

Ethical Considerations In Phototherapy Training and Practice

by Judy Weiser



(a personal position paper, expressing the opinion only of the author, and not intended to be presented as any "official" stance of the International Phototherapy Association)

Editor's Note: This is the third in a series of articles written by Judy Weiser about phototherapy. Thank you Judy for a thought-provoking and informative series.

Introduction

One of the most important facets that must be addressed in the practice of phototherapy and most certainly attended to in attempting to train others is the complex field of ethics. There are critical areas that must be examined on both levels, and no one should attempt to provide training without being certain that students understand and appreciate these areas of concern (to protect themselves, their future clients or trainees and their interactions.) Along with the usual general therapist/client/agency/professional practice, ethical concerns is the layer specific to phototherapy; the inclusion of documentary visual media adds a whole new dimension of powerful potential misuse, and students cannot be cautioned too strongly to make certain that the rights of their clients (and themselves) are assured beyond any doubt.

Teaching the section on ethical obligations and responsibilities is taken VERY seriously in my training of future practitioners, and later feedback over the years from workshop participants has been consistently reinforcing that I should continue to do so. Ex-students have frequently told me that they thought I was extremely overconcerned about making sure one's backside was covered (and doubly so!) until they encountered the day **themselves** that everything "hit the fan," and the only way they and/or their clients survived the trauma and turmoil (and sometimes court cases) was that all required records and confidentiality and ethical considerations had been fully and properly ensured and protected! What appears at first glance to be a rather excessive and possibly silly set of routines and paperwork (not to mention time consuming . . .) regarding releases, contracts, etc., has more than a few times saved the day later on. Thus, at the risk of being dismissed by readers as being a severely paranoid individual and therapist, I will nonetheless now take the time to present here a short discourse on ethical considerations that I believe **MUST** be taken into account in any phototherapy work or training:

General Concerns

Just to get you curious: **Who does your image (and/or your client's) belong to?** If I take your picture, does that mean that it's mine now? Does it make a difference to that answer depending on whether I asked you first or not, or whether you gave permission or not? Can I keep it without your permission or knowledge? What if I want to keep a photo of you, but you don't want me to? Does it make a difference which of us possesses the actual original negative, or whether I myself

actually shot the photo? What if there have been duplicate prints or negatives made? Do I have the right to take your picture at all, if you have indicated that you don't want me to? Does this indication have to be written, verbally specific, and/or witnessed in order to have weight in affecting the answer? Is it only the rules of the field of professional photography that are binding here, or is there (or should there be) any difference in our situation as therapists or trainees due to the specialized nature of our work?

Does the subject of a photo own that photo or negative, or the photographer, or the person that paid for the film (or that photographer's time)? And even more complicated a question: What happens if you and I **both** agree that you should be allowed to keep/have any film and snapshots that I take of you, but my employer (on whose salary I am paid to work with you, and in whose office or agency our phototherapy work occurred) rules that all documents in all office files are the property of the agency, as they were produced as part of the daily routine of my job requirements? Sound ridiculous? **CHECK IT OUT**, and **BEFORE** you begin doing any phototherapy work!!! Your findings may give you a large surprise. . .

Where I live, all government, and most private agencies as well, **do** own the products of anything you do during work hours (or even in the office itself, even if on your own time after hours). Who owns what, what they are then free to do with it, and how this all gets decided in cases of challenge or dispute are all extremely critical, ethical, and legal issues, and should be spelled out (in writing and/or on media documentation such as video or audio recordings of the actual discussions) **before** embarking in this kind of work, to protect you as well as your client. In some areas it matters whether or not money has been exchanged; in others it makes no difference. If a client pays for counseling, does this mean that they own the material in their files? Videos they are in? Copies of therapists' own notes? If they do not "own these", are they at least assured that they "have some degree of control over" for protection? How much control? Does this answer depend on the type of problems being worked with, or client's age?

Do counselors have the right to show a colleague or supervisor any photos/videos/film of client sessions? Do they have to have client permission (written?) first in order to do so? Are you sure? In some agencies, this is assumed to be part of allowable and acceptable professional behavior! If the therapists does this, are they obliged to notify you and/or your client? Do you, if you are a minor, share in these rights and confidentiality, or are your parents allowed access to whatever they wish? Can clients, no matter their age, request that media documents be destroyed or returned? If I wish to use phototherapy with a client, what sort of permission do I need to get from that person, and in what form, in order to assure anyone that I had that client's "informed consent" should a challenge arise? Does your agency, or professional association have a Code of Ethics, a

standard release form, a ruling on issues such as these *that would stand up in a courtroom test*? If so, great!, but does it apply to all media? Does the client have the option to agree to some types of media and/or uses and not others, as well as choosing what can be seen by whom and when? [For reference to my release form, which is still pending final legal approval, but has proved acceptable in past tests, refer to the end of this article.]

How long is your release form valid for, before requiring a signed "renewal"? Can clients, once having given permission, rescind such in writing at a later date in such a way as to be legally binding (and personally reassuring)? When you tell clients all these answers, are you *certain* you are correct? Are you willing to base your reputation (or professional license) on this assurance? Do you have these assurances and answers in writing in a format that clients can keep a copy of (or at least a tape recording of your verbal statements reassuring them)?

Does your agency allow clients to purchase the original tapes or films made of them for their own use or interest? Can they be honestly assured that no duplicate copies were made? Can you as the counselor be assured that your own portions of such tapes will not be used in any ways potentially harmful to *your* reputation? If you are concerned, is there any way allowed for you to erase or destroy parts that especially concern you? Does the client have the right to similarly purge parts they desire (and what do you do if those are the very same sections that you really wish to keep for their therapeutic content)? Are you ever vulnerable to having all your records seized by court authorities in a legal issue? [OF COURSE you are! Very few professionals, other than medical or psychiatric doctors have the freedom of true privileged communication and/or confidentiality in a court of law. These rules vary widely; you should find out *before* commencing practice what laws are in effect in your area.] Therefore, are you *certain* that your media records (as well as notes and files, etc.) are "clean" of any information that could potentially harm you and/or your clients?

Procedures

It is advisable to warn new clients (and regularly remind them) that in most locales, therapists are required by law and/or their profession's code of ethics that when clients inform them of any situations of serious illegality or endangerment to the life or limb of any person (including themselves, i.e., suicide threats), that these will definitely be taken seriously; and if appropriate, the proper authorities notified at once. As ethical human beings, we have no other choice *but* to believe such comments, including client warnings of even their consideration of such actions, because of our personal and professional commitments to the sacredness of human life and dignity. This is usually detailed by most counselors in the original session, usually as part of the routine terms of contracting service; however, it bears special importance to those of us intending to use media documentation, because the client's comments can be viewed "as if" live should those records still exist. Careful discretion should definitely be used when reacting to clients' statements regarding such threats, etc., to determine whether to take them seriously, as any records potentially might later be seized and reviewed by outsiders examining professional conduct and responsibility.

In the original "contracting session", use of phototherapy techniques should also be explained in similar full detail,

including the client's right to choose not to participate. The following is excerpted from my own/the PhotoTherapy Centre's standard Letter of Undertaking. Thus the following is true for me in my own practice—however, I caution readers against using any copy of this either directly or in adaptation without first checking it out with the appropriate persons for legal interpretation, as rules of law and professional practice guidelines vary widely by profession and location:

"As you know, my therapy and training work often includes various photo (and video) therapy techniques. Any of these that involve photo-documentation of clients or students comes under the same code of ethics as above [the explanation used is a condensation of the above previous paragraphs regarding ethics as well as threats to life or limb]. All negatives used with a client for therapy sessions that they have paid for are property therefore *of* that client, as are all prints made from those films. All photo documentation of training sessions students have paid to attend are similarly their own property. Video-taping is also frequently used with clients, occurring in either direct sessions or home assignments—those are kept locked and filed, separately coded (as are all other records) throughout the process of therapy, and can be either erased at any time desired by the client, or purchased for the cost of the tape itself if the client so desires, with me reserving the right to edit out any of my own comments that I wish before removal of the tape. . .

"At the cessation of therapy, any tapes of work with a client not altered as above are erased/reused by myself—they do not ever leave this office unless the client borrows them for personal homework; nor can they be accessed by anyone other than myself. Tapes from training may be kept by me for my own research documentation and transcription; however, tapes or transcriptions that include personal material or identification of students cannot be further used without full and proper written release by all parties involved (with my purpose and intent clearly specified). . .

"Anecdotal or descriptive information accompanying any visual media documentation that occurs in the process of training or client work, which could aid in illustrating particular phototherapy techniques for educational purposes, *may* be used in a disguised form; however, I hereby guarantee that all personal details and information will be significantly altered in order to protect identification of all persons involved, and that, whenever possible, source persons will be provided a copy of intended anecdotes before their use. . .

"As a Training and Research Centre Instructor, I might occasionally wish to use a visually identifying segment of video or a selection of prints from client or student work for demonstration to, or instruction of, professional counselors that I am training in using these techniques. This can *ONLY* be done with *FULL* permission in writing by clients or students ahead of the time of the desired use (which itself must be fully explained in writing), and this permission can also be withdrawn at any time (in writing, by double-registered mail). No client or personal student work is ever released to anyone without permission; I am the only viewer at all times

unless specific written release is secured in advance, and renewed after significant passage of time. . .

"However, clients and students should also be advised that, as a Psychologist and Social Worker, my legal rights do *not* include the privileged communication relationship that doctors and lawyers share with clients; therefore, it is possible that in extremely rare situations, any of my files, tapes, or records could be seized by the courts if deemed necessary. I will *always* attempt to protect client confidentiality, but cannot do so if this contravenes the law. Please be aware of this in your communication with me."

Regarding release forms; obviously, they must be done at the beginning in order to get general permission to start phototherapy work, knowing that one has informed consent properly documented, and then later for whatever specific items might be desired for keeping and/or future use. At the cessation of therapy, anything that is not thus "released" is erased or destroyed or given back to clients if it was originally brought in by them. If clients themselves wish to show their photorecordings to others, as part of the therapy work, those persons should also be asked to sign some sort of release assuring protection of confidentiality as consequences (for client and counselor as well!) Therapists should similarly be careful in terms of what others are thus then able to see and hear regarding the style and content of their *own* counseling statements or interventions with those clients who are sharing material with others; armchair critics of "what-therapy-ought-to-be" can be a potential "thorn" or inadvertently sabotage intricately designed client progress, particularly, if your models of therapy include paradoxical injunctions and similar challenges that may sound "rough" to unsophisticated observers who might misunderstand. Many complaints to boards of ethics (and resultant hearings) have come from such well-intentioned, thought-confused, third parties.

Capability of providing informed consent is a somewhat nebulous term. The law clearly designates protection of minors, but is less helpful in specifying what "capable" means for adults. My only suggestion is to use video (or audio) taping to record those sessions in which you attempt to clearly present and explain any of the above issues and considerations to any clients who may not have full intellectual capacities, or who may be unable to hear you or clearly express themselves in writing. If your intentions are obviously well-meant, and the client gives proof of understanding of what they are getting into, as well as indicating some appreciation of the potential abuses involved--and still clearly demonstrate an approval of use of phototherapy techniques in their process, then you are *probably* protected in terms of professional ethics. (But, I remind you, I am not a lawyer; if in doubt, check with one.) It also helps to be able to date the "visual release" by discussing with the client some significant current event, to provide a time reference. [For example, I received such permission from a non-literate deaf adult client of mine while we discussed (in sign language) her observations of the Pope's motorcade passing her the day before here in Vancouver. This provided a spontaneous and clearly unrehearsed time-dating of the "release form" that she agreed to in our contiguous discussion.]

Using all the above particulars in your own work or teaching setting obviously will require some personal tailoring and rewriting of my suggested forms and information depending on

each unique situation. It will probably take an unexpectedly long time to work it all out and produce handouts and release forms for signature that are legally protective of all parties (but which at the same time would still allow one to get the actual phototherapy work or training accomplished successfully!) My serious warning is that you not be discouraged by the drudgery of this seemingly tedious process, that you follow it through to completion, as there will most certainly be worrisome times ahead for any of you who haven't got all this together *before* whatever crisis occurs! Being able to prove that you fully considered and legally protected the client's rights before commencing work is an invaluable relief to be certain of, especially, when you can provide the legal documentation to prove it.

Training Implications

All the above writing in regards to ethics in the practice of phototherapy are very important to anyone setting out to do this kind of counseling work; thus, *all* points should be taught and fully discussed with students to make certain that they are aware of the serious implications involved both for themselves and their clients in their future therapeutic practice. [For a discussion of what, in my opinion, constitutes the rest of "full and proper" training, please refer to the companion article, "Training and Teaching of Photo and Video Therapy: Central Themes, Core Knowledge, and Important Considerations".]

However, ethics are also of critical importance in the actual training *process* of those people as well; this "second level" of consideration applies in the how-to-ethically-train area when attending to protection of your students' revelations, documentation, and identification during the experiential/participatory sections of the training event (especially if you wish to keep any visuals or anecdotes to use in future training illustrations, as well as responsibilities and consequences for the trainer-student professional relationship itself. The trainer must realize the seriousness of the experience for those receiving training, and just as you must teach students a series of considerations relevant to their own future work, all the same implications apply on this second level while you are actually *doing* the teaching of them! For example, both student-practitioners and trainers could equally benefit from such training instructions as, "Don't start what you can't finish either because of time or ability constraints; phototherapy is *very* powerful, and accesses deep and lengthy, emotional revelations extremely quickly", or "Don't do to others what you haven't done yourself (or to yourself) so that you know how it feels to go through this requested process." Thus, as a model for the future student-client relationship, I make sure that the trainer-student relationship allows ample opportunities for the person to experience *both* sides of phototherapeutic role plays and learning exercises, and whenever possible, do their *own* family work for the assignments. I sometimes actually ask them to involve other family members in the exercises, if possible, or at least in the debriefing (including the facet whenever possible of doing this work "live" on video, where the "getting down to the feelings level" can not only occur but also be reviewed), and discussions ensue with those very people one relates to daily. (such as we ask our clients to be willing to do!).

Only then do I feel that students *really* understand phototherapy's potential power to access emotions and especially

how this actually *feels* firsthand (vulnerability, risk, trust issues, etc.)—then and only then can I have any confidence as to their responsibility and ethical behavior in “doing” to others in the future. Workshops don’t automatically provide instant qualification (or certification), and all students *MUST* understand this. By “certification”, I do NOT mean any formal licensing, registration, or similarly restrictive practices—only that being a trainer implies having reached a certain competency, and the training of others implies being willing and able to validate and certify *their* competency, so that their future clients have some assurance and protection that these people *do* know what they’re doing phototherapy-wise.

Students also must be warned that indeed, a photo in and of itself can have no meaning *per se*—there is always the photographer’s viewpoint, the subject’s, the viewer’s, as well as their friends’ or relatives’ interpretation. All these different background contexts, values filters, cultural differences, etc., that come into play when an individual begins to try to perceive information from viewing a given image affect what is defined as the photo’s “meaning”. As well, the same individual may see that same photo differently at a different point in time, or if it is presented within a different context (in a different order of presentation with other photos, collaged differently, shown by a different person, etc.). It is a basic anathema to phototherapy ethics to think that one could ever externally get the “actual” truth by giving *just* one’s own reaction to a photograph, or interpreting someone else’s responses by some external set of criteria. Phototherapy can NEVER be a tool for external diagnosis and/or assessment (or any universally applicable treatment for specific problems) without first respecting the uniqueness of the individual’s answer as being correct and right for themselves, regardless of what you might think of it within your own system of values and beliefs. This stance of photos being only a stimulus or catalyst, of their having the ability to create differing but equally correct realities in people, apart from one individual’s interpretation or judgements; this position *must* be the presentation medium for any trainer (or therapist, for that matter!)—to present phototherapy otherwise, is to seriously misrepresent the field.

All training should also include an appreciation of how difficult this field can be to evaluate (especially in any quantifiable terms). Thus, there is an obligation to help students learn to be rigorous as possible in their work, to suggest that they try their best to keep whatever “proof” they can gather to justify whatever claims they or their clients make. As earlier mentioned, phototherapy looks not for individual “true” photos, but rather patterns and consistencies over time, location, even sometimes over generations, and thus, evaluation and credibility can best be helped by having on file the surrounding context from which that “key” photo was drawn to illustrate the point being made. If a photo is really as significant as claimed, then have available the contact sheet or proof prints from the entire roll it was pulled out from, or a wide collection of photos from that person to show *why* that specific photo being used has so much power and meaning as being somehow significant, special, or particularly different, and thus, worthy of our attention. If any independent viewers can look at all this and agree that yes, that particular snapshot is (to them) clearly of the importance and significance that we claim, then in some ways, validity and reliability issues have been somewhat attempted and addressed. Pre- and post-tests can be designed that follow

this model. Whenever possible, or course, video documentation of such sessions discussing photos which show the spontaneity of reviewers’ responses can further assist “proof” of significance (as well as being additionally quite useful for therapeutic goals. . .). These concepts are important considerations for the therapy (and supervision) process, certainly, but they grow even more critical when trying to make claims in research or teaching! Trainers must realize the difference between therapy and training, and how these borders sometimes blur when doing the training of therapists! If someone “gets into it” emotionally while being trained, you are not obliged to counsel them for hours at the sake of the other students, but neither should you just cut them off cold. It is permissible to “shift gears” and try to bring them to a lighter and more positive level; you have no commitment to “fix” them fully, nor to respond to any “red flags” they drop on you. There *are* limits to personal stuff within the context of a training workshop (unless it was advertised to be a therapy group), but if you as a trainer find that you opened something up, certainly stay there at least until the band-aid is in place; try to at least clear the moment for that person that they can rejoin the student group competently. And, most certainly feel free to explain what you are doing to the group as a whole so that they’ll have the reassurance that they too will receive equal concern should something erupt from their own vulnerable places (as well as letting them know that you will be quickly returning to the structure of the training format).

Trainers should be ethically responsible themselves to keep up to date in the field, regularly accessing and renewing network contacts, reading the newly emerging literature, and taking the time to gently “check out” the credentials of anyone else purporting to teach this field—if they are “real”, they most likely won’t mind genuine interest (as, of course, *you* aren’t yourself threatened by others starting to do what you’re doing!). Don’t certify your students unless you can *prove* that they’ve left your training being able to use these tools effectively and ethically, and/or can prove that real learning did indeed occur (with pre-/post-tests, or whatever you use when evaluating your own workshops). One excellent “proof” is keeping video documentation of the workshops if students are willing to have their training taped and if proper assurances can truly be given regarding releases, voluntary tape measure, etc. In terms of students, clients, and/or written or filmed products dealing with phototherapy or your presentation of it, please remember to be very careful with what goes out from you or your office with your “name” on it; your partial responsibility is thus attached!

In presenting phototherapy information, trainers should have the ethical courtesy to make it clear that they themselves didn’t invent the field (nor did I; nor David Krauss, the other formal intensive skills trainer; nor anyone else specifically either!). Credit should always be given when sharing information created or developed by a colleague, acknowledging those whose experiential exercises you are “borrowing” to use with your students, and you should always feel some responsibility in arranging for your students to be able to access others in the phototherapy network of practitioners and researchers who might be able to provide them with additional information or help. Names, addresses, and major interests and writings should always be available to students along with the most current bibliography summary, when you are providing handouts.

And finally, all the above general ethical concerns regarding

confidentially, releases, protection of identify, etc., apply equally seriously to training settings. My own workshops of any length are always begun with the following sorts of guidelines being read aloud and discussed:

“All information in this workshop STAYS in this room—all participants by remaining here after these remarks conclude, are signifying by their continued presence in this room their agreement with these terms that are meant to protect us all from breaches of confidentiality about information we may bring up in the course of our revealing ourselves during this workshop. There will be both photo and video documentation by me during the course of this training—these are for my own recording and archival purposes, and cannot be viewed by anyone else without your written permission on release forms which will be made available at the end of this training event. Should you wish something erased or removed immediately in the meantime, just tell me and you may do so at the next break. The release forms allow you to decide what parts may be kept and what not, what may be later viewed by whom, and it is separated into categories labeled “viewing by the public” and/or “viewing just by other mental health professionals”, whether for educational purposes or training of others.

“As I am also attempting to write and make tapes for improved instruction in this field, I may wish to use some particular excerpts for examples—please be assured that this cannot be done without full protection of identification and a further written release for that specific purpose when desired. Live sessions are invaluable tools in demonstrating for newcomers to the field the spontaneous power and proper use of these techniques; it is hoped that those of you who are filmed or documented will appreciate this teaching function of your material and be willing to release for training purposes any parts that you feel would not cause you emotional harm. And, certainly, whether or not you wish to be taped *at all* is solely your decision, as is your participating in any of the experiential exercises assigned; all activities are voluntary, but please inform me before I begin! Any releases that are signed can at any time be rescinded and this is legally binding upon me preventing my further use.”

Presentation of this information serves a dual purpose: it informs students that I am very serious about legal concerns, and it additionally provides a model of behavior for what I hope they will adapt for their using to introduce their own personal style in work or teaching. It is important that this respectful attitude toward ethics be presented at the beginning, as well as ongoing reminders provided through the training itself, so that the seriousness of it all is maintained. I do not mean to dwell upon this excessively; I simply wish students to share the serious concern (and their reasons for it) in their own practice with clients or students.

Conclusion

In summary, then, all I really wish to produce in readers is an awareness that ethical and moral concerns do exist; they are extremely important integral components to training and practice of phototherapy; and that no one should attempt either without getting all these issues clear before beginning work. Each of you has a uniquely different situation, depending on your profession, job description, area of practice, and place that you do it in. Too often, we assume that responsibility for assuring legal protection has already been taken care of by others before us, or “higher up”, and we blithely work away without realizing how vulnerable we (and our careers) actually are. What I have hoped to do in this article is to get you started on thinking about all this, plus giving you some impetus questions to start you out in asking—what I cannot do in these pages is give you legally defensible answers!!

Therefore, I suggest that for beginning information you start with the recommended readings below, which are chapters dedicated specifically to these ethical issues, topics within books about media and therapy, as well as consider further reading from more general texts particular to your own profession (such as the one for psychologists listed). For actual, legal answers, please consult a lawyer knowledgeable in your concerns; for more professional details, consult the ethics committees of your professional associations.

And, I would certainly appreciate hearing back from readers regarding actual experiences you have encountered on this topic, as well as any legal or professional answers that you have been given to your enquiries or investigations (or anything else you'd like to share!); please write **Judy Weiser, PhotoTherapy Centre**.

See BELOW

A young neighbor asked me once if I still had her school photo that she'd given me the spring before. When I replied, “Yes, of course I'd kept it,” she responded, “Good! If you still have my photo, then I am still safe in your heart!!” . . . Insuring this safety is to me what ethical concerns are all about

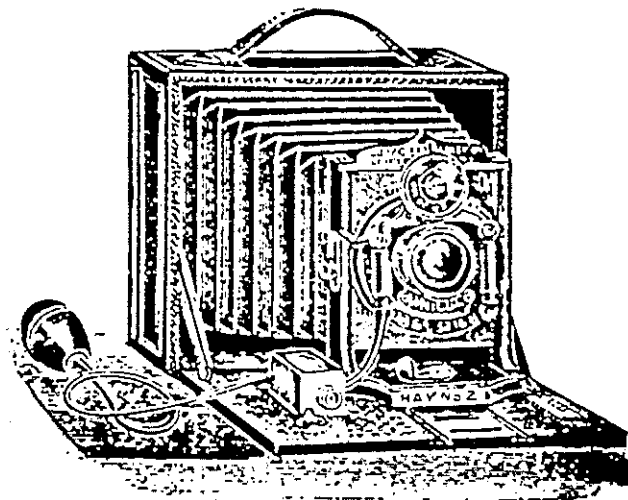
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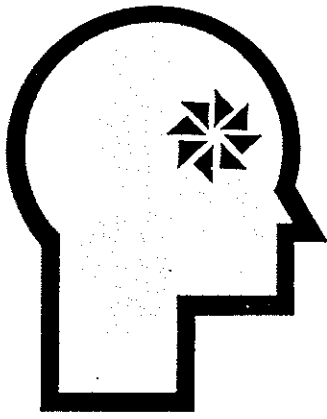


Contact: Judy Weiser, PhotoTherapy Centre,
1300 Richards St. (#205), Vancouver, Canada,
V6B 3G6 • 604-689-9709 (fax: 604-633-1505)
Email: jweiser@phototherapy-centre.com
Website: www.phototherapy-centre.com

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- ** Additionally, those interested in further information would find additional recommended readings in the abundant bibliographies accompanying the above, as well as the one available from the Phototherapy Association itself. Also, recommended are publications for each specific professional association, for example, the American Psychological Association's *Casebook on Ethical Standards of Psychologists, etc.* Each particular profession has had legal advice and prepared a set of recommended standards for member's practice.





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