

*Ethical, Legal and  
Professional Issues  
in the Practice of  
Marriage and Family  
Therapy*

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*Charles H. Huber  
Leroy G. Baruth*



Charles H. Huber

*The Samaritan Center  
Jacksonville, Florida*

Leroy G. Baruth

*University of South Carolina*

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# Ethical, Legal, and Professional Issues in the Practice of Marriage and Family Therapy

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**Charles H. Huber** is Director of Psychological Services at the Samaritan Center in Jacksonville, Florida. A Licensed Psychologist in both the states of Florida and Connecticut, he is also an Approved Supervisor for the AAMFT and the Institute for Rational-Emotive Therapy. Along with being a Fellow for the latter, he has consulted at the West Duval Child Guidance Clinic; the Clay County Mental Health, Drug, and Alcohol Services; and the Children's Crisis Center in Florida. He conducts presentations and workshops on counseling and crisis intervention within the profession and throughout communities all over the United States.

Dr. Huber received his B.A. from Upsala College, his M.Ed. and Ed.S. from Florida Atlantic University, and his Ph.D. from University of South Carolina. The editor of several books and articles, he has also written for numerous professional journals. He has coauthored three textbooks with Leroy Baruth: *Coping with Marital Conflict: An Adlerian Approach to Succeeding in Marriage* (1981), *An Introduction to Marital Theory and Therapy* (1984), and *Counseling and Psychotherapy: Theoretical Analyses and Skills Applications* (1985). Active in several professional organizations including the American Association for Marriage and Family Therapy, the American Psychological Association, and the American School Counselors Association, he received the American Mental Health Counselors Professional Service Award for 1982-84.



**Leroy G. Baruth** is Professor of Educational Psychology at the University of South Carolina. He also serves on numerous university, college, and departmental committees. An Approved Clinical Supervisor for the AAMFT, he is also a licensed Counseling Psychologist in the state of South Carolina. Active in the American Association of Counseling and Development, the American Association of Marriage and Family Therapy, the American Psychological Association, and the American School Counselor Association, Dr. Baruth has received a number of awards from these and other organizations. He has served as an advisor to public school systems, social service departments, and college and university personnel. In addition, he has done numerous presentations at state, regional, and national association conventions.

Dr. Baruth obtained his B.S. and M.S. from Mankato State University and his Ed.D. from the University of Arizona. His numerous articles on various aspects of counseling have appeared in professional journals. He has authored and coauthored ten books, including *A Single Parent's Survival Guide: How to Raise the Children* (1979), *The ABC's of Classroom Discipline* with Dan G. Eckstein (1982), and *Child Psychology* with Elaine Lane (1980).

## Preface

Increasing numbers of psychotherapists are practicing marriage and family therapy. This is most evident in the “army of professionals doing research, developing theory, counseling, conducting workshops, and writing articles and books for both professionals and lay audiences in the area of marriage and the family” (Becvar, Becvar, & Bender, 1982, p. 385).

As the practice of marriage and family therapy has evolved, training procedures have become more explicit, replicable, and accessible. Specific theories and techniques have been identified, broad curricular components for training compiled, and specific content, goals, and teaching methods for university coursework and professional workshops delineated. Noticeably lacking, however, are sources addressing “nontherapy” issues necessary to supplement the therapeutic training of marriage and family therapists (Piercy & Sprenkle, 1983).

One such source would logically consider ethical, legal, and professional issues in marriage and family therapy (Margolin, 1982). The importance of this is exemplified in an article entitled “Family Therapy May Be Dangerous for Your Health” (Hare-Mustin, 1980). In it, the author states:

In sum, family therapy may not be in the best interests of individual family members. Family therapists and their clients need to be aware of possible risks to the rights of the individual member. By being required to participate, individuals may have to subordinate their own goals and give up limited confidentiality and privacy. In addition, therapists who idealize the traditional family may foster stereotyped roles and expectations in the family that disadvantage individuals and limit their well-being and mental health. (p. 938)

The simple fact that marriage and family therapy contrasts with individual therapy on both conceptual and pragmatic levels requires that therapists be adequately prepared to encounter controversial issues that arise when a marriage and family perspective is pursued. For example, ethical standards for psychologists have been established by the Ameri-

can Psychological Association (APA). The *Ethical Standards of Psychologists* (APA, 1981a) and the accompanying *Specialty Guidelines for the Delivery of Services by Clinical Psychologists* (APA, 1981b) are both primarily formulated in terms of a therapeutic relationship that consists of one therapist and one client. Yet difficult ethical questions that may need to be confronted in individual therapy can become significantly more complicated when a couple or a whole family presents itself for services (Margolin, 1982).

The *Guidelines for Psychologists Conducting Growth Groups* (APA, 1973) offer a supplement to the APA ethical standards in addressing situations with multiple clients. These guidelines still do not directly pertain to the concerns of psychologists practicing marriage and family therapy. Levels of intimacy and intensity in relationships among marital partners and significant family members compared to relationships among group members call for further clarification of appropriate professional conduct (Margolin, 1982). With the exception of the *AAMFT Code of Ethical Principles for Marriage and Family Therapists* (AAMFT, 1985), expressly formulated for marriage and family therapy, similar exigencies are evident in the ethical codes of other professional organizations whose members may engage in the practice of marriage and family therapy. Likewise, legal and various professional issues arising in marriage and family therapy can collide with traditional individual and group training.

The American Association for Marriage and Family Therapy, the primary professional affiliation for marriage and family therapists, has specified graduate-level coursework in "Professional Studies" (AAMFT, 1983) as a requirement within its educational requirements for clinical membership. In response, "Ethical, Legal, and Professional Issues" courses have been developed and are a core component of marriage and family therapy training programs (Piercy & Sprenkle, 1983). There is, however, a dearth of available sources in the literature for both beginning students as well as practicing professionals seeking to expand their knowledge of ethical, legal, and professional issues in marriage and family therapy.

This book is structured to encourage an expanded understanding of ethical, legal, and professional issues in the practice of marriage and family therapy. It is divided into three parts. Part One addresses ethical issues in marriage and family therapy. Chapter 1 examines major ethical issues confronting all therapists with an emphasis on both the beginning marriage and family therapist and the experienced individually oriented practitioner initially assuming a marriage and family therapy approach. Chapter 2 critiques ethical issues endemic to the interactional context of marriage and family therapy. Chapter 3 offers a "casebook" of case illustrations with critiques from the *AAMFT Code of Ethical Principles for Marriage and Family Therapists*. Part Two considers legal issues in marriage and family therapy. Chapter 4 investigates roles and relationships marriage and family therapists take within the legal system. Chapter 5 examines relevant family law. Chapter 6, like Chapter 3, is a casebook of

examples with critiques discussing the impact of legal issues on marriage and family therapy. Finally, Part Three contains three chapters addressing, respectively, the implications of "valuing" for professional therapeutic practice, professional identity as a marriage and family therapist, and another casebook addressing professional questions.

Special attention needs to be given to the three casebook chapters: 3, 6, and 9. The authors recall their concerns as clinicians-in-training seeking to fully comprehend notions garnered from readings. Classroom instructors and clinical supervisors, knowledgeable and skilled from years of experience, provided case examples to illustrate concepts more clearly. These illustrations made learning a more pragmatic endeavor from which we emerged well-prepared.

We would like to thank a number of reviewers for their constructive suggestions during manuscript development. They include David Drum, University of Texas at Austin; Leonard Haas and Robert Stahmann, both at Brigham Young University; Charlotte Kahn, Syracuse University; Tom Lovett, Southeast Missouri State University; John Pietrofesa, Wayne State University; Holly Stadler, University of Missouri—Kansas City; and David Rosenthal, University of Iowa.

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# PART ONE

## Ethical Issues in Marriage and Family Therapy

*The training of the family therapist requires attention to ethical issues as well as to techniques. Self-awareness and social responsibility are an important part of the professional ethics of therapists. By being demanding of ourselves in our professional role, we may be able to be more reasonable toward our patients.*

*(Fieldsteel, 1982, p. 267)*

# 1

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## Acceptance of and Adherence to a Professional Code of Ethics



Ethics is concerned with the conduct of human beings as they make moral decisions. These decisions reflect judgments leading to action and involve the use of words known as *moral predicates*: “ought,” “should,” “right,” “good,” and their opposites (Brandt, 1959). Unlike a discipline such as mathematics, ethics is normative as opposed to factual. It addresses principles that *ought* to govern human conduct rather than *do* govern it (Daubner & Daubner, 1970).

Although morality is frequently considered to be synonymous with ethics, the distinction between the two terms is critical. Barry (1982) defined *ethics* as “the study of what constitutes good and bad human conduct, including related actions and values” (p. 4). While recognizing the difficulty of maintaining a separation between ethics and morality, he proposed that the terms *moral* and *morality* be restricted to the *conduct* itself and ethics and ethical be employed for the *study* of moral conduct or a code a person follows. Mowrer (1967) likewise reported finding the two terms being used interchangeably, but cautioned that morals definitively referred to the goodness or badness of behavior while ethics represented an objective inquiry.

Ethics addresses questions that have no ultimate answers yet are important in planning, justifying, and carrying out decisions. Consider the following situation:

A woman initially presented for individual therapy sought to resolve a number of personal conflicts, only one of which was the state of her marriage resulting from her extramarital affair. Later, her husband accompanied her to therapy for conjoint efforts. The woman was still engaged in the affair and it was obvious to the therapist that this impeded progress with her husband. She demanded, however, that the therapist maintain the confidentiality of what was discussed during the individual sessions.

“Should” the therapist respect the individual confidences of one marital partner when doing so clearly impedes those goals overtly agreed to by both? A code of ethics offers guidance in answering such a question. Ethics, however, is primarily concerned with helping the therapist decide what is right, not with getting the persons involved to do what is believed to be right (Jones, Sontag, Beckner, & Fogelin, 1977).

*Webster's New World Dictionary of the American Language* defines *ethics* as “standards of conduct and moral judgment . . . of a particular philosophy, religion, or group.” As such, ethical codes are standards of moral conduct for a society or subgroup. A code of ethics for a profession contains standards of conduct subscribed to by the members of the profession. Van Hoose and Kottler (1985) identified the universality of ethical codes among the professions. These codes reflect concerns and define basic principles that “ought” to guide professional activities. They provide a position on standards of practice to aid members in deciding how to act when areas of conflict arise. They assist in clarifying professionals’ responsibility to clients and society. They give society some guarantee that professionals will demonstrate a sensible regard for the

mores and expectations of the society. Finally, they give professionals themselves grounds for safeguarding their freedom and integrity.

With regard to this last point, Van Hoose and Kottler (1985) posited that codes of ethics aid professionals in dealing with potential dangers from three groups: government, themselves, and the public:

First, codes of ethics are designed to protect the profession from the government. All professions desire autonomy and seek to avoid undue interference and regulations by lawmakers. Professional codes assert a self-regulatory stance.

Second, codes of ethics offer protection to a profession from potential self-destruction occasioned by internal discord in the absence of such areas of common agreement. For example, it is unethical to entice colleagues' clients to leave them. Such a standard enables professionals to live in harmony.

Third, codes of ethics protect professionals from the public. Professionals who act according to accepted professional codes have some protection if sued for malpractice.

With respect to the field of psychotherapy, the first two require little explanation; the latter can be clarified in light of recent litigation.

Ethical codes are adopted by professional associations by virtue of their representation of the profession. Self-regulation through established ethical codes involves informal and formal discipline. *Informal discipline* is seen in subtle and overt pressure colleagues exert upon one another in the form of consultations regarding practices and referrals of clients. *Formal discipline* is seen in the power exercised by professional associations in publicly criticizing or censuring members and in extreme cases, barring violators from membership. Although this threat of formal discipline does have some influence on professionals who are not members of their representative professional associations, the association's code of ethics is binding only on actual members. Consequently, sanctions can be imposed only on those violators who are members of the association.

If sued for malpractice, a therapist will be judged in terms of actions appropriate to other therapists with similar qualifications and duties. Ethical standards of the profession will be a probable basis for comparison (Corey, Corey, & Callanan, 1984). If therapists act in good faith, they are not likely to be found responsible for a client's lack of progress or mistake in judgment if the mistake were the type a "careful and skillful" therapist could make (Burgum & Anderson, 1975).

Precedent for the application of ethical standards as acceptable careful and skillful factors emanate from medical ethics, representative portions of which have been made into law. Physicians are expected to display behavior suitable to their profession:

The law imposes on a physician who undertakes the care of a patient the obligation of due care, the exercise of an amount of skill common to his profession, without which he should not have taken the case, and a degree of care commensurate with this position. (61 Am. Jur. 2d 99)

Standards from the codes of ethics of relevant professional associations mirror this assertion. Corresponding standards from these ethical codes are illustrated in Table 1-1.

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**Table 1-1      Ethical Considerations Relating to Due Care/Therapist Competence**

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*American Association for Counseling and Development* (1981)

"With regard to the delivery of professional services, members should accept only those positions for which they are professionally qualified."

*American Association for Marriage and Family Therapy* (1985)

"Marriage and family therapists do not attempt to diagnose, treat, or advise on problems outside the recognized boundaries of their competence."

*American Psychological Association* (1981a)

"Psychologists recognize the boundaries of their competence and the limitations of their techniques. They only provide services and only use techniques for which they are qualified by training and experience."

*National Association of Social Workers* (1979)

"The social worker should accept responsibility or employment only on the basis of existing competence or the intention to acquire the necessary competence."

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Physicians also have a duty to act in good faith and advise patients regarding the best possible treatment:

A physician occupies a position of trust and confidence as regards his patient, and it is his duty to act with the utmost good faith; if he knows that the treatment adopted by him will probably be of little or no benefit, and that there is another method of treatment that is more likely to be successful, which he has not the training or facilities to give . . . he must advise his patient. (61 Am. Jur. 2d 99)

Standards from the codes of ethics of relevant professional associations are clearly in alignment with this position as well. Applicable standards are offered in Table 1-2.

## **ETHICAL DECISION MAKING**

Van Hoose (1980) proposed that therapists have a clear process in understanding ethical decision making. Such an understanding should allow therapists to critically evaluate and interpret their code of ethics. Furthermore, it should provide direction in analyzing feelings as appropriate or inappropriate bases for ethical behavior. Kitchener (1986) synthesized the work of Rest (1983) in identifying four major psychological processes underlying applied ethics in psychotherapy. Ethical decision making involves becoming proficient in all four processes.



**Table 1-2     Ethical Considerations Relating to Good Faith/Client Referrals**

*American Association for Counseling and Development (1981)*

"If a member determines an inability to be of professional assistance to the client, the member must either avoid initiating the counseling relationship or immediately terminate that relationship. In either event, the member must suggest appropriate alternatives."

*American Association for Marriage and Family Therapy (1985)*

"Marriage and family therapists continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship."

*American Psychological Association (1981a)*

"Psychologists terminate a clinical or consulting relationship when it is reasonably clear that the consumer is not benefiting from it. They offer to help the consumer locate alternative sources of assistance."

*National Association of Social Workers (1979)*

"The social worker should terminate service to clients, and professional relationships with them, when such service and relationships are no longer required or no longer serve the clients' needs or interests."

"The social worker who anticipates the termination or interruption of service to clients should notify clients promptly and seek the transfer, referral, or continuation of services in relation to the clients' needs and preferences."

**Process 1: Interpreting a Situation as Requiring an Ethical Decision**

This process involves the ability to perceive the effect of one's actions on the welfare of others. Several relevant psychological research findings have important implications here. First, many persons have difficulty interpreting the meaning of even simple situations. Sometimes failure to intervene in an ethical situation may be attributable to a misunderstanding about what is actually occurring. Second, individuals differ in their ability to be sensitive to the needs and welfare of others (Schwartz, 1977). Welfel and Lipsitz (1984), for example, estimated from a number of research studies that between 5–10% of mental health practitioners are substantially insensitive to the ethical dimensions of their work. Third, the ability to infer the effect of one's actions on others as well as to infer others' needs develops with age and experience. Fourth, a social situation may arouse a strong emotional response before there is time to reflect on it (Zajonc, 1980); thus, to interpret a situation, persons must understand their feelings about it.

Process 1 points to the importance of therapists' development of ethical sensitivity and empathy. Therapists must be continually aware that their actions have real ethical consequences that can potentially harm as well as help others. Codes of ethics function to establish a central framework for professional behavior and responsibility. They serve to provide guidance in identifying situations where an ethical decision is needed (e.g., confidentiality in therapy).