

# REPORTING THERAPIST MALPRACTICE

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NOVEMBER 2, 2020



# Background



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- Ph.D. Clinical Psychology 1984
- J.D. Law 1999
- Consultant with SSA disability determination since 1986
- Adjunct Professor at Vanderbilt/Peabody Human Development and Counseling Program since 2006
- Legislative Liaison Tennessee Psychological Association
- Private Practice in Family Law

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# Disclaimer



- Anything I say may be wrong and immediately refuted by those more knowledgeable
- Don't rely on anything I say



# Resources

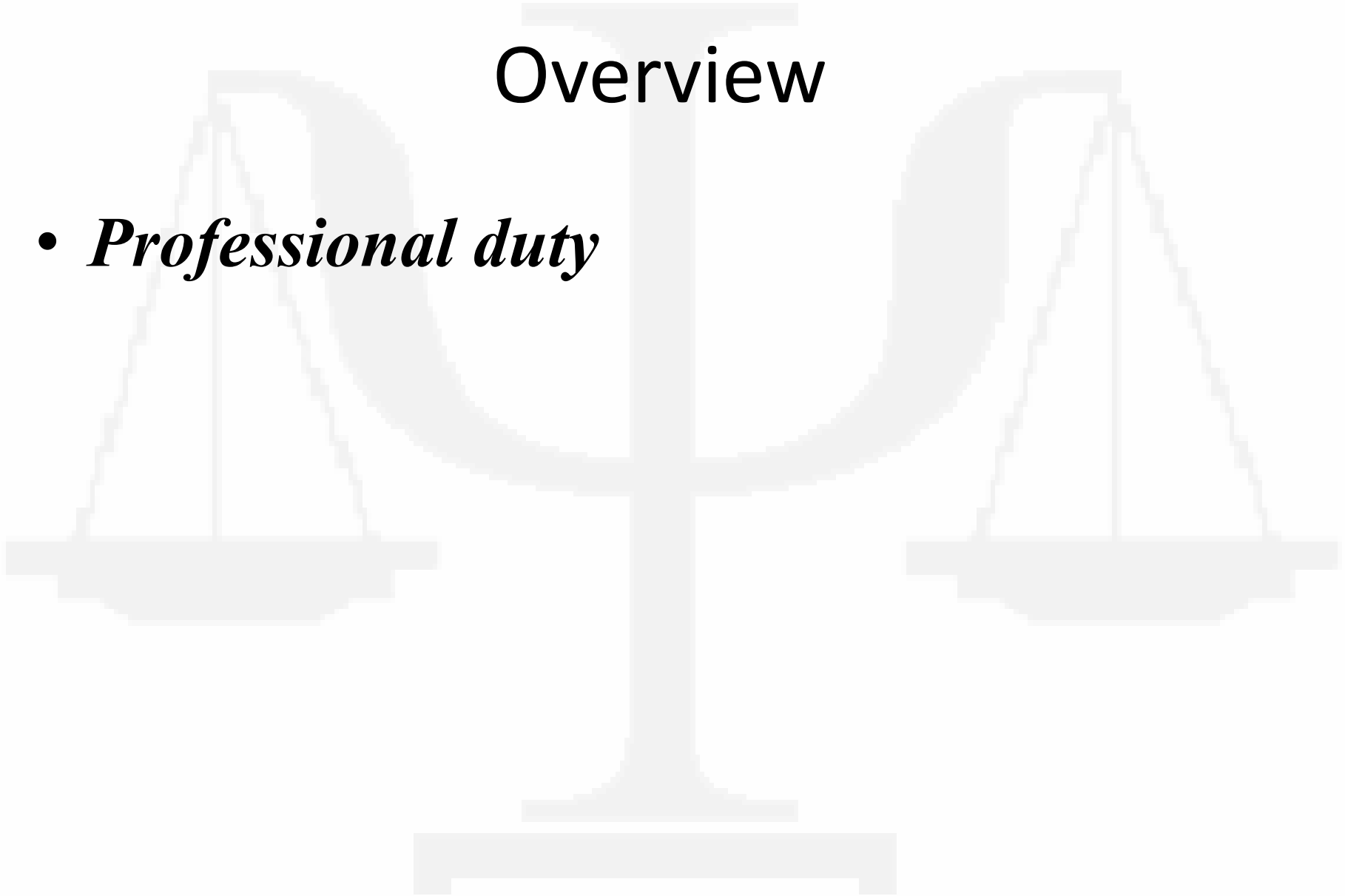
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# Overview

- *Professional duty*



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- *Professional duty*
- *Legal Considerations*



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- *Minor vs. Adult Client Considerations*

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- *Professional duty*
- *Legal Considerations*
- *Minor vs. Adult Client Considerations*
- *Resources and options for the Client*



# *Professional duty-APA*

## **1.04 Informal Resolution of Ethical Violations**

When psychologists believe that there may have been an ethical violation by another psychologist, they attempt to resolve the issue by bringing it to the attention of that individual, if an informal resolution appears appropriate and the intervention does not violate any confidentiality rights that may be involved.

## **1.05 Reporting Ethical Violations**

If an apparent ethical violation has substantially harmed or is likely to substantially harm a person or organization and is not appropriate for informal resolution under Standard 1.04, Informal Resolution of Ethical Violations, or is not resolved properly in that fashion, psychologists take further action appropriate to the situation. Such action might include referral to state or national committees on professional ethics, to state licensing boards, or to the appropriate institutional authorities. This standard does not apply when an intervention would violate confidentiality rights or when psychologists have been retained to review the work of another psychologist whose professional conduct is in question.

# *Professional duty-ACA*

**I.2.a. Informal Resolution:** When counselors have reason to believe that another counselor is violating or has violated an ethical standard and substantial harm has not occurred, they attempt to first resolve the issue informally with the other counselor if feasible, provided such action does not violate confidentiality rights that may be involved.

**I.2.b. Reporting Ethical Violations:** If an apparent violation has substantially harmed or is likely to substantially harm a person or organization and is not appropriate for informal resolution or is not resolved properly, counselors take further action depending on the situation. Such action may include referral to state or national committees on professional ethics, voluntary national certification bodies, state licensing boards, or appropriate institutional authorities. The confidentiality rights of clients should be considered in all actions. This standard does not apply when counselors have been retained to review the work of another counselor whose professional conduct is in question (e.g., consultation, expert testimony).

**I.2.c. Consultation:** When uncertain about whether a particular situation or course of action may be in violation of the *ACA Code of Ethics*, counselors consult with other counselors who are knowledgeable about ethics and the *ACA Code of Ethics*, with colleagues, or with appropriate authorities, such as the ACA Ethics and Professional Standards Department

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  - Up to 3 years from last contact “Statute of repose”

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Previous therapist licensed?

Complaint to the Board: No time bar

# *Minor v. Adult Considerations*



When a client is a minor, there are two lines of thought that you should take:

- A. Did the therapist misconduct constitute child abuse or neglect that must be reported?
- B. If the therapist misconduct did not constitute abuse, the parents hold the decision about breaking confidentiality.

# *Resources and Options for Client*

<https://www.therapyabuse.org/resources.htm>

- File a civil suit for damages
- File a licensure complaint
- Write or call the ex-therapist
- Arrange for private compensation for damages
- File a criminal complaint (limited to states that have criminalized)
- Seek individual or group therapy
- Request a confrontation or processing session (with a qualified mediator)
- Seek compensation from a victims' fund (limited to states and organizations that maintain such funds)
- File a complaint with the ethics committee of a professional association
- Notify the employer, agency director, or church hierarchy (in the case of clergy practicing psychotherapy)
- Report to county or state authorities
- Do nothing



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