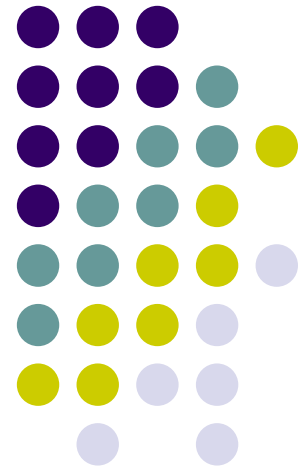
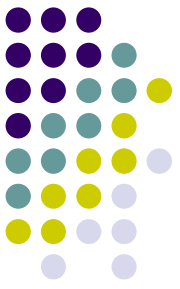


Employer's Ethical Dilemmas

ASHA 2006

Shelly Chabon, Chair, ASHA Board of Ethics
Jay Lubinsky, Board of Ethics Member
Richard Roberts, Board of Ethics Member
John Tonkovich, Board of Ethics Member
Cathy Runnels, Board of Ethics Member





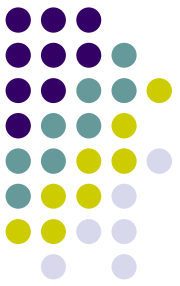
Session Topical Outline

- The charge of the Board of Ethics
- Ethics and Professionalism
- The ASHA Code of Ethics
- The Adjudication Process
- Issues related to the employer/employee relationship

Provide an opportunity to apply this information through the utilization of:

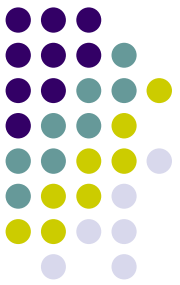
- Case scenarios
- Examination of ethical considerations in private practice
- Summary/questions

Board of Ethics



Committee Charge

- Formulate and, from time to time, amend the Code of Ethics
- Develop educational programs and materials on ethics
- Formulate and publish procedures that shall be used for the processing of alleged violations of the Code of Ethics
- Use its discretion to determine sanctions for violations, including revocation of membership and certification



Ethics is at the heart of
professionalism as it motivates,
guides and gives meaning to our
work

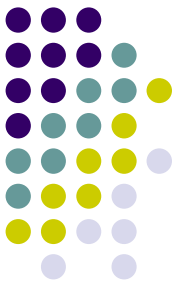
(Gabard & Martin, 2003)



“When a used car salesman tells you, ‘This is the car for you,’ you fully expect the salesman to be motivated primarily by self-interest: he wants to sell you the car to put a few dollars in his pocket.”



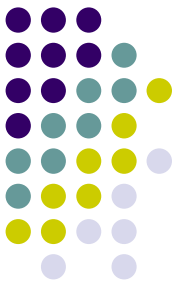
Levy, N. I. Esq., & Mishkin, D.B. Esq. (1990). In Whose Best Interest Is It Anyway? Solutions to Ethical Problems Caused by Influences. Outside the Professional. Reprinted from *Reflections on Ethics: A Compilation of Articles Inspired by the May 1990 ASHA Ethics Colloquium.*



“But when an audiologist tells you, ‘This is the hearing aid for you,’ you assume that recommendation stems from the audiologist’s independent judgment that this particular hearing aid would be best for you.”

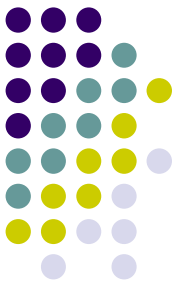


Levy, N. I. Esq., & Mishkin, D.B. Esq. (1990). In Whose Best Interest Is It Anyway? Solutions to Ethical Problems Caused by Influences. Outside the Professional. Reprinted from *Reflections on Ethics: A Compilation of Articles Inspired by the May 1990 ASHA Ethics Colloquium.*



“The used car salesman is a businessman; the audiologist is a ‘professional.’ Professionals distinguish themselves from ‘mere’ businessmen or tradesman by holding themselves to a higher standard than self-interest.”

Levy, N. I. Esq., & Mishkin, D.B. Esq. (1990). In Whose Best Interest Is It Anyway? Solutions to Ethical Problems Caused by Influences. Outside the Professional. Reprinted from *Reflections on Ethics: A Compilation of Articles Inspired by the May 1990 ASHA Ethics Colloquium.*



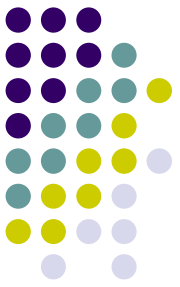
“Because professionals ‘profess’ to hold the client’s or patient’s interest paramount, clients or patients seek out professionals and repose their confidence in them in order to find the added measure of safety and comfort inherent in such relationships.”

Levy, N. I. Esq., & Mishkin, D.B. Esq. (1990). In Whose Best Interest Is It Anyway? Solutions to Ethical Problems Caused by Influences. Outside the Professional. Reprinted from *Reflections on Ethics: A Compilation of Articles Inspired by the May 1990 ASHA Ethics Colloquium.*

❖ What happens to a professional's obligations to the client when outside pressures come to bear?

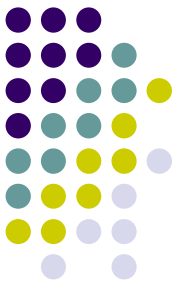
❖ How does a professional even recognize such pressure?

❖ And how can the organized profession assist its members while protecting the interests of both the profession and the public?



Levy, N. I. Esq., & Mishkin, D.B. Esq. (1990). In Whose Best Interest Is It Anyway? Solutions to Ethical Problems Caused by Influences. Outside the Professional. Reprinted from *Reflections on Ethics: A Compilation of Articles Inspired by the May 1990 ASHA Ethics Colloquium.*

The Professional Relationship

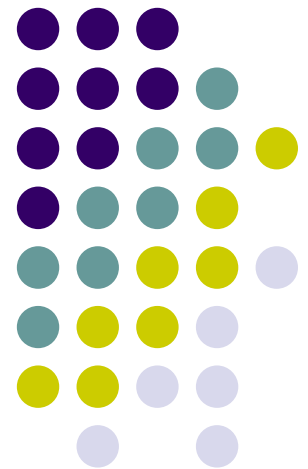


Because of the important responsibility to ensure trust and respect, professionals have come to guide themselves by

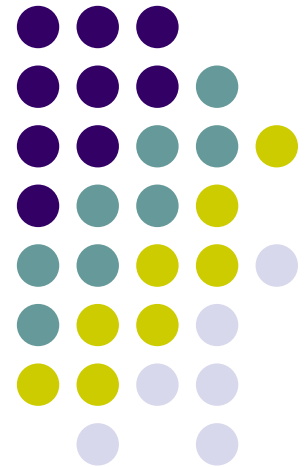
Codes of Ethics

Levy, N. I. Esq., & Mishkin, D.B. Esq. (1990). In Whose Best Interest Is It Anyway? Solutions to Ethical Problems Caused by Influences. Outside the Professional. Reprinted from *Reflections on Ethics: A Compilation of Articles Inspired by the May 1990 ASHA Ethics Colloquium.*

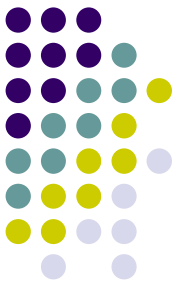
The ASHA Code of Ethics for Employers



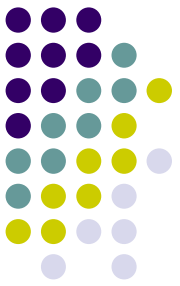
Principles and Rules



Principle I. Hold Paramount the Welfare of Those Served Professionally

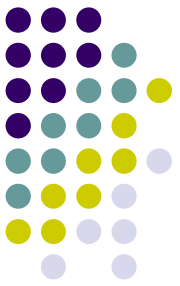


- **Rule B. Use every resource**
- **Rule D. Honestly represent credentials of employees**
- **Rule E. Delegate tasks appropriately**



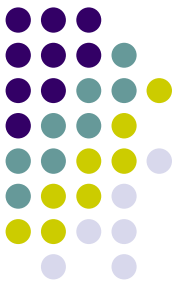
Principle I (cont'd)

- **Rule G. Provide services only when benefit can be reasonably expected.**
- **Rule K. Maintain accurate records**
- **Rule M. Charge only for services rendered. Represent services rendered honestly.**



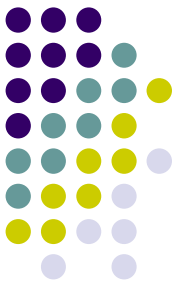
Principle II. Achieve and Maintain the Highest Level of Competence

- **Rule B. Engage in activities within the scope of competence**
- **Rule D. Appropriately supervise delegated tasks.**



Principle III. Responsibility to the Public

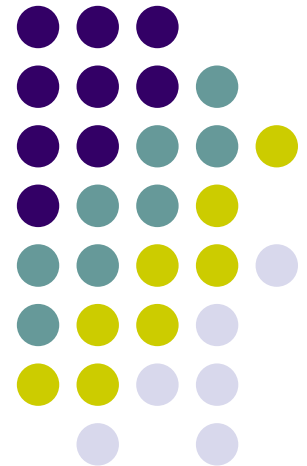
- **Rule A. Represent credentials (or anything else) honestly.**
- **Rule B. Avoid conflict of interest (remember Principle I).**
- **Rule D. Represent services rendered honestly**

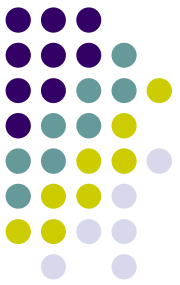


Principle IV. Responsibility to the Professions

- **Rule A. Prohibit employees from violating the Code of Ethics**
- **Rule B. Be honest.**

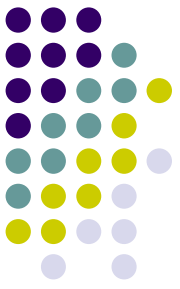
Employer Demands





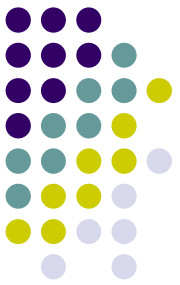
Huffman (2003)

- **Employers request that ASHA members and certificate holders engage in activities that place them at risk for ethical violation**
- **Very often made by employers/supervisors who are not in our professions**
- **Employers often not aware of employees' need to adhere to a code of ethics**



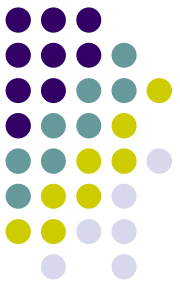
Some Examples: Employers may ask employees to:

- **Keep clients in own practice even if they would be better served elsewhere (I.B.)**
- **Misrepresent credentials (including support personnel) (I.D.)**
- **Engage in tasks outside scope of competence (including support staff) (I.E.)**



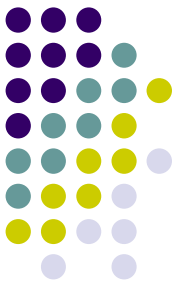
Examples (cont'd)

- **Work unsupervised (I.E.)**
- **Continue treatment without reasonable prognosis for success (I.G.)**
- **Bill for individual treatment when treatment was in groups (III.D.)**
- **Falsify diagnosis in order to justify third-party payment (III.D.)**



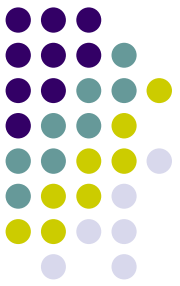
Resolving Dilemmas

- **Be proactive (Huffman, 2003)**
 - **Be aware of employees' ethical responsibilities**
 - **Promote discussion of ethics in staff meetings**
 - **Use case reviews to anticipate ethical difficulties**

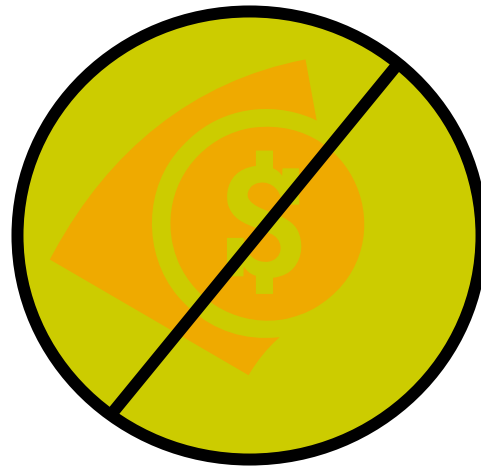


Resolving Dilemmas (cont'd)

- **Use ASHA's Resources**
 - National Office staff (David Denton, Director)
 - ASHA Web site (www.asha.org)
 - Revised Ethics Education Kit



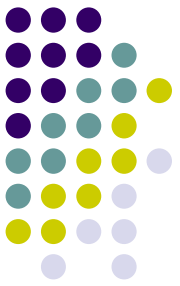
Remember the “Bottom Line”



- **Excellent Clinical Service**

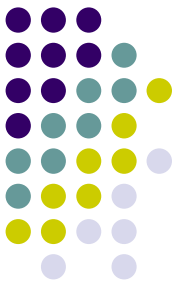
Case Adjudication





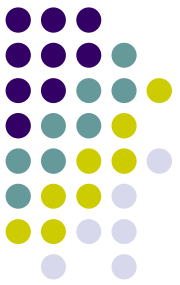
Complaints

- **Must be in writing and sent by standard mail.**
- **Must be signed by the “complainant.”**



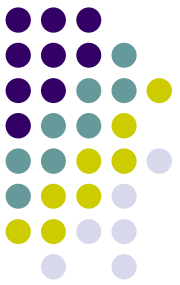
Jurisdiction

- **BOE has jurisdiction over:**
 - **ASHA members**
 - **ASHA CCC holders**
 - **Those in process of obtaining the above**



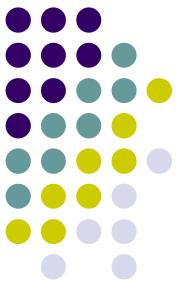
If BOE has Jurisdiction

- **Notifies “respondent”**
- **Identifies complainant**



Response

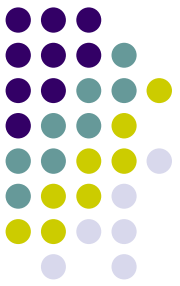
- **Respondent has 45 days to respond (in writing)**
- **Sent by standard mail**



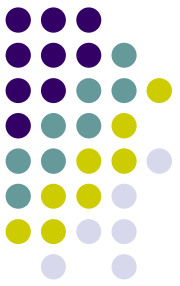
Initial Determination

- **Insufficient evidence. Case closed.**
- **Sufficient evidence.**
 - **Finding of violation(s)**
 - **Proposed sanction**
 - **Proposed extent of disclosure**

Sanctions

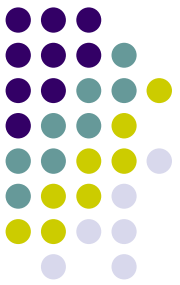


- **Reprimand**
 - **Not publicized**
 - **Confidential**
- **Censure**
 - **Publicized (e.g. ASHA Leader)**
 - **Notification to licensing boards**
 - **Notification to other professional associations**



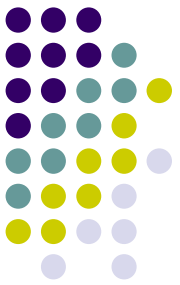
Censure: Effect on Membership/Certification

- **Withhold**
- **Suspend**
- **Revoke**



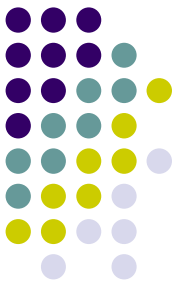
Cease and Desist Order





Further Consideration

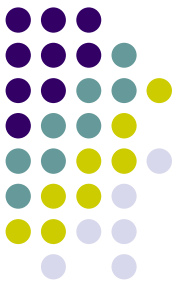
- **Request within 30 days of Initial Determination (in writing)**
- **Personal appearance or conference call possible**
- **Witnesses and legal counsel permitted**



After the Further Consideration, BOE can

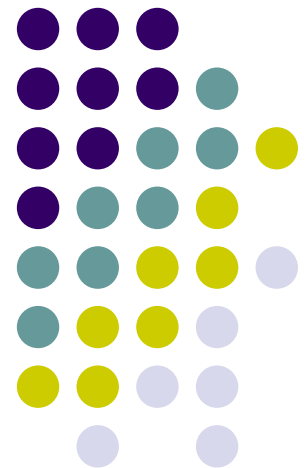
- **Keep original determination**
- **Modify original determination**
- **Rescind original determination**

Appeal

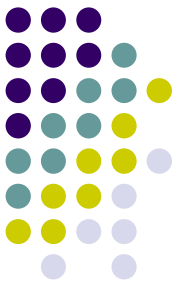


- **Made to ASHA Executive Board**
- **Within 30 days of Further Consideration decision**
- **Based on:**
 - **BOE procedural violations**
 - **BOE arbitrary and capricious decision**

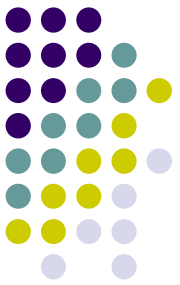
Employer's Ethical Responsibilities



Employer's Ethical Responsibilities



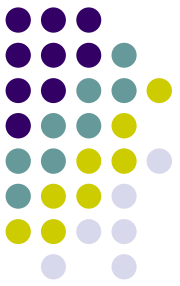
- Documentation of Services
- Confidentiality Issues
- Conflicts of Interest
- Supervision of Clinical Fellows



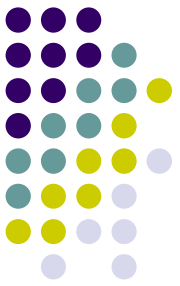
Documentation of Services

- Audiologists and speech-language pathologists prepare, sign, and maintain, within an established time frame, documentation that reflects the nature of the professional service performed.
- Reports are distributed when appropriate and with consent.

Documentation of Services



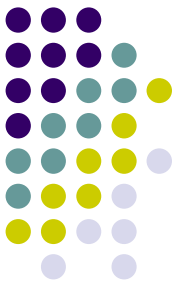
- Documentation addresses the type and severity of the disorder and any associated conditions (e.g., medical diagnoses, disability).
- Documentation includes results of previous related screening, assessment, and treatment procedures, if available.
- Results of assessment and treatment are reported to the patient/client, family/caregiver, referring physician, etc.



Confidentiality

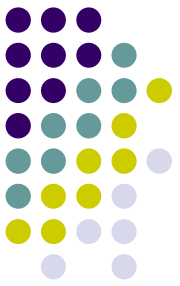
- Main Areas of Consideration
 - Persons Served
 - Students
 - Patient Information
 - Participants in Research
- Confidentiality of privileged information stems from:
 - codes of ethics, federal law, and state law

Confidentiality



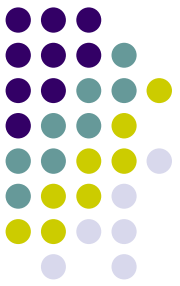
- Records Management
 - Who owns record? School District, Hospital, Private Practitioner – not necessarily the individual clinician
- Information may only be disclosed with appropriate signed release
- Storage of Records
- Access by Patient and/or legal guardian
- Detailed information may be found in an organization's Notice of Privacy Practices

Confidentiality



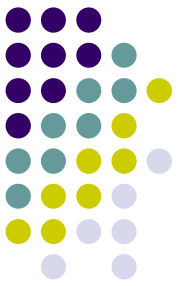
- Reasonable Precautions:
 - Secure storage with limited access to clinical and research records by authorized personnel only
 - Removal or coding of personal identifying information
 - Written, informed consent from participants, parent or guardian to disseminate research findings
 - Separate consent is indicated for photographic/video images or audio voice recordings

Conflicts of Interest



Professions and professionals have special obligations precisely because they are professionals. Becoming a member of a profession implies acceptance of a set of standards of professional conduct by the persons, both in personal commitment and in actual practice. Otherwise, the community and its members would have no good reason to trust the profession and its members to use their exclusive expertise appropriately.

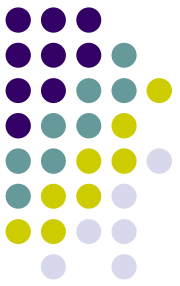
(Abel & Kukula, 2004)



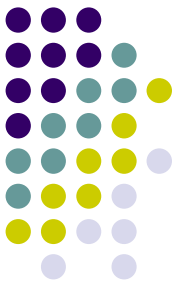
Conflicts of Interest

- Medical Community & Pharmaceutical Industry
- 2002 Pharmaceutical industry adopts ban
 - Golf outings, athletic tickets, trips, lavish dinners
 - Lunch still acceptable by industry

Conflicts of Interest



- Major medical institutions have started banning industry lunches
- University of Michigan
- Yale University
- Stanford University
- University of Pennsylvania
 - “It curries favor and it creates influence, and it introduces into decision-making, processes that we think ought not to be there.” – Dr. Patrick J. Brennan, Medical Director



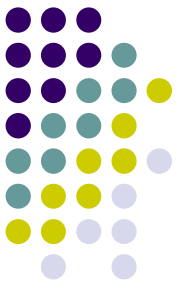
Potential Conflicts of Interest as Viewed by the Audiologist and the Consumer

Hawkins, Hamill, Van Vliet, & Freeman (2002)
Audiology Today, 14 (5)

Ethical Issues in Hearing Aids Revisited: A Survey

Hawkins, Hamill, & Kukula (2006)
Audiology Today, 18 (4)

How are the perks viewed by both parties?



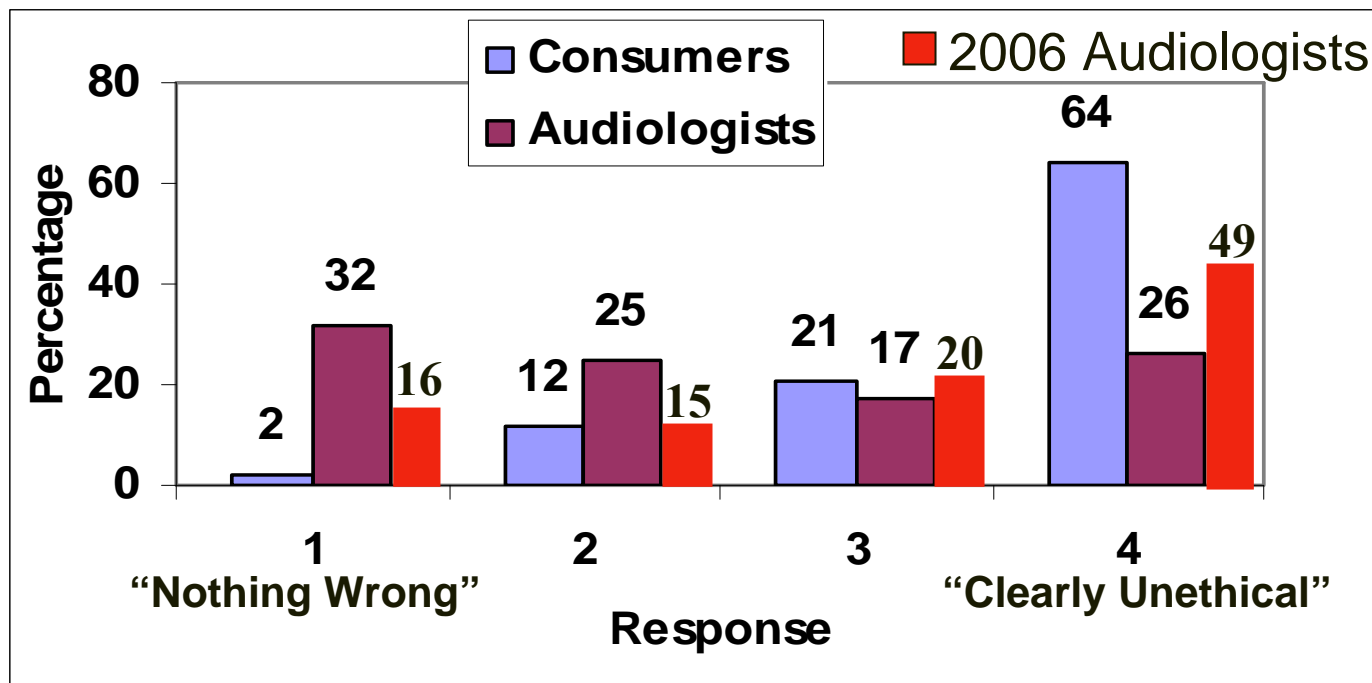
- Questionnaire asked audiologists and consumers with impaired hearing about 20 professional/business activities that may pose a conflict of interest
- Audiologists responded via website. Consumer responses were from patients at Mayo Clinic, Jacksonville, FL or WRAMC, Washington, D.C.

Respondents rated the activities with one of the following four answers:

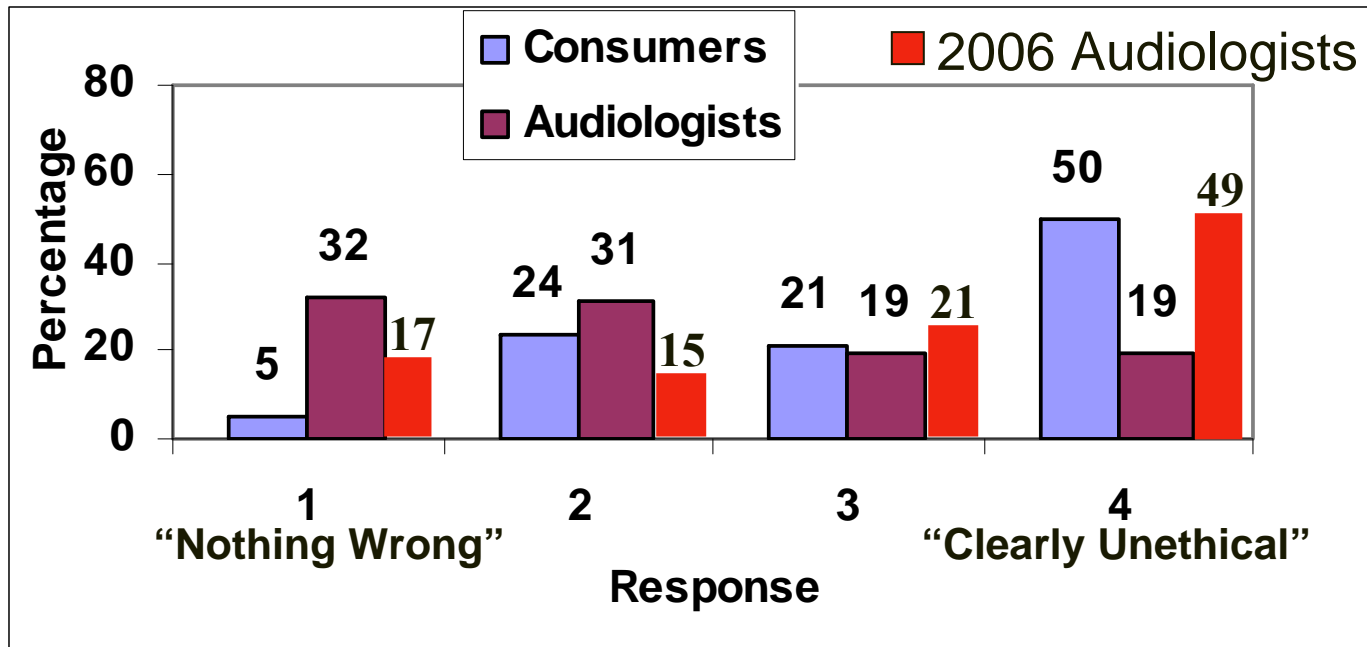
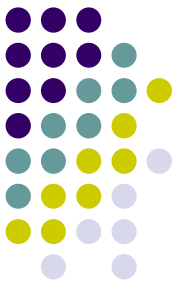


- 1 “I think there is nothing wrong with that practice.”
- 2 “While not unethical, that practice may not be in the patient’s best interest. I would be more comfortable working with a professional who did not engage in that business practice.”
- 3 “I think this business practice is highly suspect and certainly borders on unethical.”
- 4 “I think this business practice is clearly unethical.”

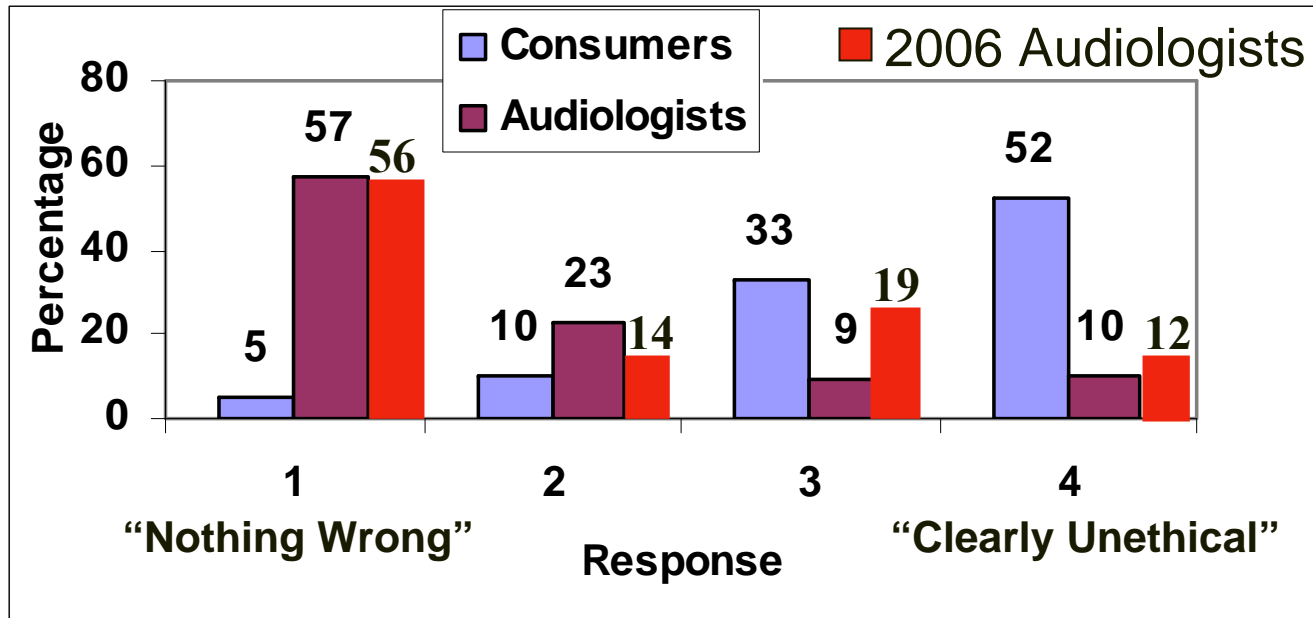
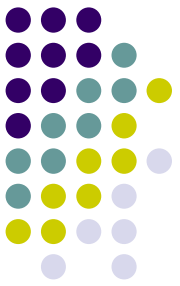
Manufacturer gives audiologist a \$100.00 Traveler's Check for each high-technology hearing aid purchased:

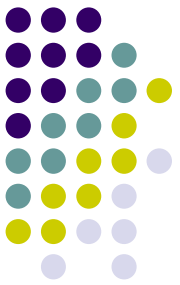


Audiologist earns credits for each hearing aid purchased, can be used for gifts/cruises:

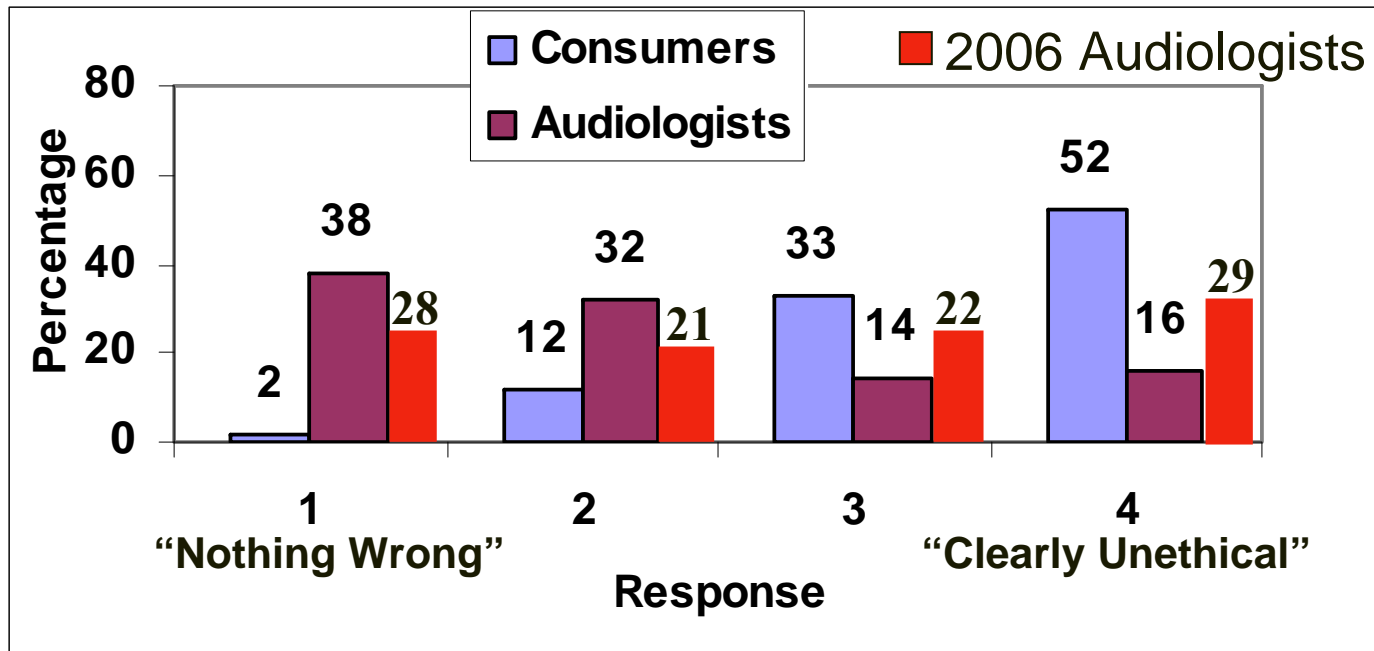


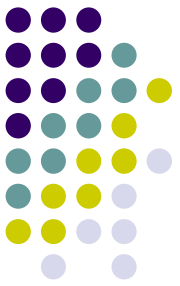
Money for equip, CEUs, other business expenses:





Equipment in exchange for hearing aids:

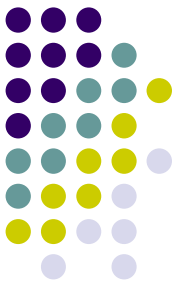




Conflict of Interest?

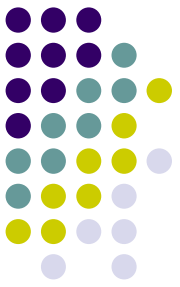
- When a conflict arises between the private interests and the official responsibilities of a person in a position of *trust*
- 60 Minutes test
 - Would you be comfortable describing the activity to Mike Wallace?

Clinical Fellowship Supervisor

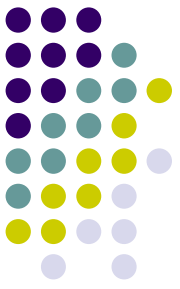


- Mentoring Speech-Language Pathologist
- Audiology Preceptor
- Specific supervisory functions
 - Defined by ASHA Certification and Membership Handbook
- Ethical obligations to several parties
 - Persons Served
 - Clinical Fellow
 - Professions of Speech-Language Pathology and Audiology

Clinical Fellowship Supervisor

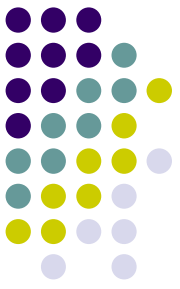


- Position of Power over Clinical Fellow
 - Completion of requirements for Clinical Certification
 - Fellow's immediate or subsequent employment



Potential Ethical Issues

- Arbitrary termination of the clinical fellowship supervisory/mentoring SLP relationship
- Failure to complete CF report in a timely manner
- Failure to provide adequate supervision
 - Excessive number of CFs
 - Maintenance of full caseload
 - Inadequate allocation of time for supervision
- Excessive non-clinical duties
- Failure to report CF violations of the Code of Ethics
- Failure to fulfill responsibilities of Supervisor/Mentor as agreed



Miscommunication

- Clear expectations of the clinical experience are essential
- CF and Supervisor should discuss roles and expectations
 - Beginning and ending dates
 - Specific responsibilities of CF
 - Supervisor/mentor of record
 - When supervision will occur
 - How much supervision will occur
 - Activities that will be supervised
 - Date report will be filed
- Clarity of expectations provided in written form should help avoid miscommunication and ethical complaints

Speech-Language Pathologists & Audiologists



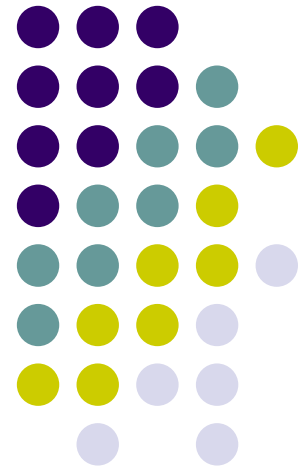
**We must always consider our
ethical obligations**

Case Scenarios

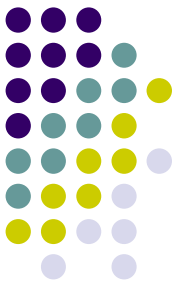
Have there been violations of the Code
of Ethics?

What are they?

Who is obligated to report the violation
to the Board of Ethics?



Ginger Bread



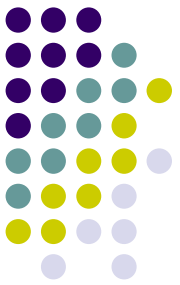
Ginger is a CF in speech-language pathology at Joe's Kinda Good Rehab Center. She is supervised by the only CCC-SLP on the staff, Justin Case. In the middle of Ginger's CF, Justin announces that he will be taking a 6 month family leave to stay home with his newborn son. He tells Ginger that while he is away, she can supervise the Center's speech aide Abby Normal who provides language stimulation for communicatively impaired infants at the Center. Further, he tells Ginger that he will supervise her "a little extra" before he goes on leave and "a lot" at the end of her CF to meet the ASHA supervisory requirements.

Brian Wilson



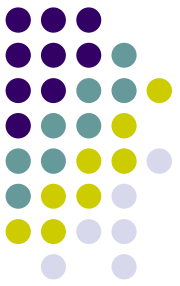
Brian holds CCC-A and works at the Good Vibrations Cochlear Implant Center. He has just hired a new CF in speech-language pathology, Wendy Day. Wendy will be providing aural rehabilitation for newly implanted hearing impaired children. Brian, who has extensive experience in aural rehabilitation states that he will be Wendy's CF supervisor, and that he will complete all of the requisite supervisory tasks and will sign her Clinical Fellowship report.

Olive Peace



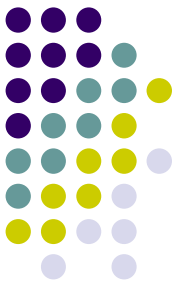
Dr. Olive Peace is the Director of an ASHA CAA program in speech-language pathology. Students have registered numerous complaints about Sue Pervizer, one of the clinical instructors in the department. Sue is allegedly rude to students, unhelpful, and capricious, and 25% of the students assigned to her fail clinic. Olive thinks that Sue may be violating the ASHA Code of Ethics, but chooses not to report her because it would cause too much turmoil in the program.

Ben Down



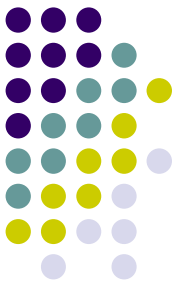
Ben is a licensed physical therapist who owns a contract rehabilitation services company. He recently hired a Clinical Fellow Amber Glass to provide services for his company. Ben's wife Lyanne is a speech-language pathologist in the local school district, and she will serve as Amber's CF supervisor. When Amber asks about the amount and potential dates of her supervisory visits, Ben states that Lyanne will "fudge" the data and simply sign off on the CF report and that "ASHA never checks these things out anyway".

Holly Busch



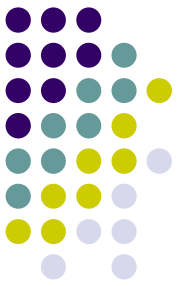
Holly is the CF supervisor for Allison Wonderland, a CF in audiology. She performs the requisite number and types of supervisory visits for Allison's Clinical Fellowship, and signs off on Allison's CF Report. During the course of Allison's CF, Holly let her ASHA certification in audiology lapse, but she continued to maintain her state license in audiology.

Ida Dunnitt



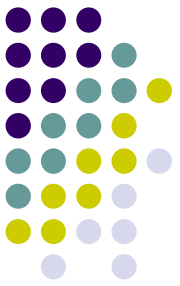
Ida Dunnitt, MS, CCC-SLP owns a small private practice in speech-language pathology in the rural area of a state that doesn't license speech-language pathology assistants. When the other SLP goes on a six month medical leave, Ida must find a way to manage the caseload. There are no traveling SLPs who wish to relocate to this small community, so Ida hires Claire Voyant, a woman who has a bachelor's degree in speech-language pathology to help. She and Claire will run several one hour groups throughout the week, and Ida will be present in the group for 30 minutes. She will pull out children for individual treatment sessions while Claire continues working with the group. Ida fully discloses to parents that Claire is an assistant and doesn't hold CCC-SLP. She does intend to bill for the group charge, even though Claire is running half of each group alone.

Randy Boyd



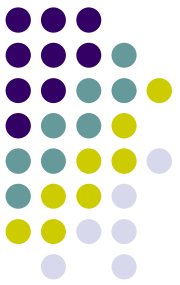
Randy holds the CCC-SLP in speech-language pathology and supervises Corey Ander, a speech-language Clinical Fellow. Randy has been treating an adult client Chris, with whom Randy has a romantic interest. He reassigns Chris to Corey, and tells Corey that he wishes to begin dating Chris. Corey states that she has never treated an adult with Chris' diagnosis before, and that she cannot take over Chris' case because of her personal ethics. Randy tells Corey to either take the case or else he will not approve her Clinical Fellowship. Further, Randy alleges that Corey is only refusing to take the case because she is discriminating against him on the basis of his sexual orientation.

Stan Dupp



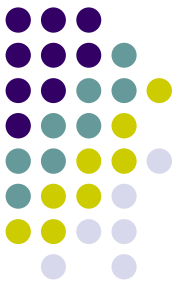
Stan Dupp is a CF in speech-language pathology at the Condoleezza Rice Middle School. He is supervised by the district's speech-language pathology manager, Tina Bozinsky, who holds CCC-SLP. Tina is not on site, but plans to observe Stan and perform the required CF activities. Stan decides that instead of scheduling his cases using the pull-out method, he will engage in classroom-based interventions. He has formed positive relationships with classroom teachers, and has delegated some tasks to each of them for his clients. He frequently joins in classroom activities to co-teach lessons with the classroom teachers. Tina informs him that she must report him to the Board of Ethics for delegating tasks to non-professionals without his CCC in SLP.

Pearl Diver



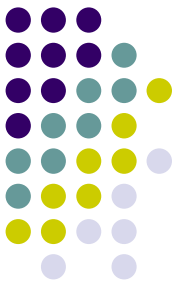
Pearl Diver is a CF in a privately owned SNF in rural Montana. The owners have promised her that they will pay for someone to supervise her CF, and they hire Janice Joplin, a person with over 40 years of experience and a CCC-SLP. During the course of Pearl's CF experience, Janice decides that the owners are not paying her a sufficient amount to supervise Pearl, and so she quits. The owners cannot find anyone to replace Janice because the closest person with CCC-SLP lives in Bozeman, about 200 miles away. Janice phones Pearl at home and tells her to promise not to tell the owners of the home, but she will sign Pearl's CF report at the end of the 36 week period so that her quitting does not violate the ASHA Code of Ethics. Pearl agrees and is granted the CCC-SLP. Guilty Janice reports herself to the Board of Ethics.

Nadine Knorr



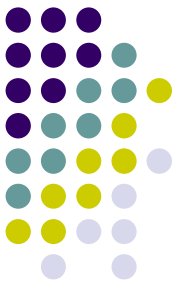
Nadine holds the CCC-A and works in an ENT office. She is contacted by phone from the owner of a hearing aid dispenser who lives in a remote area of the state who has hired a CF in audiology. If Nadine agrees to take on the CF supervision, the owner insists that she take either personal time or a day without pay from her ENT job and that he will reimburse her the day's pay, travel, lodging, and meal expenses. Further, he agrees to pay her an honorarium of \$500 per day. Nadine considers the offer, but decides that it would be a violation of the ASHA Code of Ethics, and declines the offer.

Brandy Alexander



Brandy is a CF in speech-language pathology in an elementary school. Her supervisor, Mary Winter, holds CCC-SLP. Mary tells her that some of the cases on Brandy's caseload are eligible for state Medicaid reimbursement if they are provided by someone who holds either a license in speech-language pathology or CCC-SLP. Mary wishes to copy over Brandy's reports and notes about these cases and sign them as though she had provided the services directly. When Brandy questions this decision, Mary states that "after all I'm technically supervising you AND those cases, so it isn't like I'm being dishonest!"

Summary



- Code of Ethics provides general guidelines about supervision of new employees and for delegation of clinical responsibilities to those without the appropriate Certificate of Clinical Competence.
- If one is uncertain about specific activities that aren't clearly defined by the Code of Ethics, ASHA national office staff and the Board of Ethics can help determine an appropriate course of action.
- Clinical Fellows should have a clearly defined plan that specifies mutually agreed upon supervisory activities at the beginning of the CF experience. Any changes that occur during the course of the CF should be mutually agreed upon as well.