



# Ethical and Legal Issues for Mental Health Professionals

*A Comprehensive Handbook  
of Principles and Standards*

Steven F. Bucky, PhD  
Joanne E. Callan, PhD  
George Stricker, PhD  
Editors

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*Steven F. Bucky, PhD*



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# Foreword

Ethical and legal issues in the mental health field have become much more important in clinical as well as in forensic practice in recent years. Therefore, it has become imperative that mental health professionals be familiar with the various legal and ethical requirements of their respective professions, not only to avoid malpractice lawsuits or licensing board complaints, but also to ensure that they are providing the highest quality service. Most of the professional associations involved in mental health, such as the American Psychological Association, the National Association of Social Workers, the American Psychiatric Association, the American Association of Marriage and Family Therapists, and the National Board of Certified Counselors, have revised their respective ethical codes in recent years to deal with changes in technology, clinical practice, and legislation. Many states have passed various laws and statutes specifically dealing with some aspect of mental health practice, and most graduate training programs provide specific courses in ethical practice. In addition, many states now require continuing education for licensed mental health practitioners, and some require annual updates in ethics as part of such continuing education.

Thus, keeping current with the issues has received more attention in recent years, and the various malpractice insurance companies usually offer and recommend specific workshops in risk management that include current ethical practices. Even with all of these requirements and

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changes, there are still numerous ethical complaints against mental health professionals that are filed each year with licensing boards. In this day and age, people have become much more skeptical about the practice of mental health, the reliability and validity of various clinical techniques, and the role of mental health experts in court cases. In the past, the main complaint involved sexual interaction between clinician and client. Now, many complaints involve some aspect of a child custody case, with allegations of unethical evaluations, reports, conclusions, recommendations, or testimony in court. There is a “battle of the mental health experts” much more frequently in many forensic criminal, civil, and family court cases. The perception by the public as well as the legal community is often that many mental health professionals are not as ethical as they should be, or as they would like to be perceived. Instead of practitioners being ethical and responding from a serious scientific base, the mental health field may be perceived as more “soft science” and vague. When the mental health professions do not police themselves by requiring a strict adherence to ethical standards, the field is compromised.

In order to be able to practice in an ethical manner, it then becomes mandatory that those in the mental health fields understand and keep current with the guidelines and principles, especially in light of the recent revisions and increasing complexity of the laws, statutes, and ethical codes. The present comprehensive handbook is one way to help mental health professionals accomplish this. Drs. Bucky, Callan, and Stricker have done an excellent job of compiling an impressive list of authors and contributors for this volume. This volume incorporates and examines best practices in a thorough but readable manner. Key issues, from practice standards to confidentiality to competence, are discussed. This book should be required reading for all mental health professionals.

I am pleased that the editors have chosen the Haworth Maltreatment & Trauma Press to publish their important work. In addition, this volume will be one of a series concerning ethical practice. We will be following this handbook with two more volumes that deal with specific aspects of ethical practice, including forensic mental health. The editors are to be commended for such important contributions to the field and practice of mental health.

*Robert Geffner, PhD, ABPN  
Senior Editor, Journal of Aggression, Maltreatment & Trauma  
Editor-in-Chief, Haworth Maltreatment & Trauma Press*

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# INTRODUCTION

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## Ethics Law and Licensing

George Stricker  
Steven F. Bucky

**SUMMARY.** Ethics, law, and licensing are overlapping but different dimensions by which professional conduct is regulated. Ethics refers to a professional code of conduct. Law refers to a relevant body of statutes. Licensing refers to permission to practice a profession granted by a relevant jurisdiction. Similarities and differences among these sources of authority and regulation are described, and the articles contained within this volume are discussed. *[Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <<http://www.HaworthPress.com>> © 2005 by The Haworth Press, Inc. All rights reserved.]*

**KEYWORDS.** Ethics, law, licensing, regulation

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Students and colleagues frequently call me with what they see as ethical dilemmas, often introducing their question by stating “I have an ethics question for you.” More often than not, the question is not primarily an ethical question, but one that more properly belongs in the legal realm. It is not unusual for “ethics” to be used as a generic term for any conundrum that has a moral dimension, and so it embraces ethics, morality, law, politics, and clinical judgment. However, for a solution to be found to the problem that has been posed, it is important to differentiate these areas, for different contexts lead to different solutions. This article, an introduction to a handbook of ethics and law, seeks to clarify some of these distinctions, so that the reader who is faced with a problem will know whether to seek the answer with an ethicist, an attorney, or a State licensing authority.

For the purposes of this article, ethics will be used to refer to a code of conduct that governs the behavior of a group of professionals; there is a much broader literature concerning ethics as a branch of philosophy, and this leads to distinctions worthy of an entire text. However, regardless of whether one feels a philosophical kinship with utilitarianism, categorical imperatives, or more contemporary approaches to human rights, each profession’s ethics code explicates a set of rules that are intended to guide members of that profession. Law is used in its broadest sense, and refers to a set of statutes, whether municipal, state, or federal, that govern the conduct of all people under the jurisdiction of that statutory code. Licensing is the prerogative of the states, and will refer to the rules of whatever authority has granted the license to practice to the particular individual who raises the question under consideration. There are several areas we may consider, and each has different implications for these three sources of authority. Let us now review each of these areas.

## ***SOURCE***

The source of a professional code of ethics always is internal. Each profession generates its own code of conduct, and does so in the interest of self-governance. The source of both legal and licensing authority always is external to the profession. The various regulations and statutes serve to impose restrictions on the conduct of a professional in the interest of the general public. It probably is accurate to suggest that one measure of the adequacy of a professional code of conduct is the extent to which the public feels protected. When the code gives the appearance of supporting guild interests, there is a vacuum created that leads to external regulations being placed on the actions of the professional.

## ***TARGET***

There is a marked difference in who is subject to the various sets of regulations created by the authorities being considered in this chapter. A code of ethics only applies to the members of an organization that promulgates such a code. Thus, the American Psychological Association (APA), for example, has a well-developed code of ethics, but it only is applicable to APA members. A psychologist who is not an APA member has no reason, other than internal, to follow the dictates of that code, and cannot be judged by APA according to the strictures of that code. A law applies to all people who live in the relevant jurisdiction, and can be applied to anyone, regardless of their citizenship. A licensing law, however, only applies to those who have been issued a license, and a person who practices as a psychotherapist (most frequently this is an unlicensed title) without a license cannot be prosecuted for failing to adhere to regulations devised to govern the conduct of licensed professionals in that jurisdiction. Thus, a person who is licensed and is a member of a professional organization will be regulated by three sometimes contradictory authorities, whereas an unlicensed practitioner who does not join a professional organization only will be subject to the laws of the governing jurisdiction. Does this suggest that a practitioner would be wise to avoid professional membership and licensing? Not at all, because there are many benefits that accrue from such membership and licensure, but the price of those benefits is the need to adhere to their respective codes of conduct.

## ***MAXIMUM PENALTY***

If an individual has been accused of a violation of the relevant code, and has been judged and found to be in violation, what consequence can follow? For a professional code of ethics, which only applies to members, the maximum penalty is expulsion of membership. At first glance, this may seem like a relatively small penalty, as it also relieves the ex-member of any further obligation to follow the code that has been violated. However, there is a much greater weight to this penalty than meets the eye. First, there is the obvious loss of professional affiliation, with all the benefits that brings. More concretely, the loss of membership often is accompanied by notifications, so that colleagues become aware of the action, as do other associations to which the member may belong, licensing author-

ities, and groups such as the National Register and the American Board of Professional Psychology. Each of these groups and organizations may then initiate their own actions, so that the initial loss of professional membership may be followed by a cascade of other losses. Even for those individuals who are not fazed by this set of losses and disaffiliations, the ethics action of a membership organization must be reported to a malpractice carrier, and the subsequent rise in premium, or loss of coverage, provides an additional and substantial penalty to the offender.

The violation of a legal requirement, because it applies to everyone residing in the relevant jurisdiction, carries the penalty specified by the statute. This can range from a fine to a term in jail, and this action, too, is reportable to other governing authorities. Thus, malpractice insurance, for example, can be compromised by legal as well as by ethical transgressions. Finally, the violation of a licensing law can lead to the loss of the license that had been awarded. Similar to the violation of a professional code of conduct, such a violation only can lead to the loss of the credential (membership or license) that subjected the person to that code. However, similar to the violation of a professional code of conduct, the penalty is far more severe than it initially may appear to be. The loss of a license, in and of itself, can inhibit the ability of the individual to practice. Beyond that, it is a public judgment, and other consequences follow. The loss of license in psychology is reported to a bank of disciplinary data that is maintained by the Association of State and Provincial Psychology Boards, and this, in turn, is available to other organizations as well. A great many of the cases heard by the APA Ethics Committee come to the attention of that Committee after a decision has been rendered by a state licensing board. Here too, malpractice insurance consequences also follow from licensing disciplinary actions. In each case, whether the discipline is through ethics, law, or licensing, there is the possibility that civil actions will be filed by the aggrieved individual, and the definitive action of a duly constituted authority cannot help but be consequential in the hearing of that civil case.

### ***LOCUS OF AUTHORITY***

A professional code of ethics, because it is developed by a national organization, has a national scope. Every member of the association, regardless of where they reside, is subject to the same code. However, a law only is binding in the jurisdiction where it has been promulgated. In

rare cases, professional activities are subject to federal laws, or to laws of local municipalities. However, in most cases, the relevant statutes governing the behavior of professionals are statewide. This is similar to licensing, which is a state activity, and which only applies in the state where the license is issued.

The important consequence of this distinction is that every member of a professional organization is subject to a single, defining code of ethical conduct. However, appropriate legal behavior for the professional varies from state to state. As an example, professional conduct, ethically, is bound everywhere by an obligation to maintain confidentiality, but certain exceptions that mandate reports vary from state to state. The need to report child abuse is present in every state, but the criteria for child abuse and the process for reporting differ. In other areas, such as spousal or elder abuse, these are subject to mandated reporting in some states but not in others. Professionals can move from region to region and always be clear about the nature of ethical conduct, but it is incumbent upon them to be familiar with local regulations and statutes, because even crossing a border into a neighboring state can lead to a different obligation for professional conduct.

This difference between the national scope of ethics and the local scope of law and license, along with the different aspects of these three sets of governing codes, leads to the difficult dilemma that occurs when behavior is prescribed by one set of codes and proscribed by another. An example of this occurs in the clash between confidentiality and mandated reporting. Most codes of ethics will allow law to supersede ethical obligation, and not force the professional to violate the law in order to behave ethically. However, it ultimately is the judgment of the professional to determine any individual course of action, as long as there is a clear recognition that behavior outside any of the codes may lead to predictable consequences.

## **REVIEWERS**

A professional who is charged with ethical misconduct is entitled to a hearing by a committee of peers (often including a public member as well as a group of co-professionals). This hearing is often in the form of a paper, rather than an in-person, review, and it will be governed by the rules and regulations of the organization. It can lead to a variety of decisions, ranging from dismissal of charges to expulsion from the organi-



zation, with various intermediate reprimands possible. If the charge is made on the basis of legal transgression, the hearing and decision will be made by a judge or a jury. The hearing will be in person and it will be guided by laws of evidence with all due process protections provided. The decision can either be not guilty to guilty. An alleged violation of a licensing law also will be heard by a group of peers, with some public participation, and it also is governed by local regulations. The decision can range from a dismissal of charges to a loss of license, with some intermediate disciplinary actions possible. Thus, the process and protections, and the range of decisions, is closer in an ethical hearing and a licensure review than either is to a court of law. It is only in a court of law that the defendant can be guaranteed due process rights and the rules of evidence.

### ***OPENNESS OF PROCESS***

On this dimension also, an ethical procedure is closer to a licensing action than it is to a courtroom. The ethical hearing is a closed event, and the results are only made public to the extent that the committee chooses to do so, and then often to a limited set of recipients. Expulsions are public actions, but any lesser penalty may not be available to anyone other than the parties to the charges. On the contrary, a legal action takes place in an open courtroom, and the records of that proceeding, unless they are sealed, become a matter of public record. The licensing hearing, like the ethics hearing, is closed, and the results may be very limited in their availability to the general public. It may be this secrecy that surrounds the action, which serves to protect a professional who might have been wrongly accused, that contributes to the public perception of a guild action that requires supplementation by public and externally imposed laws.

To this point, dilemmas have been approached by separating the ethical, legal, and licensing ramifications that they have, and the direction to look for solutions. However, many dilemmas do not fall into any of these categories. They are professional concerns that may be solved by a knowledge of simple etiquette, good judgment, and political finesse. The professional is well advised to be thoroughly familiar with the relevant code of ethical conduct and with all applicable licensing laws and regulations, but this alone will not guarantee a correct solution to the dilemmas that are faced. There is no substitute for wisdom and sound

judgment, and these often cannot be codified or enforced. Instead, they rely on the integrity of the professional, as does so much of sound professional behavior.

## **GENERAL ETHICAL PRINCIPLES**

The first section of this volume deals with general ethical principles associated with the mental health professions. Commencing, Callan and Callan's article reviews the basic approaches and issues in ethical and moral philosophy and principles. Their review provides a foundation for understanding ethics in mental health. Following this general overview of ethics and moral philosophy, subsequent articles in this section address general principles and standards associated with ethical principles and codes of conduct in the mental health professions. A general focus is on the analysis of legal and ethical issues critical to the practice of mental health professionals.

The principle of competence in mental health as presented by Nagy is viewed not only as a construct but also as an ongoing process. He stresses the critical importance of professional competence, noting that it constitutes the very bedrock of research, teaching, and clinical practice in the mental health field. In addition to exploring competence in the many roles that mental health professionals fill, fundamental and general concepts bearing on competence are discussed.

Mills highlights that the principle of integrity is critical to the mental health profession, declaring that both professional and personal integrity is the foundation of all mental health professionals' functioning. He focuses on issues of accuracy, honesty, fairness, and respect for others as necessary ingredients to professional behavior.

Lowman expands this exploration in his first article, addressing ethical issues associated with the concept of professional and scientific responsibility as related to the principle of integrity. He focuses on integrity as an aspirational standard. Differences between aspirational and enforceable ethical standards are reviewed and case examples and illustrations are provided. Similarly, Lowman's second article examines the nature and application of the aspirational principle addressing respect for peoples' rights and dignity. Again, he discusses issues about aspirational versus enforceable standards and provides case examples and illustrations.

Clark also discusses issues of aspirational standards in his article, addressing a fundamental principle of psychology: concern for the welfare of others. He explains that unlike so much else in professional ethics

codes that involve injunctions of what not to do, or which attempts to limit the self-serving tendencies of professionals, this general principle is essentially positive, pointing to the need to approach others and to consider their welfare first.

Wise analyzes mental health professionals' responsibilities toward positively impacting the broader society or culture in which they live and work within the context of mental health professionals' codes of conduct. She considers the role of mental health professionals in changing society and associated implications.

### ***CONFIDENTIALITY, PRIVILEGE, CONSENT, AND PROTECTION***

The second section of this volume explores aspects of confidentiality, privilege, consent, and protection critical to the mental health professions. Articles in this section begin to address the practical application and associated clinical procedures involved in implementing the general ethical standards discussed in the preceding section. Golub's article examines mental health professionals' responsibility regarding informed consent and the components to be reviewed with clients as early as possible. Recent changes that have given patients greater autonomy in the treatment process are also presented.

Another significant responsibility of mental health professionals, the area of protecting privacy and confidentiality, is explored by Caudill and Kaplan. Their article discusses the confidentiality of communications between therapist and patient and the scope of, and exceptions to, the privilege preventing such communications from being disclosed.

Kaplan expands the exploration of issues surrounding confidentiality and disclosure in his article, addressing the ownership of privilege applying to any confidential communications between those persons defined by statute as able to form a confidential psychotherapist-patient relationship.

An important consideration when examining confidentiality in the mental health professions is the "duty to protect" doctrine. Simone and Fulero detail the California Supreme Court's *Tarasoff I* and *Tarasoff II* cases and the confidentiality rulings emerging from these decisions. Associated key concepts and legal issues are analyzed.

### ***GENERAL ETHICAL STANDARDS IN PRACTICE CHAPTERS***

The third section of this volume examines general ethical standards in the practice of delivery of service. Clipson explores the area of pro-

fessional ethics relating to multiple relationships and the potential for misuse of mental health professionals' influence. In his article, he reviews the important dynamics of multiple relationships and boundary violations, while also providing a model for assisting mental health professionals in avoiding exploitive or harmful dual relationships.

Shavit expands this discussion in her article, focusing on dual relationships of a sexual nature including both sexual contacts while treatment is in progress and after its termination. The profiles of both mental health professionals and patients likely to be involved as well as clinical, legal, and professional issues and consequences are included. Gandolfo examines issues related to bartering arrangements in the context of providing professional mental health services. The risks associated with significant conflict of interest and the potential for exploitation of the client are analyzed.

Caudill examines the requirements and implementation of maintaining patient records in the mental health arena, stressing that records are an important source of protection for professionals. He provides guidelines for documentation that will help professionals avoid future ethical and legal problems.

Kaplan then discusses issues surrounding how mental health professionals handle referrals and fees with respect to professional ethics. The relationship between the mental health professional and the referral source is explored; the potential risks and consequences involved in this process are also included.

### ***ETHICS IN TEACHING, TRAINING, AND RESEARCH CHAPTERS***

The fourth section of this volume explores ethical considerations in the realms of teaching, training, and research. McGee provides a discussion regarding ethical and legal considerations that relate to the training of mental health professionals. A training program that emphasizes a proactive approach to identifying and resolving potential ethical and legal problems, and their close connection with clinical issues, is described. Callan and Bucky lend to this area by discussing the teaching of ethics to mental health professionals using the California School of Professional Psychology at San Diego (Alliant International University) as a model.

Meltzoff follows with an overview of the history of efforts to protect human subjects in research. He discusses the establishment of international, national, organizational, and institutional procedures designed to protect human participants. A detailed summary of the principal ethical codes for research and frequently encountered ethical issues are presented.

The last article in this section highlights ethical themes in publication. Meltzoff addresses the provenance of ideas, problems with joint authorship, plagiarism, and the practice of duplicate submission of material for publication. Confidentiality and privacy matters and the protection of human subjects in publication of research and clinical case studies are also discussed. The article further examines biases in literature reviews, and in the biased selection of one's best results for publication, intentional misinterpretation of data and the slanting of discussion, summary, and conclusions. Finally, the article deals with ethical problems that can arise in the publication of sponsored research and the ethical responsibilities of editors and readers.

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## GENERAL ETHICAL PRINCIPLES

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# An Historical Overview of Basic Approaches and Issues in Ethical and Moral Philosophy and Principles: A Foundation for Understanding Ethics in Psychology

Joanne E. Callan  
Megan E. Callan

**SUMMARY.** This article provides a condensed history of ethics development for the purpose of exposing psychologists and other mental health professionals to ethical and moral bases upon which modern psychologi-

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cal ethics are founded. In addition, it focuses on contemporary theories, with an emphasis on professional ethics. *[Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <<http://www.HaworthPress.com>> © 2005 by The Haworth Press, Inc. All rights reserved.]*

**KEYWORDS.** Ethical and moral philosophy and principles, ethics in psychology

The first section of this article presents a condensed history of ethics development, noting basic foundations and major contributors from early civilizations to the present time, as a context for better understanding the relevance and application of ethics in psychology. The overview is provided to expose psychologists to ethical and moral bases upon which modern psychological ethics are founded. As hard and fast rules do not entirely comprise professional ethics, effective ethics education requires ongoing dialogue about the essential nature and implications of ethics. Put another way, to appreciate ethics and then regulate professional activities and behaviors through informed self-scrutiny, psychologists must have a working knowledge of the fundamentals of ethics. Arguably, it is only with such a foundation that they will be able to address the myriad complexities and nuances of ethical issues likely to arise in their professional lives.

### ***BASIC DEFINITION AND IDEAS***

Although ethics theorists often debate the distinction between ethics and philosophy, it serves purposes here to consider ethics as a branch of philosophy tied closely to morals. Indeed, ethics is often referred to as moral philosophy. The connection between the two involves both judgment and values (Steininger, Jewell, & Garcia, 1984). As such, ethics are seen generally as dealing with what is right and wrong, defined by Webster as “A principle of right or good behavior”; “A system of moral principles or values”; and “The study of the general nature of morals . . .” (p. 445). The principles of morality, including both the science of the good and the nature of the right are viewed by Rowe (1993) as the search for a rational understanding of human conduct and by Lewy (1985) as the theoretical treatment of moral phenomena. Dr. Rosemarie Tong, an-

other current ethics scholar, characterizes ethics as a “systematic, rational inquiry into the nature of and the relationship between the right and good, or the product of such an inquiry” (personal communication, October 1994).

Such inquiry is frequently pursued through two major approaches: meta-ethics and normative ethics.<sup>1</sup> Meta-ethics focus on the analysis of the meaning and nature of man’s behaviors, while normative ethics focus on evaluating those aspects (i.e., identifying and assessing principles or criteria as a basis for judging what is moral, or what is good or bad). Referring to meta-ethics, Edel (1987) says they are “. . . Conceived as purely linguistic-logical analysis of moral discourse, a self-enclosed field quite apart from the “preaching” and “exhortation” of substantive or normative ethics” (p. 24). In contrast, normative ethics concentrate on norms, the generally accepted criteria used to evaluate the nature of behavior. They are described as “inquiry that attempts to answer the question of ‘which general norm for the guidance and evaluation of conduct are worthy of moral acceptance and for what reason’ ” (Beauchamp & Childress, 1994, p. 4).

Today’s ethics theories use either one or both of these two approaches to varying extents, thus creating a complex and broad base upon which current professional ethics are built. At the same time, ethics theories have tended to be reductionistic, typically positing one idea as key or central and then reducing everything else to that idea. Accordingly, sharp distinctions between, or separatist views of, different theories are cautioned against by some ethicists (e.g., Beauchamp & Childress, 1994). Indeed, a number of different theories have shaped current professional ethics, providing a rich texture for guiding professional practice.

### ***ETHICS THEORIES AND SYSTEMS: PAST AND PRESENT***

Contributions to today’s approaches have come from major cultural centers over many centuries, primarily out of efforts to regulate human behavior and advance societies. [Table 1](#), drawing on the content and organization of *A Companion to Ethics* (Singer, 1993), provides a sequence of historical development by noting civilizations that have influenced modern ethics thinking, beginning with the earliest contributions for which there is written record.

Current theory has evolved from ethical thought developed within these civilizations over a span of more than five thousand years, and



TABLE 1. Civilizations Influencing Modern Ethics Thinking

Ancient Ethics	Mesopotamia Egypt	4th millennium b.c.e.
Major Ethical Traditions	Indian Ethics Buddhist Ethics Classical Chinese Ethics Jewish Ethics Christian Ethics Islamic Ethics	
Western Ethics	Ancient Greece Medieval and Renaissance Modern Western Morals and Ethics	400-200 b.c.e. 11th-16th centuries 17th century to present time

contributions from Western ethics systems of the past 2400 years have had particular influence on today's ethical theories. Brief descriptions of the three major systems constituting Western ethics (Ancient Greece, Medieval and Renaissance, and Modern Western Morals and Ethics) are presented next (a) to elucidate the modern understanding of structure in ethics, and (b) to provide a background for understanding current professional ethics.

### ***Greek Influence***

Early Greek influence, based considerably on the thinking of Socrates, Plato, and Aristotle, continues to pervade Western ethics theories. The essential focus of Greek ethics centered on two concepts of human behavior that have been translated as happiness and virtue (from the Greek *eudaimonia* and *arete*). As Rowe (1993) has stated, to the Greeks “. . . it was the fundamental questions—about the sort of life one should live . . . and about the criteria to be used in answering questions of that sort—which really mattered” (p. 130). Among translated writings from that period, one of signal influence is Aristotle's (1925/1987) *Nichomachian Ethics*, written in the third century b.c.e.<sup>2</sup> Aristotle emphasized the rational person and the virtuous life: “we become just by doing just acts” (from Ross, 1925/1954, p. 29). Identifying two forms of moral virtue, intellectual and moral excellence, he admonished, “It makes no small difference, then, whether we form habits of one kind or of another from our very youth; it makes a very

great difference, or rather *all* the difference” (p. 29). The basic ethical guidance of Aristotle’s writings is that man should pursue good moral or good ethical activity and that such activities will lead to a virtuous or noble life. While his writings attend in detail to the nature of ethical behavior, they do not do so with regard to the kind of undergirding principles constituting the essence of many current theories.

### ***Medieval and Renaissance Influences***

Medieval and Renaissance influences come from philosophical thought covering a 500-year period from about the 11th to the 16th centuries. Medieval ethics theories can be characterized as pre-scholastic, paving the way for the scholastic theories that emerged in the Renaissance. The high point of medieval thinking was between the mid 1300s and mid 1400s (Haldane, 1993), during which time the primary architects were two religious orders, the Dominicans and Franciscans. Indeed, early medieval thinking was influenced substantively by theology, with church leaders or the clergy serving as the moral philosophers of that period. They were concerned with normative questions (e.g., which virtues and behaviors were optimal). Morality in this period has been described as “neither systematic nor interested in what are now characterized as *meta-ethical* issues, that is, issues about the content and logical character of moral concepts” (Haldane, 1993, p. 139).

By the 11th and 12th centuries, however, scholasticism, a highly systematized approach to ethics, had emerged. Saint Thomas Aquinas (1224-1274) stands out as the greatest of medieval and scholastic philosophers, according to Haldane (1993), who credits him as perhaps the greatest of all philosophers born between Aristotle and Descartes. He points to Aquinas’ genius as having been “in the capacity to see how Greek thought and Catholic doctrine might be synthesized into a Christian philosophy” (p. 141). Drawing on Aristotelian views, Aquinas developed a form of “consequentialist endaimonism,” purporting that right action is conduct that either tends to promote or actually realizes human flourishing (p. 141). He insisted on the observance of nature’s realities, believing that this approach to living would lead to God. His first principle regarding man’s behavior was that “good is to be done and pursued and evil avoided” (p. 135). In his emphasis on conscience as necessary for distinguishing bad courses of action from good, he relates conscience to the practical or

right reason as set forth by the Greeks. Beyond his significant substantive contributions, Aquinas developed a form of inquiry that involved the explication of questions on major ethical issues supported by arguments for and against them. Two significant Aquinas contributions are the *Summa Theologiae* and *Summa Contra Gentiles*.

### **Modern Western Ethical Thought**

Modern ethics and moral philosophy, especially in the Western world, have evolved considerably from Greek as well as medieval and Renaissance teachings. In the composite, they are quite diverse, and complex. Although most modern theories consider how to determine whether behaviors and thoughts represent the highest or greatest good, they do so in the context of strong challenge to earlier positions that either nature or God can function as the source of morality.

To facilitate an understanding of modern ethics thought, including changes from earlier theories, a chronological perspective on its development is useful. Schneewind (1993) has suggested three stages for organizing modern ethical thought, beginning in the 17th century and moving from (a) views of morality arising from an outside authority; to (b) views defending humans as self-governing or autonomous; and finally to (c) current views more concerned with public morality than with individual autonomy. Among major approaches to ethical inquiry emerging in the 300 to 400 years since the end of the Renaissance in the sixteenth century are those developed or expanded by several well-known theorists, whose works appeared prior to the twentieth century, including Kant, Bentham, and Mills. Following annotations of their contributions to ethics theories are those of more contemporary thinkers.

Immanuel Kant's deontological ethics judge the rightness of an action not only on external factors but on the action itself. In *Groundwork of the Metaphysics of Morals*, Kant (1948) challenged the notion that "action can only be right because it produces good" (Schneewind, 1993, p. 150). He emphasized freedom as essential in any action and individual autonomy as crucial to right actions: "The sole way in which we can be free . . . is if our actions are determined by something within our nature. Before we can know what is good, we must determine what is right" (Schneewind, 1993, p. 151). The central question for Kant is "what ought I to do?" (O'Neill, 1993, p. 175). His writings focus on identifying "the maxims, or fundamental principles of action, that we ought to

adopt” (p. 176) and stress the compelling obligation or duty to act in accord with these maxims.<sup>3</sup>

Kant’s overarching principle, which he identified as the Categorical Imperative or Universal Law, was that ethics must serve for all (i.e., they must be universal in nature and application). Moreover, the Categorical Imperative prescribes what individuals ought to do without reference to consequence. According to Kant, one should act with regard to only those maxims that would appropriately make universal law. Another Kantian principle emphasized respect for self and others. Arguing against indifference, Kant said: “failure to treat others or oneself as ends is once again seen as a failure of virtue or imperfect obligation” (cited in O’Neill, 1993, p. 179).

Jeremy Bentham (1748-1832), known as the architect of modern Utilitarianism, presented as his major contribution the view that ordinary people can get adequate guidance for action by consciously applying abstract moral principles. His work was complemented by that of John Stuart Mill (1806-1873), and, together, they are viewed as developing the “first detailed and systematic formulation” of Utilitarianism (Arras & Steinbock, 1995, p. 9). Their ethics relied on the principle of utility, or the “greatest happiness” principle, which stated that actions are right in proportion as they tend to promote happiness, and wrong as they tend to produce unhappiness. Referring to Mill’s writings, O’Neill (1993) states, “Common sense, he said, morality which we all learn as children, represents the accumulated wisdom of mankind about the desirable and undesirable consequences of actions. Hence we can and must live by it . . .” (p. 152).

Utilitarians focus on the consequence of actions, choosing between actions on the basis of the outcome that produces the greater happiness; thus, theirs is known as a consequentialist theory or a teleological one (from the Greek *telos* meaning ‘end’). Judging rightness of an action in terms of external goals, this theory is separated into three main sub-groups: act, rule, and preference utilitarianism, with more frequent focus on act and rule utilitarianism. Act utilitarianism involves the consequences of specific acts, whereas rules utilitarianism relates to the consequences of general policies. As Arras and Steinbock (1995) explain, both of these approaches use rules to guide behavior; however, rules are “summaries of past experiences” for act utilitarianism, serving as rules of thumb to help in maximizing happiness (p. 12). In contrast, rule utilitarians seek and rely on those rules, even when the application of them does not necessarily maximize happiness in a particular situation.

Edel (1987) points out that the Utilitarian emphasis on “the greatest happiness for the greatest number played a vital role in the ascent of a democratic outlook because it was directed against the dominance of the few” (p. 31). Hegel (1770-1831), opposing Utilitarianism, took the view that morality was influenced by the context or the community in which one lives (Schneewind, 1993). In fact, between the time of the Utilitarian writings from the late 1700s to the 1880s and more modern ones emerging in the last half of the 20th century, a number of challenges arose regarding the basic nature and assumptions of ethical and moral thought and also their applications. Summarizing from Schneewind (1993), questions were raised by the relativists as to whether or not there is such a thing as moral knowledge, and by the logical positivists from their position that any ethics beliefs not complying with scientific tests “are not simply false—they are meaningless” (p. 155). Existentialists, such as Nietzsche and later Sartre, who purported that morality is based solely on the free-choice of each person, challenged any ethics system tied to universal law.

Although Utilitarian thinking continues to influence ethics and moral philosophy, Arras and Steinbock (1995) point out four objections to it: (1) the value or claim that happiness is the greatest good; (2) the requirement to calculate the probable consequence of every action (since, as these authors point out, such a task is impossible); (3) the responsibility assigned (i.e., that who is responsible is as, or more, important than what the outcome is); and (4) its inadequacy as a theory, given its conflict with some basic moral intuitions or beliefs.

### ***Contemporary Theories***

*Meta-ethics.* The meta-ethicists, who contributed greatly to the field of ethics from 1930 into the 1970s (Edel, 1987), returned to the study of moral principles. John Rawls, in his influential book *A Theory of Justice* (1971), emphasized principles of right action. Arguing that the right is prior to the good, he assumed a pro-Kantian view against Utilitarianism. Maintaining that a moral person must be guided by a sense of justice, he saw moral feelings as normal and necessary for the development of rules (Wilson, 1993). Although he advocated considering the welfare of the deprived or disadvantaged as well as that of the majority, he wrote that, since the issues are so complex, justice can only be achieved through some kind of contractual agreement on how the basic societal institutions are to be structured. Schneewind (1993) notes that Rawls

tried to combine Hegelian notions regarding priority of the community with a reinterpretation of Kantian autonomy. Communitarians, opposing individualistic utilitarianism, purport instead the common good. Arras and Steinbock (1995) compare the two: "Where utilitarianism asks, 'Which policies will produce the greatest happiness, on balance, of all the individuals in society?' communitarianism asks, 'Which policies will promote the kind of community in which we want to live?'" (p. 27).

*Ethics of care.* More and more, since the 1970s ethics theories and writings have focused on social and political problems rather than on individual autonomy (Battin & Francis, 1988; Edel, 1987; Schneewind, 1993). Several recent developments in ethics thinking reflect this departure from liberal individualism, one of which is the emergence of the *ethics of care*. Indeed, some view today's ethics as being either (a) based theoretically on principles or (b) related to the ethics of care.

Beauchamp and Childress (1994) point to the emphasis in the ethics of care on traits valued in intimate personal relationships, among them sympathy, compassion, fidelity, discernment, and love. They explain that caring refers to "care for, emotional commitment to, and willingness to act on behalf of persons with whom one has a significant relationship" (p. 85), and they note that "the care ethic provides a needed corrective to two centuries of system-building in ethical theory and to the tendency to neglect themes such as sympathy, the moral emotions, and women's experiences" (p. 92). These authors also point out that, whereas traditional moral theory has focused on matters such as whether to lie or break confidentiality, the ethics of care stresses more "how actions are performed, which motives underlie them, and whether positive relationships are promoted or thwarted" (p. 86) than the actual decision made. Adson (1995) has described operative virtues imperative in ethical behaviors among healing professionals.

*Feminist ethics.* Congruent with the ethics of care has been the focus of recent moral thinking on concerns for underserved or less protected populations (e.g., minority groups). New approaches for understanding ethics have developed even for majority groups whose needs and issues had not been previously explored; for example, the development of ethics related to women, which received impetus from the feminist movement emerging in the 1960s. Since the sixties, with this impetus from the feminist movement, a number of theorists have contributed to the understanding of ethics regarding women's lives and experiences. Works such as the seminal thinking of Carol Gilligan (1982) raised awareness among ethicists and also among those interested in women's issues and

female development about the possible, or actual, differences between how men approach moral issues and how women do. Subsequently, various philosophical approaches to the understanding of ethics as related to women have evolved; based on them, an array of feminist theories have developed.

Feminist writings give considerable attention to terminology and definitions; for example, the very definition of “feminist” is regarded carefully as well as variously among different approaches. Susan Wolf (1996), a contributor to feminism and bioethics, suggests that any definition of feminist include as many facets as possible, and she submits this understanding: “. . . feminist work takes gender and sex as centrally important analytic categories, seeks to understand their operation in the world, and strives to change the distribution and use of power to stop the oppression of women” (p. 8).

In understanding different views of women’s ethics, it is essential to appreciate that feminine ethics (often equated with the ethics of care) differs from feminist ethics, the essence of which is described in Wolf’s quote. Both theories have contemporary relevance since not all women consider themselves or their theories feminist. In fact, some women do not seek to examine or end the oppression of women, while some men contribute significantly to feminist ethics and would describe themselves as feminists. As this distinction implies, feminist ethics has developed beyond Gilligan’s noble beginning, becoming a complex and diverse area of study. Because of this complexity and also the evolving nature of modern philosophy, it can seem difficult to identify essential themes and even more problematic to identify categories to guide the study of feminist ethics (Enns, 1992; Tong, 1996). One essential theme is presented by Jaggar (1991): “On the metaethical level, the goal of feminist ethics is to develop theoretical understandings of the nature of morality that treat women’s moral experience respectfully but not uncritically” (p. 99). She identifies, as well, two assumptions common to all feminist ethics: (a) that the subordination of women is morally wrong, and (b) that the moral experience of women should be treated as respectfully as the moral experience of men (p. 97).

In an effort to identify recurring themes in feminist thinking, Enns (1992) suggests four basic approaches: liberal, cultural, radical, and socialist feminism. Although elucidating with respect to essential or recurring themes, her analysis reflects the challenging breadth of feminist thinking, a characteristic that parallels the development of any ethics system.



*Applied ethics.* Applied ethics<sup>4</sup> has come into its own in the last few decades, with an emphasis on ethics related to professions, business, communities, and other systems or venues including public policy. Singer (1986) wrote,

To an observer of moral philosophy in the twentieth century, the most striking development of the past twenty years would not be any advance in our theoretical understanding of the subject, nor would it be the acceptance of any particular ideas about right and wrong. It would, rather, be the removal of an entire department of the subject: applied ethics. (p. 1)

The shift in emphasis to applied ethics was triggered by social and political developments, such as the Vietnam War, the civil rights movement, and student activism, which drew philosophers and ethicists into debate on the moral aspects of events like war, civil disobedience, and equality (Singer, 1986). The growing attention to professional ethics, one specific kind of applied ethics since the 1970s, is considered next.

### ***DEVELOPMENT OF PROFESSIONAL ETHICS***

The preceding historical overview notes the common threads as well as differences emerging during this development. It relates the contributions of various earlier systems to current Western ethics and moral thinking as they have developed in the last 300 to 400 years. This brief history underscores the centrality of each civilization's view of humanity and the world with respect to how each has determined moral and ethical thinking (i.e., to how each has viewed right and wrong). Whereas absolutists, for example, view behaviors generally seen as bad or negative (e.g., lying, stealing, killing) as never justifiable, relativists point to the meaning of a behavior, emphasizing the intention behind it. Generally, as noted above, ethics have been viewed by people as ways of behaving in accord with acceptable standards. As ethics thinking has developed, these ways of behaving and the standards that underlie them have become incorporated as basic principles into ethics theories.

Just as societies have produced their own ethical systems over the years, there has been in this century a developing interest among profes-



sions regarding ethics. Increased attention to applied ethics in the last several decades has contributed to the growing emphasis among the various professions in the Western world about ethics, which has led to the development of ethical principles or standards and ethical codes (although it is the case that some professions had begun such work early in the twentieth century). Professional ethics, then, is applied ethics developed to guide ethical behaviors or conduct within professions.

Most professions have now identified ethics principles and guidelines as important. Indeed, a profession's development and also its observance of an ethics code are seen currently as indicators of its having achieved a certain level of maturity. Not only are members of the profession guided by their code, and the next generation of professionals educated and trained by using the code to prepare for future professional activities, ethical codes also serve to inform the public on what they may expect regarding appropriate behavior from professionals. Health care ethics, for example, relies on fundamental principles to guide health care professionals with regard to what is right and what is wrong. Beauchamp and Childress (1994) have identified four clusters of such basic principles: respect for autonomy, nonmaleficence, beneficence, and justice. Edge and Groves (1994) identify seven basic principles of biomedical ethics: autonomy, veracity, beneficence, nonmaleficence, confidentiality, justice, and role fidelity.

Beyond observing their respective ethics codes, professionals across disciplines must also observe federal and state laws in carrying out their professional activities. Moreover, some argue that ethics guidelines should be observed by professionals in social as well as work contexts, a position reflecting the complexity of applying professional ethics.

### ***ETHICS IN PSYCHOLOGY***

In 1953, the American Psychological Association (APA) implemented psychology's first ethics code, and since then APA has established a record of ongoing review and revision to assure the currency and relevance of psychology's formally stated ethics principles. Indeed, some (e.g., Steininger et al., 1984) view APA as a pacemaker in its support of the development and revision of ethical guidelines for psychology. Revisions took place in 1977 and 1981 (APA, 1992), with an interim revision in 1989. The next revision, viewed as the first major revision since 1981 (Keith-Spiegel, 1994) took place in 1992. The most

recent revision was accepted by the APA Council in 2002 and is generally viewed as expanding, enhancing, and sharpening the 1992 revision. Although the first couple of revisions were not major, each revision has had a somewhat different orientation and/or additional emphases; and, as might be expected, each has received mixed reactions. For example, the 1992 revision consisted of two parts (see [Table 2](#)). The first part included the Preamble and the six General Principles, which are aspirational in nature. The second part provided enforceable standards and covered eight major areas.

The 1992 revision met considerable, indeed varied, reaction, as reflected in a series of articles published in 1994 in the journal *Professional Psychology: Research & Practice*. The lead article, authored by Keith-Spiegel (1994) is entitled, “The 1992 Ethics Code: Boon or Bane?” setting the tone for the series. The summary article, written by Bersoff (1994), acknowledges the increased breadth of the new code and the attention given to important issues underattended in earlier codes. Also noted by Bersoff, however, are several criticisms related to lack of clarity, the use of qualifying language, and an appearance of protecting the profession rather than the public. In closing, Bersoff encourages the profession, in its next code revision, to stick more simply with

TABLE 2. The Principles and Standards of the 1992 and 2002 APA Ethics Code

	1992 Code	2002 Code
<b>General Principles</b>	<ul style="list-style-type: none"> <li>A. Competence</li> <li>B. Integrity</li> <li>C. Professional and Scientific Responsibility</li> <li>D. Respect for People’s Rights</li> <li>E. Concern for Others’ Welfare</li> <li>F. Social Responsibility</li> </ul>	<ul style="list-style-type: none"> <li>A. Beneficence and Nonmaleficence</li> <li>B. Fidelity and Responsibility</li> <li>C. Integrity</li> <li>D. Justice</li> <li>E. Respect for People’s Rights and Dignity</li> </ul>
<b>Standards</b>	<ul style="list-style-type: none"> <li>1. General Standards</li> <li>2. Evaluation, Assessment, or Intervention</li> <li>3. Advertising and Other Public Statements</li> <li>4. Therapy</li> <li>5. Discussing the Limits of Confidentiality</li> <li>6. Teaching, Training Supervision, Research, and Publishing</li> <li>7. Forensic Activities</li> <li>8. Resolving Ethical Issues</li> </ul>	<ul style="list-style-type: none"> <li>1. Resolving Ethical Issues</li> <li>2. Competence</li> <li>3. Human Relations</li> <li>4. Privacy and Confidentiality</li> <li>5. Advertising and Other Public Statements</li> <li>6. Record Keeping and Fees</li> <li>7. Education and Training</li> <li>8. Research and Publication</li> <li>9. Assessment</li> <li>10. Therapy</li> </ul>

principles and to make absolutely clear its commitment to serve the public with integrity.

The 2002 revision continues to include the same basic components: an Introduction, a Preamble, five General Principles, and ten specific Ethical Standards (see [Table 2](#)). The Preamble and the General Principles remain aspirational in nature, and the Ethical Standards continue to present enforceable rules of conduct for psychologists. The 2002 APA code revision was developed to address some of the criticisms leveled against the 1992 revision. Indeed its development really started with acceptance of the 1992 code by APA's council of representatives at that time. The 2002 revision includes some additions to, and some deletions from the 1992 Code, examples of which are: social responsibility, sensitivity to the needs of students, and the acceptability of dual relationships. Each APA revision of the code has been developed to serve the profession and the public, as noted above, and each has been used as well in the education and training of future professionals.

## **CONCLUSION**

Current ethics focus on the meaning of ethical concepts and on how these concepts support moral judgment and moral behavior. They reflect a transition over the years from Aristotle's emphasis on the rational person and a virtuous life, with little attention to undergirding principles, to the development of more modern theories that, although they vary considerably in their emphases, rely considerably on basic principles and substantiating arguments for defining their essences. Each theory incorporates specific values and advances certain judgments essential in identifying and assessing moral behavior.

Modern theories continue to emphasize principles based on essential values that guide thinking about ethical issues and behaviors. Professional ethics, influenced considerably by both classical and modern theory, reflect these principles and values. They also respond to social and political developments, as demonstrated in the emergence of the ethics of care and feminist ethics in the past few decades with marked impact on professional ethics. Undoubtedly, modern theories will continue to change in response to emerging ethical and moral theories and also in response to social and political agendas, thus maintaining both currency and relevance.

## NOTES

1. Some writers identify additional approaches; for example, Beauchamp and Childress (1994) identify normative and nonnormative ethics, dividing the latter into descriptive ethics, which involve what people report regarding their beliefs and action, and metaethics, which involve the analysis of ethics thinking and methods.
2. Although the ten books making up Aristotle's *Nicomachean* volume consider in some detail various issues relevant to his overall view of ethics and moral behavior, it is thought to be incomplete (see reference in Ross [1925/1954] regarding the likely editing by Aristotle's son, *Nichomachus*).
3. O'Neill (1993) describes Kant's ethics as difficult and systematic; he advises that, when studying Kant's work, three sets of influences be kept in mind: Kant's own writing (in the 1780s and 1790s); Kant's ethics, writings by his critics, which are largely negative; and Kantian ethics, which include the two sets just noted plus a broader array of ethical views that have emerged out of Kant's own ethics.
4. Not all ethics scholars support the term *applied ethics*. See Beauchamp and Childress (1994) for further discussion on their preference for the term *practical ethics*.

## REFERENCES

- Adson, M. A. (1995). An endangered ethic. The capacity for caring. *Mayo Clinic Proceedings*, 70, 495-500.
- American Psychological Association. (1992). Ethical principles of psychologists and code of conduct. *American Psychologist*, 47, 1597-1611.
- American Psychological Association. (2002). Ethical principles of psychologists and code of conduct. *American Psychologist*, 57(12), 1060-1073.
- Aristotle. (1925/1987). *The nicomachean ethics*. New York: Oxford University Press.
- Arras, J. D., & Steinbock, B. (1995). *Ethical issues in modern medicine*. Mountain View, CA: Mayfield Publishing Co.
- Battin, M. P., & Francis, L. P. (1988). Foreword. In D. M. Rosenthal & F. Shehad (Eds.), *Applied ethics and ethical theory* (pp. vii-viii). Salt Lake City, UT: University of Utah Press.
- Beauchamp, T., & Childress, J. F. (1994). *The principles of biomedical ethics* (4th ed.). New York: Oxford University Press.
- Bersoff, D. N. (1994). Explicit ambiguity: The 1992 ethics code as an oxymoron. *Professional Psychology: Research & Practice*, 25(4), 382-387.
- Edel, A. (1987). Ethics applied or conduct enlightened? In J. Howie (Ed.), *Ethical principles and practices* (pp. 24-48). Carbondale, IL: Southern Illinois University Press.
- Edge, R. S., & Groves, J. R. (1994). *The ethics of health care: A guide for clinical practice*. Albany, NY: Delmar Publishers.
- Enns, C. Z. (1992). Toward integrating feminist psychotherapy and feminist philosophy. *Professional Psychology: Research and Practice*, 23(6), 453-466.
- Gilligan, C. (1982). *In a different voice*. Cambridge, MA: Harvard University Press.
- Haldane, J. (1993). Medieval and Renaissance ethics. In P. Singer (Ed.), *A companion to ethics* (pp. 133-146). Cambridge, MA: Basil Blackwell Ltd.
- Jaggar, A. M. (1991). Feminist ethics: Projects, problems, and prospects. In C. Card (Ed.), *Feminist ethics* (pp. 78-104). Lawrence, KS: University of Kansas Press.

- Kant, I. (1948). *Groundwork of the metaphysics of morals* (H. J. Paton, Trans.). London: Hutchinson (Original work published 1785).
- Keith-Spiegel, P. (1994). Teaching psychologists and the new APA ethics code: Do we fit in? *Professional Psychology: Research and Practice*, 25(4), 366-368.
- Lewy, C. (1985). *Ethics*. Boston, MA: Martinus Nyhoff Publishers.
- O'Neill, O. (1993). Kantian ethics. In P. Singer (Ed.), *A companion to ethics* (pp. 175-185). Cambridge, MA: Basil Blackwell Ltd.
- Rawls, J. (1971). *A theory of justice*. Cambridge, MA: Harvard University Press.
- Ross, D. (1925/1954). Introduction. In Aristotle's *The Nicomachean Ethics* (pp. v-xxiv). New York: Oxford University Press.
- Rowe, C. (1993). Ethics in ancient Greece. In P. Singer (Ed.), *A companion to ethics* (pp. 121-132). Cambridge, MA: Basil Blackwell Ltd.
- Schneewind, J. B. (1993). Modern moral philosophy. In P. Singer (Ed.), *A companion to ethics* (pp. 147-157). Cambridge, MA: Basil Blackwell Ltd.
- Singer, P. (1986). *Applied ethics*. Oxford, England: Oxford University Press.
- Singer, P. (1993). *A companion to ethics*. Cambridge, MA: Basil Blackwell Ltd.
- Steininger, M., Jewell, J. D., & Garcia, L. T. (1984). *Ethical issues in psychology*. Homewood, IL: Dorsey Press.
- Tong, R. (1996). Feminist approaches to bioethics. In S. M. Wolf (Ed.), *Feminism and bioethics: Beyond reproduction* (pp. 67-94). New York: Oxford University Press.
- Webster's II. (1988). *Webster's II new riverside university dictionary*. Boston, MA: Houghton Mifflin Co.
- Wilson, J. Q. (1993). *The moral sense*. New York: The Free Press.
- Wolf, S. M. (1996). *Feminism and bioethics: Beyond reproduction*. New York: Oxford University Press.

# Competence

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**SUMMARY.** Competence in mental health is explored in many roles, including that of researcher, author, teacher, supervisor, therapist, evaluator, consultant, forensic specialist, case manager, and administrator. It is viewed not only as a construct but also as an ongoing process within the individual. Five fundamental areas are examined: (1) Maintaining high standards of competence, (2) keeping within one's boundaries of competence and limitations of one's expertise, (3) maintaining competence in human diversity in practice and research, (4) engaging in continuing education in scientific and professional areas, and (5) protecting the welfare of others when standards are lacking. Guidance is also received from ethics codes, published standards of practice, federal and state laws, and institutional policies and regulations. [Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <<http://www.HaworthPress.com>> © 2005 by The Haworth Press, Inc. All rights reserved.]

**KEYWORDS.** Competence, standards, ethics, laws, guidelines, policies, professional roles

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