
Duty to Report Colleagues Who Engage in Fraud or Deception

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Most of this primer focuses on dealing with potentially unethical behavior, serving as a guide for the many ways in which you may interact with patients. What should you do, however, if concern is raised about the behavior of another psychiatrist?

First, you must be familiar with any legal mandates regarding observations of other physicians. Most states have statutes that require physicians to report observed or even suspected impairment in other physicians to the licensing board for evaluation. Statutes vary widely—most emphasize impairment (e.g., substance abuse or mental or physical illness that affects the ability to practice), but others are broader in terms of poor practice standards or even serious boundary violations, such as sex with patients.

Cases of physician impairment often must be reported to a special committee of the licensing board focused on assessment and rehabilitation, when possible, or on punitive action. Again, statutes vary, but in some states, you may be able to make anonymous reports of such concerns.

Regardless of local law, you also have ethical responsibilities. Principle 2 of *The Principles of Medical Ethics With Annotations Especially Applicable to Psychiatry* (American Psychiatric Association 2001) states in part, “A physician shall...strive to expose those physicians deficient in character or competence, or who engage in fraud or deception.” This goes beyond the usual responsibility established in law.



Laws and licensing boards generally focus on issues of public safety; ethics codes and committees set forth and attempt to maintain the highest standards of the profession. These standards tend to be less absolute and more graded than laws or board regulations, requiring more assessment and thoughtful case-by-case evaluation, as illustrated by the other chapters in this primer.

The idea of “reporting” is often uncomfortable, and, in some cultures and countries, reporting other colleagues is not acceptable at all. Every physician has had some experience with adverse outcomes, even in situations of the best informed and most carefully considered and provided treatment. Medicine remains art as well as science and is filled with anxiety-provoking uncertainty. The variables that affect patient well-being are much more numerous than the treatment offered by the physician; yet the recent climate in the United States for litigation or other action often seems not to recognize such facts. These considerations and others, such as a lack of status relative to a supervisor or a more experienced or renowned colleague, can all impede the physician in following the ethical mandate to intervene when there are concerns.

It is important to remember that professions hold special knowledge not usually shared or understood by those outside the profession. Not only is special knowledge part of the profession, but the way the knowledge is used in practice is also part of the standards or unique understanding of the profession’s members. Because the standards come from within, it is the members of that profession who are best positioned to establish and maintain or enforce them—a responsibility for significant self-regulation. Thus, the responsibility for self-regulation goes beyond the professional regulations of initial licensing, periodic recredentialing, or specialty certification. With the proliferation of medical advances, many of these regulatory processes are more focused on information than on the manner in which the information is applied or used. Without day-to-day, colleague-to-colleague, and self-to-self attentiveness to aspects of practice broader than specific bits of knowledge, medicine approaches becoming more of a trade than a profession, and the quality of patient care can decline. When an unethical physician continues to practice, this not only harms the patient or patients, but damages the profession as a whole and all potential future patients, who may be reluctant to seek care.

So what does “reporting” or, in the words of Principle 2, “striving to expose” (American Psychiatric Association 2001) mean on a

more practical level? The concept is broader than filing a report with a licensing board or ethics committee; “reporting” may in some ways be a misleading shorthand for the variety of responses to a situation of concern. Reporting should encompass actions from a private discussion with a colleague; to clinically appropriate work with a patient who expresses issues arising from prior treatment; to referral of a concern to a departmental committee, a supervisor, or the local American Psychiatric Association (APA) ethics committee for processing. Again, when there are legal mandates, they must also be followed.

Information that creates concern may come from many sources—personal observation or other direct knowledge, media reports, published reports of licensing boards, or statements of patients or even other professionals. Each of these would suggest different initial responses. For example, if you are directly aware that a fellow psychiatrist is having an affair with a patient or former patient, this should be reported to the local APA ethics committee. In many states, such behavior is now also, by statute, criminal and may trigger mandatory reporting to the licensing board. Publications of board findings create an obligation, usually within the local APA leadership, to determine whether a violation of ethical standards occurred. Media information cannot be presumed accurate, but if it is of concern, it should generate some action for further evaluation of the reported conduct. Expressions of concern by other professionals might initially result in a discussion of standards to help them decide whether to pursue some action of their own. (In terms of APA procedures or licensing board investigations, anyone may be a complainant. *The Principles of Medical Ethics With Annotations Especially Applicable to Psychiatry* includes a section that describes the APA’s procedures for handling complaints of members’ unethical conduct.)

Your own knowledge of consistent, troubling reports over time might be more likely to generate an obligation to speak with the colleague in question or to otherwise attempt to acquire more, or more direct, information. Statements by patients, especially about prior treatment relationships, are often the most difficult to evaluate and require strong clinical skills in assessing the likely accuracy of the information, the potential contribution of past or present psychopathology, and the not-infrequent request that you “not tell anybody about what happened.” Obtaining further information or taking action may be limited by constraints of the patient’s right to confidentiality.



Whereas the APA Code of Ethics establishes duties to patients, to society, and to better the profession, when these duties conflict, they should always be resolved in favor of the patient. If appropriate, clinical work with the patient may include helping the patient recognize options for his or her own action and may help the patient reach a decision regarding this. Similarly, information gained about a physician in a confidential relationship with him or her should not be shared unless an apparent severe risk exists for the public or other members of the profession, generally cases in which there would be a legal mandate to report.

Issues of physician competency, although generating ethical concerns, should not be determined by any individual, but by an appropriate peer review board. In addition, in carrying out your obligation to assist in maintaining the highest professional standards, you should keep in mind the additional ethical mandates in *The Principles of Medical Ethics With Annotations Especially Applicable to Psychiatry*: “deal honestly with...colleagues” (Principle 2) and “respect the rights...of colleagues” (Principle 4) (American Psychiatric Association 2001).

Some cases of ethical violations will be clear, with a personal observation of another physician’s impairment or egregious exploitation; however, in any case of concern, some systematic analysis may be helpful. The following suggestions are proposed to help work through any instance of concern over another psychiatrist’s practice or behavior.

First, know your state’s laws and licensing board’s regulations as well as resources. Failure to follow mandated reporting requirements can result in penalties against you. Resources such as impaired physicians’ committees can assess and help a colleague to return to good practice rather than being punitive or letting impairment go unaddressed until something quite serious occurs.

Second, whenever concerns arise, develop and understand them. Consider factors such as why the concern is occurring, evaluate the source of the information, attempt to increase or confirm the information, determine what sort of violation of standards might be involved, and be attentive to any personal values or emotions aroused by the information. For example, are there reasons you are extremely reluctant to address the situation; are your concerns related more to differences with the colleague in style, culture, or treatment orientation than to clear issues of ethical practice?

Third, attempt to identify all potential options for action: discussion with the physician in question; consultation with other colleagues while maintaining the anonymity of the one about whom you are con-

cerned; reports of concern to those in a supervisory role such as a clinical supervisor, residency director, or department head; clinical interventions with a patient; or actual reports of concern to ethics committees, licensing boards, or other peer review bodies. Identify the competing interests inherent in each option and, again, identify personal reactions to each potential option and the impact these may have on the decision-making process.

Fourth, choose an initial option, recognizing that you have identified still other alternatives. Recognize that the goals are maintaining the highest standards of the profession and sustaining trustworthiness to current and all potential future patients.

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Reference

American Psychiatric Association: *The Principles of Medical Ethics With Annotations Especially Applicable to Psychiatry*. Washington, DC, American Psychiatric Association, 2001

