

## LACPA WORKING FOR YOU

# Ethical Issues Related to Treatment of Addictions

Pamela H. Harmell, Ph.D. and Therese M. Moriarty, Psy.D.

Substance abuse treatment is a \$35 billion a year industry with limited oversight (SAMHSA, 2012). According to the Center for Disease Control, there were 47,600 opioid-related deaths in the United States in 2017. In a recent study of 41,053 participants in the general population, those who reported weekly opioid misuse were 75% more likely to plan a suicide attempt and had attempted suicide at a rate 200% greater than non-opioid users. Unfortunately, addiction treatment has become a big business which often attracts predatory practice.

Bohnert et al (2017), reports numerous improper treatment practices including unnecessarily hefty legal fees, overcharging clients, improper billing and sexual exploitation of patients in both agencies and private practice. Inadequate or sub-standard credentials are common along with illegal “pay-for-patients” and referral fee practices.

Additional questionable practices include promising a “cure,” selling vitamins or supplements, and using brain scans which have little empirical support. Inaccurate advertising is used to “lure” clients into treatment facilities, which occurs less often in private practice settings.

### Applicable APA Ethical Principles and Code of Conduct

APA Ethics Code 6.04 Fees and Financial Arrangements, notes that psychologists’ fee practices remain consistent with law. Additionally, APA Ethics Code 6.07 states “when psychologists pay, receive payment from, or divide fees with another professional...the payment is based on the service provided... and not based on the referral itself.”

### Difference Between HIPAA and Federal 42 CFR Laws

Most are familiar with HIPAA and its relationship to the health care industry. However, psychologists are less familiar with 42 CFR (Code of Federal Regulations), which was developed as an extra layer of protection for individuals being treated for substance use disorders (SUD).

CFR 42 is a federal regulation that applies to records relating to the identity, diagnosis, prognosis, and treatment of patients in a substance abuse program. The regulations set forth by CFR 42 are more stringent than those set forth by HIPAA, and federal assistance is dependent upon successful adherence to these standards. CFR 42 applies specifically to people applying for treatment, currently in treatment, and patients formerly treated for SUD, including those deceased. At its most fundamental level, CFR 42 protects any information disclosed that identifies an individual directly or indirectly as having a current or past drug or alcohol problem. CFR 42 applies only to entities receiving federal assistance. When unsure whether HIPAA or CRF 42 applies in a setting, experts suggest using the more stringent law.

### CFR 42 Part 2 – New Additions

Both CFR and HIPAA permit programs to comply with state laws that require the reporting of child abuse and neglect. However, unlike HIPAA, Part 2 permits only an initial report of abuse or neglect and does not extend to follow up requests for further information without a signed consent or valid court order. In addition, AB575 (2018) mandates addiction counselors report elder and dependent adult abuse. These limitations of confidentiality must be explicit in informed consent.

Bohnert KM, Ilgen MA, Louzon S, McCarthy JF, & Katz IR. (2017). Substance use disorders and the risk of suicide mortality among men and women in the US Veterans Health Administration. *Addiction*. 112(7):1193-1201. doi: 10.1111/add.13774 Epub 2017 Mar 16. ▲