

# Chapter 15 Ethical and Legal Issues



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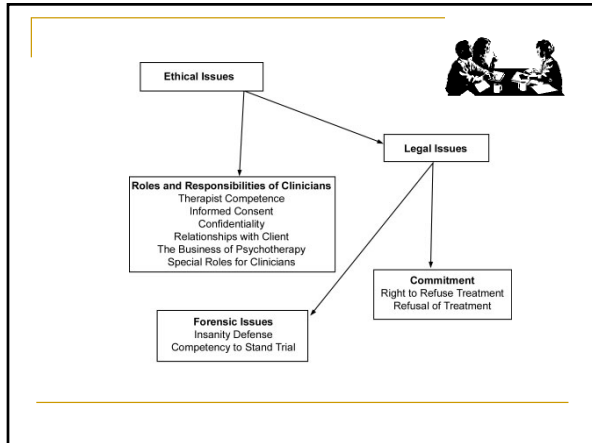
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# Ethical Issues

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## ROLES and RESPONSIBILITIES OF CLINICIANS

Therapist Competence

Informed Consent

Confidentiality

Privileged Communication



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## EXCEPTIONS TO PRIVILEGED COMMUNICATION

Mandated Reporting

Duty to Warn



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## RELATIONSHIPS WITH CLIENTS

The therapist must keep therapeutic boundaries. Most ethical codes forbid romantic and sexual involvement.



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## THE BUSINESS OF PSYCHOTHERAPY

### Payment Issues

- Paid by client or, more often, third party.
- Health maintenance organizations and managed care health systems arose to keep insurance affordable.
- Conflicts arise between managed care and client treatment needs.

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## SPECIAL ROLES FOR CLINICIANS

- EXPERT WITNESS
- EVALUATION IN CHILD PROTECTION CASES
- GUARDIAN *AD LITEM*
- EVALUATIONS OF PEOPLE WITH COGNITIVE DISORDERS

ALL HAVE INHERENT ETHICAL DILEMMAS:  
SOMEONE OTHER THAN THE ONE THEY ARE  
EVALUATING IS PAYING FOR THEIR SERVICES.

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## COMMITMENT OF CLIENTS

### COMMITMENT:

An emergency procedure for the involuntary hospitalization of a person who is deemed likely to create harm for self or other people as a result of mental illness.

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## COMMITMENT ISSUES

- BALANCE CLIENT'S RIGHTS WITH CLIENT'S BEST INTERESTS
- RIGHT TO LEAST RESTRICTIVE TREATMENT
- RIGHT TO REFUSE MEDICATION

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## Forensic Issues

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## INSANITY DEFENSE

The argument, presented by a lawyer acting on behalf of the client, that, because of the existence of a mental disorder, the client should not be held legally responsible for criminal actions.

Contrary to popular belief, this is a legal term, *not* a psychological term.



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## INSANITY DEFENSE

In question is the individual's state of mind at the time of the criminal action.

- Unable to appreciate wrongfulness of their conduct and to control their actions due to a severe mental disturbance.
- Generally require *DSM-IV-TR* diagnosis of psychotic disorder, severe mood disorder, dissociative disorder.
- Personality disorder will not be sufficient.

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## INSANITY DEFENSE: HISTORY



- M'Naghten Rule
- Durham Rule
- American Law Institute
- Insanity Defense Reform Act



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## COMPETENCY TO STAND TRIAL

Whether a defendant is aware of and able to participate in criminal proceedings against him or her.



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Mental health professionals play an increasingly important role in the legal system and find they must familiarize themselves with a whole array of forensic issues.

Intersection between psychology and law will continue to grow as society looks for interventions that are humane, ethical, and effective.



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