Ethical Considerations in Biofeedback & Neurofeedback



Southeast Biofeedback and Clinical Neuroscience Association Biofeedback and Neurofeedback:

Principles and Practices of Training Self-Regulation for Optimal Health
Sunday, November 5, 2017

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APA Statement



"Materials that are included in this course may include interventions and modalities that are beyond the authorized practice of mental health professionals. As a licensed professional, you are responsible for reviewing the scope of practice, including activities that are defined in law as beyond the boundaries of practice in accordance with and in compliance with your professions standards."

Presentation Overview



1: What are Ethics? What components of professional behavior and conduct are addressed in professional ethics and standards of practice? Scope of Practice. Client patient rights and responsibilities. Informed consent. Guidelines for participating in neurofeedback training.

- 2: Review of key ethical principles ISNR & BCIA
- 3: Open discussion, case examples, ethical dilemmas, Q & A.

To be good is noble, but to teach others to be good is nobler and less trouble.



Mark Twain

Disclosures



Leslie Sherlin

- Board Director for Biofeedback Certification Institute of America
- Research

 Board Director for the International Society for Neurofeedback and

Robert Longo

Board Director for the International Society for Neurofeedback and Research

Relativity applies to physics, not ethics



Albert Einstein

Description



- Attention to ethics in clinical practice is assuming a larger role in all that we do to provide quality health care services.
- The goal of this lecture is to review the ethical imperatives inherent in biofeedback service delivery through lecture, case study and discussion.

Objectives



- At the completion of the session, participants will be able to:
 - define health care ethical concepts,
 - discuss the philosophical underpinnings of health care concepts,
 - relate health care ethical concepts to biofeedback service delivery, including competency, treatment evaluation and marketing of services.

What is an ethical situation?



After drafting a will for an elderly client, the lawyer announced a fee of \$100.

The client gave the lawyer a \$100 bill.

After the client left, the lawyer saw that the client had in fact paid \$200, as two of the client's \$100 bills had stuck together.

Looking at the \$100 overpayment, an ethical question arose in the lawyer's mind: "Do I tell my partner?"

What is a Code of Ethics



A professional code of ethics prescribes how a professional pursues his/her common ideal so that each may do the best she/he can at a minimal cost to one's self and those receiving professional services. The code is to protect each professional from certain pressures (for example, the pressure to cut corners to save money) by making it reasonably likely (and more likely then otherwise) that most other members of the profession will not take advantage of one's good conduct.

http://ethics.iit.edu/index1.php/Programs/Ethics%20Across%20the%20Curriculum/Professional%20Ethics Retrieved 4/15/2011 *Illinois Institute of Technology* y

Ethics



What's the big deal?

When evaluating one's goals and objectives, a vital question must be asked: What is your highest aspiration?

-0000

Wealth

∞Fame

Knowledge

Popularity

AIntegrity

Integrity



If integrity is second to any of the alternatives, then it is subject to sacrifice in situations where a choice must be made. Such situations will inevitably occur in every person's life.

Introduction

Concern for character has flourished in the West since the time of Plato, whose early dialogues explored such virtues as courage and piety.



Plato

Two Moral Questions that lead us to ethical behavior



- Our concern today is with two questions
- The Question of Character

 What kind of person ought I to be?
- The Question of Action:

 How ought I to act?

Ethical Guidelines



ethics and standards of practice. In addition, our organizations may have codes of ethics or codes of conduct or both. The underlying ethical premise is that the professional service being provided will "do good" and not do harm. However, each of us may interpret the phrase "not do harm" in our own way, based on our own predispositions and values.

http://www.ncaassociates.com/pdf/RCCM%20Spr05%20Newmanpdf

Competent Professionals



Uphold two ethical principles:

- 1) Beneficence, which is attempting to do only good for the client
- 2) Non-maleficence, which is never doing harm.

Effective practice requires intellectual and emotional competence.

An Analogy from the Criminal Justice System



- As a country, we place our trust for just decisions in the legal arena in two places:
 - Real Laws, which provide the necessary rules
 - Reople, who (as judge and jury) apply rules judiciously
- Similarly, ethics places its trust in:
 - Theories, which provide rules for conduct
 - Virtue, which provides the wisdom necessary for applying rules in particular instances



- The Golden Rule: dating back to 500 B.C. (Confucius): "What you do not want done to yourself, do not to others"
 - Remises:
 - Concern for Others
 - Treating Others Better Than They Would Treat You
 - Problem: Conflicting Interests; Competing Beneficiaries



- Kant's Categorical Imperatives: absolute moral duty based on principle; not the consequences it produces
 - Remises:
 - No Exceptions, No Excuses
 - Rule of Universality
 - Rule of Respect
 - Problem: Irresolvable conflicts when faced with opposing ethical values



- Consequentialism / Utilitarianism : holds that the ethical merit of an act is determined by the consequences it produces
 - R Premises:
 - Principle of Utility & Greatest Good/Number
 - Act Utilitarianism
 - Rule Utilitarianism
 - Problem: Easily manipulated with self-serving rationalizations



Josephson Model: a hybrid of the previous three models

Remises:

- All decisions must take into account and reflect a concern for the interests and well-being of all others
- Ethical values & principles always take precedence over their non-ethical alternatives
- It is ethically proper to violate an ethical principle when it is clearly necessary to advance another ethical principle, which will produce the greatest balance of good in the long run.

The Ethical Decision-Making Process



Characteristics of Individuals

- * Individual Differences
- * Cognitive Biases

Moral Awareness → Moral Judgment → Ethical Behavior

Characteristics of Organizations

- * Group & Organizational Pressures
- * Organizational Culture

Hippocratic Oath – Do No Harm



The origin of the phrase is uncertain. The Hippocratic Oath includes the promise "to abstain from doing harm."

Primum non nocere is a Latin phrase that means "**First**, **do no harm**". The original text of the Hippocratic Oath is usually interpreted as one of the first statements of a moral of conduct to be used by physicians, assuming the respect for all human life.

http://en.wikipedia.org/wiki/Hippocratic_Oath

Common Rationalizations for Unethical Behavior



- ™ If It's Necessary, It's Ethical
- If It's Legal and Permissible, It's Ethical
- □ I Was Just Doing It For You
- □ I'm Just Fighting Fire With Fire
- It Doesn't Hurt Anyone, & Everyone's Doing It
- Registration It's O.K. If I Don't Gain Personally
- □ I' ve Got It Coming (I Deserve It)

Who makes unethical choices?



Those who:

- Are unaware or misinformed with regard to the ethical standards.
- Representation of competence.
- Are insensitive to the needs of their clients or students or to the dynamics of a situation.
- Are exploitative.
- Rehave irresponsibly

Who makes unethical choices?



R Those who:

- Seek vengeance against perceived harms to themselves by clients or other professional entities.
- Are fearful
- Rationalize inappropriately
- Are usually competent and aware but "slip", lose sight of a goal, or become momentarily distracted.

Why Follow Ethics And Standards



- > Protect patients
- > Protect professions
- Quality of services
- Defining professional expectations
- > Practical and ethical guidelines
- > Address problems when they occur

BCIA



Professional Standards and Ethical Principles of Biofeedback

Preamble



For the purposes of this document, the term BCIA professionals refers to BCIA certificants and those who have filed a formal application for BCIA certification. Because the Biofeedback Certification Institute of America (BCIA) and its professionals are committed to the protection of human rights, they strive to maintain the dignity and worth of the individual while rendering service, conducting research, and teaching others. They operate within the BCIA Professional Standards and Ethical Principles (PSEP). They strive to provide the highest quality of service and carefully differentiate between empirically validated and experimental procedures. They hold themselves responsible for their actions and make every effort to protect their clients' welfare. Finally, they limit their services to those areas in which they have expertise and exemplify the values of competence, objectivity, freedom of inquiry, and honest communication.

Preamble



The PSEP is intended to guide all BCIA professionals, who commit themselves to adhere to these Principles as well as to the Principles stated in their licensing act. A copy of the PSEP will be provided to all BCIA certification applicants and will be available on the BCIA website. The PSEP are intended to educate and guide professionals to prevent ethical misconduct and should be applied with professional maturity.

Purpose



The PSEP consist of guidelines for professional biofeedback practice that are not exhaustive and do not limit BCIA professionals' ethical responsibilities. They highlight areas in which ethical concerns often arise. For BCIA professionals who practice under a state and/or national licensing act, the PSEP are not meant to replace, but to confirm and reinforce, professional ethical guidelines.

Scope



- 1. The PSEP should be followed by BCIA certificants, applicants, and their staff who help provide biofeedback and related services.
- 2.BCIA professionals' ethical conduct is measured by the PSEP, state and/or national licensing acts, and the ethical guidelines of their professional membership organizations where applicable.
- 3.A violation of the PSEP may lead to disciplinary action, decertification, and/or a complaint to the appropriate state licensing/certifying agent or the individual's professional association.

Responsibility



In utilizing biofeedback, BCIA professionals adhere to the highest standards of their profession. They behave responsibly; accept responsibility for their behavior and its consequences; ensure that biofeedback is used appropriately; and strive to educate the public concerning the responsible use of biofeedback in treatment, training, and research.

Responsibility



- BCIA professionals are responsible for adhering to the ethical principles of their profession; the local, state and national laws relevant to their professional activities; and the PSEP.
 - 1.As practitioners, BCIA professionals recognize their obligation to help clients acquire knowledge and skill through training that represents the best professional practice and that is delivered in the most cost-effective manner.
 - 2.As teachers, BCIA professionals are committed to the advancement of knowledge. They encourage the free pursuit of learning by their students and present information objectively, accurately, and completely.
 - 3.BCIA professionals guard against misuse of their influence since they realize that their professional services impact the lives of their clients and others.
 - 4.BCIA professionals should only continue biofeedback services as long as their clients benefit from training. If their clients require an intervention which they are not qualified to provide, they should help them obtain these services and should never abandon them.

Competence



- BCIA professionals recognize the boundaries of their competence and only use those biofeedback and adjunctive techniques in which they have expertise.
- They also recognize the proper limitations of biofeedback and inform all concerned parties about the clinical utility of particular procedures, possible negative effects, and whether the procedures are experimental or clinically verified.
- BCIA professionals maintain current knowledge of relevant basic and applied biofeedback research.

Competence



- 1.BCIA professionals should operate within applicable local, state, and national laws as well as in accordance with the ethical principles of their profession. BCIA certification is not a license to practice independently.
- 2.BCIA professionals who treat medical or psychological conditions must demonstrate professional competence as defined by applicable local, state, and national licensing/credentialing laws.
- 3.It is illegal to treat medical or psychological conditions without appropriate supervision if you are not licensed or credentialed to do so.
- 4.BCIA professionals who are not appropriately licensed or credentialed, and who wish to treat medical or psychological conditions, must acquire appropriate supervision according to applicable state and national laws and professional codes/regulations.
- 5.BCIA professionals must accurately describe their qualifications, training, experience, degrees, and/or specialty.

Ethical Standards



BCIA professionals are sensitive to prevailing community norms and recognize that the violation of these standards may jeopardize the quality of their services, completion of professional responsibilities, and public trust in biofeedback.

Ethical Standards



- 1. Certificants may not resign their BCIA certification during an investigation of ethical behavior relating to biofeedback.
- 2.BCIA professionals will only charge for services actually provided by them or by those under their legal supervision. In billing third party payers, practitioners will comply with the rules and regulations of the third- party payer, including clearly specifying which services the practitioner provided directly and which were supervised, and providing information regarding their qualifications (e.g., degree, license, and certification).
- 3.BCIA professionals will clarify any potential or actual conflict of interest that exists when serving clients, conducting training or research, or when engaged in any other professional activity (such as a workshop in which applicant or certificant-presenters recommend their own product).
- 4.BCIA professionals will obtain informed consent from clients for all assessment and treatment procedures, billings and fee collections, and procedures to protect confidentiality, as well as conditions that limit confidentiality.
- 5.BCIA professionals will obtain informed consent from clients for all experimental treatment procedures.

Public Statements



BCIA professionals recognize that all public statements, announcements of services and products, advertising, and promotional activities concerned with biofeedback should help the public make informed choices. Statements about biofeedback must be based on scientifically verifiable information, including recognition of the limits and uncertainties of such data. BCIA professionals must accurately represent their qualifications, affiliations, and positions, and must not mislead the public.

Conflict of Interest



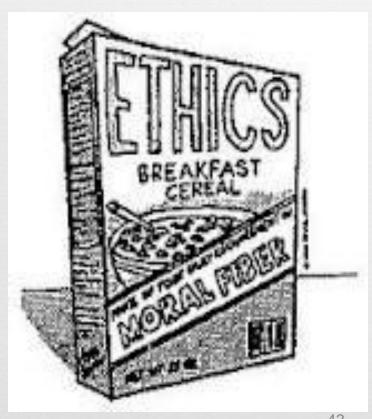
Public Statements



- 1.BCIA professionals shall accurately represent the efficacy of biofeedback procedures for all disorders or conditions being treated.
- 2.BCIA professionals must use accurate information in statements about biofeedback when providing services, marketing a product, and in all other professional activities. They consider the context and source requesting information when making a public statement and guard against misrepresentation.
- 3.BCIA professionals recognize that they may have personal interests when they promote biofeedback activities and agree that these interests must be superseded by professional objectivity, concern for clients' welfare, and the PSEP and the standards of other professional societies to which they belong. When a question arises as to their objectivity, they seek professional guidance from appropriate professional sources like BCIA and their professional associations.
- 4. Announcements and listing of services and training offered by BCIA professionals, such as service directory listings, letterheads, business cards, and marketing brochures and websites, should be accurate and designed in a professional manner, and should adhere to the guidelines of their professional associations.

Advertisement should be accurate and designed in a professional manner





Unrealistic claims...

Cure

Guarantees

Promises

Confidentiality



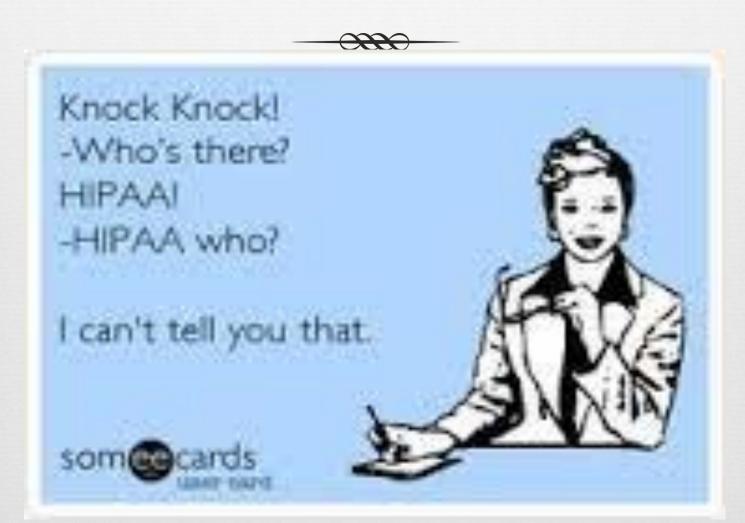
BCIA professionals protect the confidentiality of their clients' data. They may only release information with the written consent of the client or the client's legal representative, or when nondisclosure would endanger the client or others.

Confidentiality



- 1.BCIA professionals specify in advance the legal limits of confidentiality to clients, particularly when collecting fees and complying with mandated reporting laws that concern abuse or neglect. Confidentiality applies to clients in treatment, students in training, and research participants.
- 2. Client records are stored and destroyed in ways that maintain confidentiality. BCIA professionals will keep records for the time required by applicable national and state laws.

HIPAA

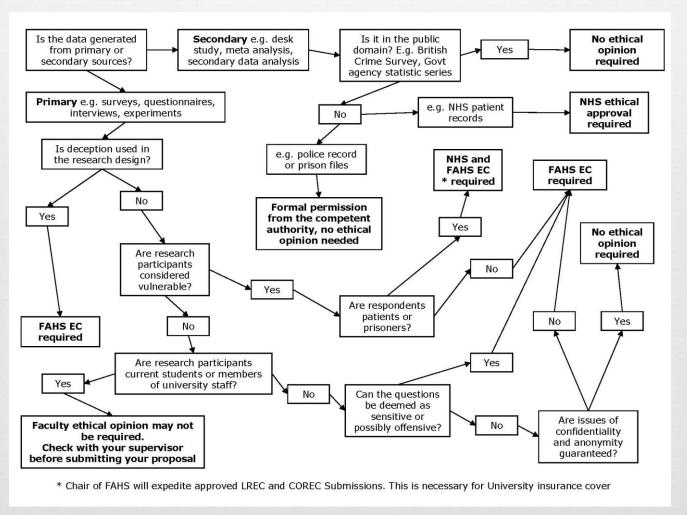


Protection of Client Rights and Welfare



BCIA professionals protect the welfare of clients, students, research participants, and other groups with whom they work. They inform all consumers of their rights, provide them with a written statement of these rights, fully inform them as to the purpose and nature of procedures to be implemented, and assure that clients' rights are not abridged.

Informed Consent should be clear and understandable



Protection of Client Rights and Welfare



- 1.Sexual intimacy with current clients, trainees, supervisees, and research subjects is prohibited. BCIA professionals should follow the applicable guidelines of state/national law and their professional associations regarding when sexual intimacy is permissible after termination of a professional relationship.
- 2.In attaching biofeedback sensors, professionals assure that the privacy and rights of the client are protected and respect the feelings and sensitivities of their clients. Caution and common sense are required whenever an applicant or certificant has physical contact with clients. Any physical contact requires the permission of the client. Touching of sensitive body parts, such as breasts or genitals, is not acceptable in biofeedback practice, with the exception of a medical exam or medical treatment provided by a licensed medical practitioner.
- 3. Special care is taken to protect the rights and consent of children receiving biofeedback training or when involved as research subjects.
- 4.BCIA professionals do not discriminate against or refuse services to anyone on the basis of sex, sexual orientation, sexual identity, race, religion, disability, or national origin.

Professional Relationships



BCIA professionals recognize the interdisciplinary nature of biofeedback and respect the competencies of colleagues in all professions. They strive to act in accordance with the obligations of the organizations with which they and their colleagues are associated.

Professional Relationships



- They:1.should only treat medical disorders if clients have first received a medical evaluation and/or are under the care of a physician.
- 2.should strive to be objective in their professional judgment of colleagues and to maintain good professional relationships even when opinions differ.
- 3.should avoid dual relationships with their clients that could impair their professional judgment or increase the risk of exploitation and must never exploit clients, students, supervisees, employees, research participants, or third party payers.



BCIA professionals conduct research to advance understanding of human behavior, to improve human health and welfare, and to advance science. They carefully consider alternative research methods and assure that in the conduct of research the welfare of research participants (human and animal) is protected. All researchers will adhere to state and national regulations and the professional standards of their profession with regard to the conduct of research. Research involving humans may be subject to regulation by local institutional review boards and to state and/or national regulations. Animal research may be subject to local institutional animal care and use committees and must comply with state and national policies on use of animals.



- 1. The results of research will be released in a manner which accurately reflects research results and only when the findings have satisfied widely-accepted scientific criteria. Any limitations regarding factors such as long-term effects and population samples will be explicitly stated. All descriptive materials distributed regarding clinical practice will be factual and straightforward.
- 2. The individual researcher is responsible for the establishment and maintenance of acceptable ethical practice in research. The investigator is also responsible for the ethical treatment of research participants by collaborators, assistants, students, and employees, all of whom also incur similar obligations. Information obtained about research participants during the course of an investigation should be confidential. When the possibility exists that others may obtain access to such information, ethical research practice requires that this possibility, together with the plans to protect confidentiality, be explained to the participants as part of the procedure for obtaining informed consent.



3. Ethical practice requires that the investigator inform participants of all features of the research that might be reasonably expected to influence their willingness to participate and to explain all other aspects of the research about which the participant inquires. BCIA professionals protect participants from physical and psychological discomfort, harm, and danger. If the risk of such consequences exists, investigators are required to inform the participant of that fact, secure informed consent before proceeding, and take all possible measures to minimize distress. A research procedure may not be used if it is likely to cause serious and lasting harm to participants. As participants' risk increases, so does the responsibility of the researcher to protect the research participants. Written informed consent or a verbal and written summary of the research is customary for most kinds of nonsurvey research (including a signature by the research participant in both cases).



- 4. The investigator must respect an individual's freedom to decline to participate in research or to discontinue participation at any time. The obligation to protect this freedom requires special vigilance when the investigator has power over the participant. When a prospective participant is a minor, investigators should seek the child's assent.
- 5. After research data are collected, the investigator must fully debrief participants about the nature of the study. When scientific or human values justify delaying or withholding information, the investigator acquires a special responsibility to assure that the participant is not harmed.

Adherence to Professional Standards



BCIA professionals should be knowledgeable about efficacious interventions and adhere to the professional standards associated with these techniques.

Additional Standards



BCIA professionals who hold a state or national license should adhere to the guidelines of one's professional licensing act. Additional guidance can be found in the ethical standards of the American Psychological Association, American Psychiatric Association, the American Nurses Association, the American Physical Therapy Association, the American Medical Association, the American Dental Association, the American College of Sports and Rehabilitation, the American Academy of Physical Medicine & Rehabilitation, and their international counterparts.

BCIA Role in Violations



- BCIA's certificants must carry an appropriate license/credential valid in the state of practice in a BCIA-approved health care field when treating a medical or psychological disorder.
- If unlicensed, the certificant must work under appropriate supervision. The licensing body of your biofeedback provider has legal jurisdiction over his or her clinical practice.
- Because BCIA has no legal jurisdiction over our certificants' professional practice, we will not review written or verbal complaints until the options outlined above have been exhausted and the appropriate state regulating bodies have reviewed and reached a decision on the case.
- If the appropriate regulating body confirms a complaint dealing with the professional biofeedback practice of one of our certificants, we will seriously consider its findings, and our response may range from provider education/supervision to revocation of certification.

Being an Ethical Provider



- A defendant in a lawsuit involving large sums of money was talking to his lawyer. "If I lose this case, I'll be ruined." "It's in the judge's hands now," said the lawyer.
- "Would it help if I sent the judge a box of cigars?"
- "Oh no! This judge is a stickler for ethical behavior. A stunt like that would prejudice him against you. He might even hold you in contempt of court. In fact, you shouldn't even smile at the judge." Within the course of time, the judge rendered a decision in favor of the defendant.
- As the defendant left the courthouse, he said to his lawyer, "Thanks for the tip about the cigars. It worked!"
- "I'm sure we would have lost the case if you'd sent them" said the lawyer.
- "But, I did send them" said the defendant.
- "What? You did?" said the lawyer, incredulously. "Yes. That's how we won the case." "I don't understand," said the lawyer.
- "It's easy. I sent the cigars to the judge, but enclosed the plaintiff's business card."

Being an ethical Provider



Nine core ethical principles that should guide behavior



Real Doing no harm (malfeasance).

ca Commission

CR Ommission



Respecting autonomy.

Rights of individuals to decide



- Renefiting others.
 - All decisions should have a positive effect on others
 - Addressing the conflict with principle #1 and #2



Reing just

- Actions should be fair and equitable
- ™ Do unto others...



- Reing faithful.
 - Fidelity, loyalty, truth, promise keeping an respect.
 - Avoiding misleading by being straightforward and candid (e.g. autism & TBI)



- According dignity.
 - ∇iew others as worthy of respect
 - Increases the probability that ethical decisions will be made.



- Treating others with caring and compassion.
 - Be considerate and kind BUT, maintain professional boundaries



- Representation Pursuit of excellence.
 - Maintaining competence, doing your best
 - Provide barriers against unprofessional and ethical actions (don't set yourself up for failure)



Accepting accountability.

Who is Unethical?



- There are extreme violations but most are:
 - CR Unaware or misinformed
 - Representation Practice outside competence
 - Insensitive to the needs of client
 - ca Exploitive
 - Behave irresponsibly
 - Seek vengeance
 - ™ Fearful (cover up)
 - Rationalize inappropriately
 - Real Lose sight of goal or become distracted

Ethics are Our Moral Compass





Informal Peer Mentoring/Obligation to Intervene



- We are required to informally monitor colleagues.
- Refer to ethics codes to determine action (notification)
- Only when informal communication does not work should you pursue ethics committees

Competence & Credentials



- Standards of practice
 - New technique despite experience
 - New modality

Maintaining Competence



What is the half life of your training

i.e. doctor of psychology is 10 years

™ Is keeping CEU up to date enough?

Therapeutic Contract Ingredients



- Set goals of treatment working toward?
- Discuss the process of treatment

 - ™ The client rights
 - ca risks
- Address the process of therapy
 - What to expect (fees method of payment)
 - Techniques used and provider ability

Terminating



When?

What if you do vs. what if you don't?

Marketing/Presenting to the Public



What do you say about what you offer and what it might do?

Case Examples



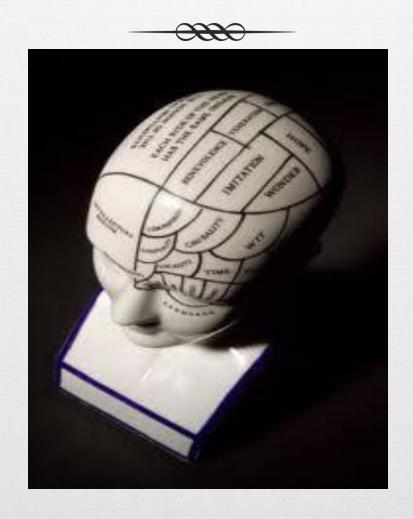


Recent Cases and Issues



- 1. Cease and Desist Order in Iowa-Scope of practice
- 2. The Italian Job Inappropriate Touch
- 3. The Technician A patient with a stroke.
- 4.. Do we terminate treatment when there is non-compliance?

Use your head



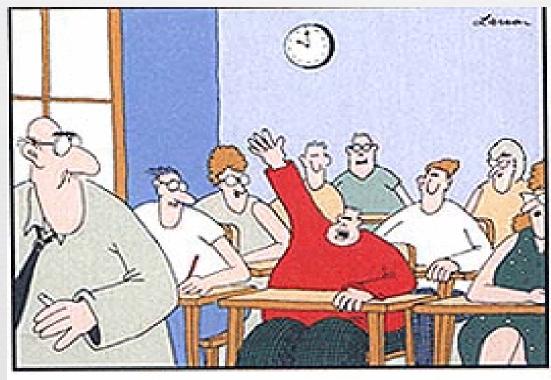
Questions?





The End





"Mr. Osborne, may I be excused? My brain is full."

Suggested reading/references



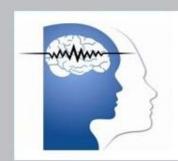
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Suggested reading/references



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- Regulations). (A 343401) (Federal

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