict exists between this Code and any professional association standard.

II. DEFINITIONS

A. Client. "Client" means a receiver of psychological services. A corporate entity or other organization can be a client when the professional contract is to provide services of benefit primarily to the organization rather than to individuals. In the case of individuals with legal guardians, including minors and legally incompetent adults, the legal guardian shall be the client for decision making purposes, except that the individual receiving services shall be the client for:

1. Issues directly affecting the physical or emotional safety of the individual, such as sexual or other exploitive dual relationships, and

2. Issues specifically reserved to the individual, and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship.

B. Confidential information. "Confidential information" means information revealed by a client or clients or otherwise obtained by a psychologist, where there is reasonable expectation that because of the relationship between the client(s) and the psychologist, or the circumstances under which the information was revealed or obtained, the information shall not be disclosed by the psychologist without the informed written consent of the client(s). When a corporation or other

organization is the client, rules of confidentiality apply to information pertaining to the organization, including personal information about individuals when obtained in the proper course of that contract. Such information about individuals is subject to confidential control of the organization, not of the individual, and can be made available to the organization, unless there is reasonable expectation by such individual that such information was obtained in a separate professional relationship with that individual and is therefore subject to confidentiality requirements in itself.

C. Court order. "Court order" means the written or oral communication of a member of the judiciary, or other court magistrate or administrator, if such authority has been lawfully delegated to such magistrate or administrator.

D. Licensed. "Licensed" means licensed, certified, registered, or any other term when such term identifies a person whose professional behavior is subject to regulation by the Board.

E. Professional relationship. "Professional relationship" means a mutually agreed upon relationship between a psychologist and a client(s) for the purpose of the client(s) obtaining the psychologist's professional expertise.

F. Professional service. "Professional service" means all actions of the psychologist in the context of a professional relationship with a client.

G. Supervisee. "Supervisee" means any person who functions under the extended authority of the psychologist to provide, or while in training to provide, psychological services.

III. RULES OF CONDUCT

A. COMPETENCE

1. Limits on practice. The psychologist shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training, and experience.

2. Maintaining competency. The psychologist shall maintain current competency in the areas in which he/she practices, through continuing education, consultation, and/or other procedures, in conformance with current standards of scientific and professional knowledge.

3. Adding new services and techniques. The psychologist, when developing competency in a service or technique that is either new to the psychologist or new to the profession, shall engage in ongoing consultation with other psychologists or relevant professionals and shall seek appropriate education and training in the new area. The psychologist shall inform clients of the innovative nature and the known risks associated with the services, so that the client can exercise freedom of choice concerning such services.

4. Referral. The psychologist shall make or recommend referral to other professional, technical, or administrative resources when such referral is clearly in the best interests of the clients.

5. Sufficient professional information. A psychologist rendering a formal professional opinion about a person, for example about the fitness of a parent in a custody hearing, shall not do so without

direct and substantial professional contact with or a formal assessment of that person.

6. Maintenance and retention of records.

a. The psychologist rendering professional services to an individual client (or a dependent), or services billed to a third party payor, shall maintain professional records that include:

1) the presenting problem(s) or purpose or diagnosis,

2) the fee arrangement,

3) the date and substance of each billed or service- count contact or service,

4) any test results or other evaluative results obtained and any basic test data from which they were derived,

5) notation and results of formal consults with other providers,

6) a copy of all test or other evaluative reports prepared as part of the professional relationship.

b. To meet the requirements of this rule, so as to provide a formal record for review, but not necessarily for other legal purposes, the psychologist shall assure that all data entries in the professional records are maintained for a period of not less than five years after the last date that service was rendered. The psychologist shall also abide by other legal requirements for record retention, even if longer periods of retention are required for other purposes.

c. The psychologist shall store and dispose of written, electronic and other records in such a manner as to insure their confidentiality.

d. For each person professionally supervised, the psychologist shall maintain for a period of not less than five years after the last date of supervision a record of the supervisory session that shall include, among other information, the type, place, and general content of the session.

7. Continuity of care. The psychologist shall make arrangements for another appropriate professional or professionals to deal with emergency needs of his/ her clients, as appropriate, during periods of his/her forseeable absences from professional availability.

B. IMPAIRED OBJECTIVITY AND DUAL RELATIONSHIPS

1. Impaired psychologist. The psychologist shall not undertake or continue a professional relationship with a client when the psychologist is, or could reasonably be expected by the Board to be, impaired due to mental, emotional, physiologic, pharmacologic, or substances abuse conditions. If such a condition develops after a professional relationship has been initiated, the psychologist shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination, and shall assist the client in obtaining services from another professional.

2. Prohibited Dual Relationships.

a. The psychologist shall not undertake or continue a professional relationship with a client when the objectivity or competency of the psychologist is, or could reasonably be expected by the Board to be, impaired because of the psychologist's present or

previous familial, social, sexual, emotional, financial, supervisory, political, administrative, or legal relationship with the client or a relevant person associated with or related to the client.

b. The psychologist, in interacting with a client or former client to whom the psychologist has at anytime within the previous 24 months rendered counseling, psychotherapeutic, or other professional psychological services for the treatment or amelioration of emotional distress or behavioral inadequacy, shall not:

1) engage in any verbal or physical behavior toward him/her which is sexually seductive, demeaning, or harassing; or

2) engage in sexual intercourse or other physical intimacies with him/her; or

3) enter into a financial or other potentially exploitive relationship with him/her.

c. The prohibitions set out in (b.) above shall not be limited to the 24-month period but and shall extend indefinitely if the client is proven to be clearly vulnerable, by reason of emotional or cognitive disorder, to exploitive influence by the psychologist.

C. CLIENT WELFARE

1. Providing explanation of procedures. The psychologist shall give a truthful, understandable, and appropriate account of the client's condition to the client or to those responsible for the care of the client. The psychologist shall keep the client fully informed as to the purpose and nature of any evaluation, treatment, or other procedures, and of the client's right to freedom of choice regarding services provided.

2. Termination of services. Whenever professional services are terminated, the psychologist shall offer to help locate alternative sources of professional services or assistance if indicated. The psychologist shall terminate a professional relationship when it is reasonably clear that the client is not benefitting from the relationship, and shall prepare the client appropriately for such termination.

3. Stereotyping. The psychologist shall not impose on the client any stereotypes of behavior, values, or roles related to age, gender, religion, race, disability, nationality, sexual preference, or diagnosis which would interfere with the objective provision of psychological services to the client.

4. Sexual or other dual relationship with a client. The psychologist shall not enter into a sexual or other dual relationship with a client, as specified in Section III, B. of this Code of Conduct.

5. Solicitation of business by clients. The psychologist providing services to an individual client shall not induce that client(s) to solicit business on behalf of the psychologist.

6. Referrals on request. The psychologist providing services to a client shall make an appropriate referral of the client to another professional when requested to do so by the client.

D. WELFARE OF SUPERVISEES AND RESEARCH SUBJECTS

1. Welfare of supervisees. The psychologist shall not exploit a supervisee in any way--sexually, financially or otherwise.

2. Welfare of research subjects. The psychologist shall respect the dignity and protect the welfare of his/her research subjects, and

shall comply with all relevant statutes and administrative rules concerning treatment of research subjects.

E. PROTECTING CONFIDENTIALITY OF CLIENTS

1. In general. The psychologist shall safeguard the confidential information obtained in the course of practice, teaching, research, or other professional services. With the exceptions set forth below, the psychologist shall disclose confidential information to others only with the informed written consent of the client.

2. Disclosure without informed written consent. The psychologist may disclose confidential information without the informed written consent of the client when the psychologist judges that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client or another person. In such case, the psychologist shall limit disclosure of the otherwise confidential information to only those persons and only that content which would be consistent with the standards of the profession in addressing such problems. When the client is an organization, disclosure shall be made only after the psychologist has made a reasonable and unsuccessful attempt to have the problems corrected within the organization.

3. Services involving more than one interested party. In a situation in which more than one party has an appropriate interest in the professional services rendered by the psychologist to a client or clients, the psychologist shall, to the extent possible, clarify to all parties prior to rendering the services the dimensions of

confidentiality and professional responsibility that shall pertain in the rendering of services. Such clarification is specifically indicated, among other circumstances, when the client is an organization.

4. Multiple clients. When service is rendered to more than one client during a joint session, for example to a family or a couple or a parent and child or a group, the psychologist shall at the beginning of the professional relationship clarify to all parties the manner in which confidentiality will be handled. All parties shall be given opportunity to discuss and to accept whatever limitations to confidentiality adhere in the situation.

5. Legally dependent clients. At the beginning of a professional relationship, to the extent that the client can understand, the psychologist shall inform a client who is below the age of majority or who has a legal guardian, of the limit the law imposes on the right of confidentiality with respect to his/her communications with the psychologist.

6. Limited access to client records. The psychologist shall limit access to client records to preserve their confidentiality and shall assure that all persons working under the psychologist's authority comply with the requirements for confidentiality of client material.

7. Release of confidential information. The psychologist may release confidential information upon court order, as defined in Section II of this Code, or to conform with state, federal or provincial law, rule, or regulation.

8. Reporting of abuse of children and vulnerable adults. The psychologist shall be familiar with any relevant law concerning the reporting of abuse of children and vulnerable adults, and shall comply with such laws.

9. Discussion of client information among professionals. When rendering professional services as part of a team or when interacting with other appropriate professionals concerning the welfare of the client, the psychologist may share confidential information about the client provided the psychologist takes reasonable steps to assure that all persons receiving the information are informed about the confidential nature of the information and abide by the rules of confidentiality.

10. Disguising confidential information. When case reports or other confidential information is used as the basis of teaching, research, or other published reports, the psychologist shall exercise reasonable care to insure that the reported material is appropriately disguised to prevent client identification.

11. Observation and electronic recording. The psychologist shall ensure that diagnostic interviews or therapeutic sessions with a client are observed or electronically recorded only with the informed written consent of the client.

12. Confidentiality after termination of professional relationship The psychologist shall continue to treat as confidential information regarding a client after the professional relationship between the psychologist and the client has ceased.

F. REPRESENTATION OF SERVICES

1. Display of license. The psychologist shall display his/her current (name of jurisdiction) license to practice psychology, on the premises of his/her professional office.

2. Misrepresentation of qualifications. The psychologist shall not misrepresent directly or by implication his/her professional qualifications such as education, experience, or areas of competence.

3. Misrepresentation of affiliations. The psychologist shall not misrepresent directly or by implication his/her affiliations, or the purposes or characteristics of institutions and organizations with which the psychologist is associated.

4. False or misleading information. The psychologist shall not include false or misleading information in public statements concerning professional services offered.

5. Misrepresentation of services or products. The psychologist shall not associate with or permit his/her name to be used in connection with any services or products in such a way as to misrepresent (a) the services or products, (b) the degree of his/her responsibility for the services or products, or (c) the nature of his/her association with the services or products.

6. Correction of misrepresentation by others. The psychologist shall correct others who misrepresent the psychologist's professional qualifications or affiliations.

G. FEES AND STATEMENTS

1. Disclosure of cost of services. The psychologist shall not mislead or withhold from the client, a prospective client, or third

party payor, information about the cost of his/her professional services.

2. Reasonableness of fee. The psychologist shall not exploit the client or responsible payor by charging a fee that is excessive for the services performed or by entering into an exploitive bartering arrangement in lieu of a fee.

H. ASSESSMENT PROCEDURES

1. Confidential information. The psychologist shall treat an assessment result or interpretation regarding an individual as confidential information.

2. Communication of results. The psychologist shall accompany communication of results of assessment procedures to the client, parents, legal guardians or other agents of the client by adequate interpretive aids or explanations.

3. Reservations concerning results. The psychologist shall include in his/her report of the results of an assessment procedure any deficiencies of the assessment norms for the individual assessed and any relevant reservations or qualifications which affect the validity, reliability, or other interpretation of results.

4. Protection of integrity of assessment procedures. The psychologist shall not reproduce or describe in popular publications, lectures, or public presentations psychological tests or other assessment devices in ways that might invalidate them.

5. Information for professional users. The psychologist offering an assessment procedure or automated interpretation service to other

professionals shall accompany this offering by a manual or other printed material which fully describes the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population. The psychologist shall explicitly state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. The psychologist shall ensure that the advertisements for the assessment procedure or interpretive service are factual and descriptive.

I. VIOLATIONS OF LAW

1. Violation of applicable statutes. The psychologist shall not violate any applicable statute or administrative rule regulating the practice of psychology.

2. Use of fraud, misrepresentation, or deception. The psychologist shall not use fraud, misrepresentation, or deception in obtaining a psychology license, in passing a psychology licensing examination, in assisting another to obtain a psychology license or to pass a psychology licensing examination, in billing clients or third party payors, in providing psychological service, in reporting the results of psychological evaluations or services, or in conducting any other activity related to the practice of psychology.

J. AIDING ILLEGAL PRACTICE

1. Aiding unauthorized practice. The psychologist shall not aid or abet another person in misrepresenting his/her professional credentials or in illegally engaging in the practice of psychology.

2. Delegating professional responsibility. The psychologist shall not delegate professional responsibilities to a person not appropriately credentialed or otherwise appropriately qualified to provide such services.

3. Providing supervision. The psychologist shall exercise appropriate supervision over supervisees, as set forth in the rules and regulations of the Board.

4. Reporting of violations to Board. The psychologist who has substantial reason to believe that there has been a violation of the statutes or rules of the Board shall so inform the Board in writing, except that when the information regarding such violation is obtained in a professional relationship with a client, the psychologist shall report it only with the written permission of the client. Nothing in this Code shall relieve a psychologist of the duty to file any report required by applicable statutes.