

# **The Top 10 Ethics Violations: Recognition & How to Avoid Them**

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**3 CE Hours**

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## **Introduction**

In this home study we will review the most commonly occurring ethical violations by counselors, social workers, psychologists, alcohol & drug counselors, and marriage & family therapists. We'll examine some of the common regulations surrounding each violation, ways for professionals to recognize potential ethical dilemmas, and ways to minimize malpractice risk.

I know that readers of this home study are scattered across the United States and have a variety of licenses. While there are, of course, differences in regulations between the disciplines and the states, I have found that there are exponentially more similarities than differences. That being said, I would encourage readers to always make sure that they are fully aware of regulations that they must follow specific to their license(s) in their state.

I myself am a licensed social worker in Ohio with supervisory designation (LISW-S) and a certified Substance Abuse Professional (SAP). If you aren't familiar with SAPs – it is a designation under the Federal Department of Transportation (DOT). Under DOT guidelines, if an employee in a "safety-sensitive position" (such as a train conductor or bus driver) requires a substance abuse evaluation, the evaluation must be completed by a SAP. The ethical requirements and confidentiality guidelines of SAPs are quite unique, since "public safety" is considered the SAP's client, so I won't be discussing SAP issues in this training.

The types of licenses I will focus on in this home study include counselors, social workers, chemical dependency counselors, marriage and family therapists, and psychologists – although the specific titles

vary from state to state. I have had the great pleasure of working with all of these disciplines in a wide variety of micro and macro settings – including health, education, substance abuse, forensics, advocacy, and clinical mental health. I have found that the letters after our names don't separate us as much as our non-licensed colleagues or managers may think. I hope you enjoy this workshop.

### **Role of Licensing Boards**

Our licensing boards are the primary entities that spell out the expectations of our behavior and the ethical rules we need to follow. Hopefully this is not news to any of you. What some professionals are unclear of, however, is the specific role of our licensing boards.

Question: Who does our licensing board protect?

If you answered "Me!" you are either correct or incorrect, depending upon your meaning.

Your licensing board does not exist in order to protect you as a *professional*, it exists in order to protect you and all of your neighbors as *state citizens* or *members of the public*.

Let's review excerpts from the websites of just a few state licensing boards. I'm leading off with one of the most strongly-worded - from the home page of the Kentucky Board of Social Work website. The ***bold italics*** is their emphasis, not mine.

### **Kentucky**

"It is the purpose and policy of the Commonwealth of Kentucky to ***protect the public*** from being misled by incompetent and unauthorized persons, and unprofessional conduct on the part of qualified social workers by providing regulatory authority over persons who hold themselves out to the public as social workers." ([Commonwealth of Kentucky Board of Social Work](#))

Kentucky doesn't pull any punches there. Read that again.

### **Florida**

Florida is a little more low-key on its homepage for psychologists:

"The Florida Board of Psychology was legislatively established to ensure that every psychologist practicing in this state meets minimum requirements for safe practice. The Florida Board of Psychology is responsible for licensing, monitoring, disciplining and educating psychologists to assure competency and safety to practice in Florida." ([Florida Board of Psychology](#))

### **Ohio**

Ohio has seen transitions in its various social service professional boards in the last 20 years with various boards being merged – such as adding marriage and family therapists to the counselor and social work board, and now the most recent plan to merge all social service boards together. Regardless of any changes, the mission remains the same. Let's look at the mission of the original Counselor and Social Worker Board: "Protect the citizens of the State of Ohio through the licensure of counselors and social workers. The Board does this through the establishment of licensure and practice standards for the professional practice of counseling and social work.

And here's mission of the original Ohio Board of Psychology: "Providing protections to the public through examinations, licensing, education, and investigating complaints and maintaining accountability

among Ohio’s psychologists, school psychologists licensed for private practice, supervised providers, and applicants for licensure.”

### **New Jersey**

The [New Jersey State Board of Psychological Examiners](#) is very clear on its website:

“The purpose of the Board is:

- To protect the health, safety and welfare of the people of New Jersey.
- To regulate the practice of psychology.
- To ensure that licensed psychologists practice professionally and ethically.

The Board protects the public by:

- Ensuring that licensed psychologists meet the requirements set by law and regulations.
- Investigating those who may have violated statutes and regulations governing the practice of psychology.
- Requiring those practicing psychology to meet the standards for licensure and renew their licenses annually.”

### **Indiana**

The [Indiana Professional Licensing Agency](#) (PLA) welcomes its wide array of professionals in such a warm manner on its home page, you may think the rules are very different there:

“Welcome! Indiana is a great state to live, work and raise a family. At the Indiana Professional Licensing Agency, we want to help Hoosiers get the tools they need to succeed in the workplace, so businesses can flourish. Our focus isn’t regulatory burden, but rather economic growth and delivering a high level of customer service to every Hoosier licensee. We license professions as set in statute by the Indiana General Assembly.”

One must search a little further to clarify the role of the Indiana PLA. Below is an excerpt from the PLA section on [“How to File A Complaint.”](#) Even though the wording is much less harsh than Kentucky’s, keep in mind that the meaning is the same: the PLA’s role is to protect state residents (“Hoosiers”):

“It is never our intention to inhibit the practice of business in Indiana. However, in the unfortunate situation where the Indiana Attorney General seeks action in a case, it is our duty to comply with the highest standards of fairness, justice and uphold the laws that keep Hoosiers safe.”

### **Your State Licensing Board’s Purpose**

I encourage you to take a moment and look at the website of your state licensing board if it isn’t one of the examples above. Find the wording your board uses in describing its purpose. Does your board “protect the public” or “serve the interest of the state’s citizens” by licensing and monitoring you? I’ll bet the wording is something along those lines.

### **Your Board’s Makeup**

If you visit your board’s website, also take a look at who sits on your board. The members are most likely appointed by your governor, and most likely include various levels of your licensure as well as spots reserved for consumers and/or citizens. There may be requirements for racial, ethnic, gender, and political diversity – which can get tricky in professions that tend to be dominated by one gender or one political ideology – however this is most likely a state regulation that also applies to your state liquor

board or election board. If your board is a blended board for multiple disciplines, then you most likely have “sub-boards”: such as a Counselor Board and Social Worker Board within a Human and Social Services Board. You may also have a specific ethics “sub-board.” Ethics complaints would typically be managed by one of the sub-boards. Board and sub-board meetings may occur monthly, bi-monthly, or quarterly – and it would typically be at these meetings that ethics complaints are reviewed or hearings held.

Your licensing board most likely has a director and staff members who handle the day-to-day activities such as licensing, continuing education, and the actual investigation of ethics complaints. Sometimes investigations are conducted by an entity other than your licensing board – such as your department of health or the office of your attorney general. The qualifications for individual investigators vary, and may not require experience in law enforcement or a license in the discipline that they are investigating.

### **Investigative Powers**

In many cases your licensing board or other investigative body may seek a subpoena of applicable records, such as your personnel file or banking records. And, in some cases, the investigation itself may be protected from subpoena. The investigation process holds quite a bit of power.

### **Consumer and Professional Rights**

Consumer confidentiality is typically protected from the public, however the professional does have the right to an adequate defense, and thus professionals would generally know the details of complaints against them, including the identity of a client who made a complaint. After all, how could we defend ourselves if we’re told: “One of your clients said you overbilled them, but we won’t tell you who it is.”

During an investigation your licensing board or other investigative agency does not represent you – it represents the public interest and safety. I don’t say that to be negative – I have immense respect for the various state licensing boards and I have served on ad hoc committees for my own licensing board – I am simply pointing out how it works. If you are involved in an ethics complaint, you can retain an attorney who represents only you.

### **Other Regulations to Follow**

Your licensing board will hold you to your licensing rules, however some professionals don’t realize that there may be other codes of ethics or regulations that they must follow depending upon their license, type of work, or employer. We’ll review some common ones next.

### **State Ethics Boards for Public Employees**

If you are a public or state employee, your state most likely has an ethics commission that outlines rules of conduct for you in addition to your licensing regulations – often involving conflicts of interest, nepotism, accepting gifts, or using political influence. If you are a public employee make sure you are familiar with both sets of rules. If there are differences – for example in rules about nepotism – follow the regulation that is most strict.

### **National Professional Codes of Ethics**

This is often a surprise to many people: Does your state licensing board, employer, grant, or college department require you to follow national codes of ethics, even if you aren’t a dues-paying member of that organization? Check your licensing rules, your student handbook, or your policy and procedures manual and find out.

Here's a few fictional case examples that are, unfortunately, not far-fetched:

### **Pete the Psychologist and Solicitation of Business**

Pete is a psychologist at a group counseling practice. The clinical director, Sally, is a social worker, and most of Pete's colleagues are social workers. The agency's policy and procedure manual states that clinicians at the agency must follow the National Association of Social Workers Code of Ethics.

In Pete's community several teens had committed suicide, and in an online parenting discussion forum Pete discussed the stigma about mental health and counseling, and shared information about the counseling agency. Pete was surprised when, the next day, Sally stopped by his office:

Sally: "Pete, I saw what you posted in the local parenting group, and I know your intentions were good, but we need to be careful that it doesn't look like we are soliciting services from people when they are vulnerable."

Pete: "I was just pointing out the benefits of counseling, and trying to reduce stigma."

Sally: "I get that, and it is a good message, but I'm afraid people could look at your post as solicitation, which is against our code of ethics."

Pete: "But that was online. The code of ethics prohibits 'in-person solicitation'."

Sally: "I don't think NASW specifies 'in-person'. Are you thinking of APA?"

Pete: "Well yes, because I'm a psychologist."

Sally: "But remember, all of the clinicians at our agency also follow NASW Code of Ethics. Let's look to see if there is a difference between NASW and APA – and we'll go with whichever is strictest."

Sally and Pete check online, and they see that there are some minor differences in wording:

#### APA Ethical Principles and Code of Conduct, Section 5.06 (Solicitation)

"Psychologists do not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential therapy clients/patients or other persons who because of their particular circumstances are vulnerable to undue influence. However, this prohibition does not preclude (1) attempting to implement appropriate collateral contacts for the purpose of benefiting an already engaged therapy client/patient or (2) providing disaster or community outreach services."

#### NASW Code of Ethics, Section 4.07 (Solicitation)

"Social workers should not engage in uninvited solicitation of potential clients who, because of their circumstances, are vulnerable to undue influence, manipulation, or coercion."

Pete: "You're right. APA restricts 'in-person' but NASW doesn't differentiate. However APA does allow for 'community outreach services.' That's what I was trying to do – outreach - not drum up business for me."

Sally: "I'm not sure. And both NASW and APA specify that we don't solicit people who are 'vulnerable' – and with the recent tragedies I would consider many parents right now as vulnerable. On the safe side,