

Common Ethical Dilemmas and How to Address Them

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Disclosure Information


Financial

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Nonfinancial

Former member/Chair ASHA Board of Ethics; Former Louisiana licensure board member/Chair; ASHA Code of Ethics Revision Task Force Member (2022)

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Principle of Ethics IV, Rule K (ASHA Code of Ethics)



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Adapted from Rodgers, T. (2021, December). Ethical considerations and constraints in today's practice environment [Webinar]. Speechtherapypd.com

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TOUGH DECISIONS AHEAD

Ethical dilemmas are a common and difficult part of the practice of speech-language pathology and audiology.

Anderson, N. & Chabon, S. (2007). Providing ethically responsible services to children from culturally and linguistically diverse backgrounds. Seminar presented at ASHA Schools Conference, Pittsburgh, Pennsylvania.

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Common Themes of Ethics Inquiries (ASHA; 1500+ annually)

- Documentation lapses
- Billing and coding
- Conflicts of interest
- Social media use
- Unlicensed practice
- Employer demands



- Supervision issues
- Sexual misconduct
- Client abandonment
- Impaired practitioners
- Confidentiality
- Failure to disclose

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ASHA SLP Health Care Report: 2023 Survey

- **27.6%** of respondents employed in **SNFs**, **9.6%** in a **rehab hospital**, and **8.7%** in **home/health** indicated that they had felt pressured by an employer or supervisor to **discharge inappropriately (i.e. early or delayed)**. Overall – **10.4%**
- **Provide evaluation and treatment that are not clinically appropriate** SNFs – **24.9%**; Rehab hospital –**13.3%**; General Med/VA/LTAC/Univ. Hospital – **9.4%**; Overall – **9.5%**

[2023-slp-health-care-survey-summary-report.pdf \(asha.org\)](https://www.asha.org/2023-slp-health-care-survey-summary-report.pdf)

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ASHA SLP Health Care Report: 2023 Survey

- **20.8%** of respondents employed in **SNFs**, **12.4%** in a **rehab hospital**, and **12%** in a **pediatric hospital** indicated that they felt pressured by an employer or supervisor to **provide inappropriate frequency or intensity of services**. Overall – **10.3%**
- **Provide group therapy when individual therapy was appropriate** - SNFs – **32.1%**; Rehab hospital – **8.6%**; Overall – **8.7%**
- **Alter documentation for reimbursement** - SNFs – **11.3 %**; Overall – **4.6%**

Did not feel pressured – **69.1%**

[2023-slp-health-care-survey-summary-report.pdf \(asha.org\)](https://www.asha.org/2023-slp-health-care-survey-summary-report.pdf)

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2020 ASHA Schools Survey - Which of the following ethical issues have you experienced in the last 3 years?

Educational Audiologists

- 40.5% identified lack of time to ensure the delivery of quality services to my students as an issue.
- 19.6% selected complying with administrative and regulatory mandates.
- 13.5% selected dealing with impaired practitioners in our profession.
- 7.6% identified lack of confidentiality and privacy of student files and records as a challenge.
- 1.9% chose employer pressure to alter documentation for billing and/or reimbursement.

Speech-Language Pathologists

- 63% identified lack of time to ensure the delivery of quality services to my students as an issue.
- 29% selected complying with administrative and regulatory mandates.
- 13% selected dealing with impaired practitioners in our profession.
- 9% identified lack of confidentiality and privacy of student files and records as a challenge.
- 3% chose employer pressure to alter documentation for billing and/or reimbursement.

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2022 ASHA Schools Survey - What are your greatest challenges as a school-based professional? Select all that apply

Educational Audiologists

Ethical challenges – 10.1%

Speech-Language Pathologists

Ethical challenges – 11%

<https://www.asha.org/siteassets/surveys/2022-schools-survey-audiologist-summary-report.pdf>
<https://www.asha.org/siteassets/surveys/2022-schools-slp-summary.pdf>

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REVISED



ASHA Code of Ethics
Implementation Date: March 1, 2023

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2023
Board of
Ethics
Decision

North Carolina

- Rationale: Received professional discipline from the North Carolina Board of Examiners for Audiologists and Speech-Language Pathologists for (a) failing to exercise a reasonable degree of professional skill and care in the delivery of professional services, (b) failing to identify and select appropriate treatments for students, (c) inadequate recordkeeping, and (d) unprofessional conduct. Failed to self-report receiving professional discipline to the ASHA Ethics Office.
- Code of Ethics (2016): I, I-A, I-J, I-Q, IV, IV-D, IV-R
- Code of Ethics (2023): IV-U
- Sanction: Suspension of Membership and Certification for one (1) year, effective December 13, 2023.

<https://www.asha.org/practice/ethics/boe-decisions/>

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2023
Board of
Ethics
Decision

Wisconsin

- Rationale: Received professional discipline in 2023 from the State of Wisconsin Hearing and Speech Examining Board for practicing audiology while their ability to practice was impaired. Failed to self-report receiving professional discipline to ASHA Standards and Ethics.
- Code of Ethics (2016): I, I-A, I-R, IV, IV-D, IV-R, IV-T
- Sanction: Withholding of Membership and Certification for three (3) years, effective December 13, 2023.

<https://www.asha.org/practice/ethics/boe-decisions/>

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2023
Board of
Ethics
Decision

Tennessee

- Rationale: Received professional discipline in 2022 from the State of Tennessee Department of Health, Board of Communication Disorders and Sciences for (a) unprofessional conduct, (b) making false statements or representations on billing records, and (c) instructing their front office staff to bill a private insurance provider for services provided to numerous patients in the name of a former employee who did not render such services. Failed to self-report receiving professional discipline to ASHA Standards and Ethics.
- Code of Ethics (2016): I, I-Q, III, III-D, IV, IV-D, IV-E, IV-I, IV-R, IV-T
- Sanction: Censure, effective December 13, 2023.

<https://www.asha.org/practice/ethics/boe-decisions/>

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2023
Board of
Ethics
Decision

Virginia

- Rationale: Convicted in 2022 in Virginia criminal court of attempted second degree murder, principle in the first degree; conspiracy to commit robbery; and possession of a controlled substance
- Code of Ethics (2016): IV, IV-D, IV-R
- Sanction: Withholding of certification and membership for eight (8) years, effective May 5, 2023.

<https://www.asha.org/practice/ethics/boe-decisions/>

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2023
Board of
Ethics
Decision

California

- Rationale: Convicted in 2021 in California criminal court for misdemeanor grand theft related to billing practices. Claimed they were a CCC-SLP in marketing and on social media when they were not ASHA-certified. Failed to disclose their conviction on the ASHA certification application.
- Code of Ethics (2016): I, I-Q, III, III-A, III-D, III-F, III-G, IV, IV-D, IV-E, IV-F, IV-R
- Sanction: Revocation of membership and Withholding of certification for two (2) years, effective August 24, 2023.

<https://www.asha.org/practice/ethics/boe-decisions/>

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2023
Board of
Ethics
Decision

Delaware

- Rationale: Received professional discipline in 2021 from the Delaware Board of Speech Pathologists, Audiologists, and Hearing Aid Dispensers for forging signatures of other SLPs on IEP documentation. Failed to self-report their receipt of professional discipline to ASHA Standards and Ethics.
- Code (2016): I, I-Q, III, III-G, IV, IV-D, IV-E, IV-R, IV-T
- Sanction: Censure, effective December 14, 2022.

<https://www.asha.org/practice/ethics/boe-decisions/>

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2023 Board of Ethics Decision

Missouri

- Rationale: Viewed records of patients that were no longer or never under her care and admitted to having taken more than 40 patient records to her home. Billed for, and failed to properly document, 253 speech-language therapy treatment sessions for 39 patients.
- Code (2016): I, I-O, I-Q, III, III-D, III-G, IV, IV-D, IV-E
- Sanction: Suspension for six (6) months, effective December 14, 2022.

<https://www.asha.org/practice/ethics/boe-decisions/>

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Board of Ethics Decision

Oklahoma

- Rationale: Provided and received payment for 27 private speech-language pathology sessions while simultaneously providing school-based speech-language pathology services to a student. Failed to convene the appropriate participants in Individualized Education Program meetings and failed to provide required federal documentation to parents. Provided speech-language pathology services at a school without having an Oklahoma teacher certification or credential. Received professional discipline in 2019 from the Oklahoma Board of Examiners for Speech-Language and Audiology for practicing speech-language pathology without a license for one month. Failed to self-report they had received professional discipline to ASHA Standards and Ethics.
- Code (2016): III, III-A, III-B, III-D, IV, IV-D, IV-R, IV-T
- Sanction: Censure, effective August 23, 2022.

<https://www.asha.org/practice/ethics/boe-decisions/>

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Board of Ethics Decisions

Texas

- Rationale: Failed to meet speech-language pathology standards of practice for evaluation procedures and intervention plans. Jeopardized patients' care and welfare by failing to provide appropriate assessments, treatments, recommendations, and progress monitoring. Failed to seek assistance in fulfilling professional obligations when compromised by personal matters and health-related conditions and when unable to provide appropriate speech-language pathology services. Failed to meet expectations for timely and complete documentation in which two years of client records were inaccurate, overdue, and incomplete.
- Code (2016): I, I-A, I-B, I-Q, I-R, IV, IV-A, IV-D
- Sanction: Revocation of membership and certification for 12 months, effective Jan. 7, 2022.

<https://www.asha.org/practice/ethics/boe-decisions/>

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Social Media and the Code of Ethics

Potential ethical issue – Breach of Confidentiality

Posting details, even seemingly insignificant ones, about a client may result in the ability to identify the client. Applicable rules: Principle I, Rules O and P.

Rule O. *Individuals shall protect the confidentiality and security of records of professional services provided, research and scholarly activities conducted, and products dispensed...*

Rule P. *Individuals shall protect the confidentiality of information about persons served professionally or participants involved in research and scholarly activities...*

Ethical Use of Social Media (2020) <https://www.asha.org/Practice/ethics/Ethical-Use-of-Social-Media> 23

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Social Media and the Code of Ethics

Potential ethical issue:

Misrepresentation in the promotion of services, products, or credentials. Applicable rules: Principle I, Rule D; Principle III, Rules A and F; Principle IV, Rule C

Principle I, Rule D - *Individuals shall not misrepresent the credentials of aides, assistants, technicians, students, research assistants, Clinical Fellows, or any others under their supervision, and they shall inform those they serve professionally of the name, role, and professional credentials of persons providing services.*

Ethical Use of Social Media (2020) <https://www.asha.org/Practice/ethics/Ethical-Use-of-Social-Media> 24

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Social Media and the Code of Ethics

***Principle III, Rule A** - Individuals shall not misrepresent their credentials, competence, education, training, experience, or scholarly contributions.*

***Principle III, Rule F** - Individuals' statements to the public shall adhere to prevailing professional standards and shall not contain misrepresentations when advertising, announcing, or promoting their professional services, products, or research.*

***Principle IV, Rule C** - Individuals' statements to colleagues about professional services, products, or research results shall adhere to prevailing professional standards and shall contain no misrepresentations.*

Ethical Use of Social Media (2020) <https://www.asha.org/Practice/ethics/Ethical-Use-of-Social-Media> 25

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Social Media and the Code of Ethics

- No Code provision exists that explicitly addresses or is directly applicable to the posting of offensive remarks on social media.
- Posted statements that are offensive and insulting to individuals (or constituencies or organizations) typically do not alone violate the Code.
- One notable exception: Where statements posted on social media, or elsewhere, violate applicable defamation laws, a Code violation may exist.

Ethical Use of Social Media (2020)
<https://www.asha.org/Practice/ethics/Ethical-Use-of-Social-Media/>

Euben, D. & Rodgers, T. (2019). Navigating ethical dilemmas faced by SLPs practicing in schools. Seminar presented at ASHA Connect, Chicago, Illinois. 26

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Defamation

- Defamation laws vary from state to state.
- Defamation laws are generally intended to protect individuals and organizations from false factual statements that could harm their reputations.
- The term defamation can include verbal and written statements that are factually false.

Elements that establish defamation

- A false factual statement about the aggrieved party
- Uttered or published by a defendant
- Heard or read by a third party
- Causing economic injury to one's reputation (e.g., significant loss of income, sponsorship, etc.)

Euben, D. & Rodgers, T. (2019). Navigating ethical dilemmas faced by SLPs practicing in schools. Seminar presented at ASHA Connect, Chicago, Illinois.

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The Social Citizens' Guide to Civil Communication

With the advent of social media and the continued popularity of online communication platforms, we have all become publishers. We are all eager to express ourselves and our opinions. And while at ASHA we are all about communication, there is a growing concern that civility and basic respect for one another are on the decline nationwide. Survey research backs this up, and ASHA's own survey of members in 2018 confirms this is an issue among a significant percentage of ASHA members. Click on some of the sites below to find out more, and to learn what ASHA and YOU can do to promote civility in the professions.

Background	Guiding Principles	Civility Scenarios
Tools	Guidelines	References & Resources

<https://www.asha.org/About/Civility/>

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Acknowledgement!

Most of the following slides are from a 2023 presentation with Katharine Meyer, Esq., Senior Director of Ethics, ASHA.

Rodgers, T. & Meyer, K. (2023, November). Hot topics: The most commonly asked ethics questions in 2023. Invited session presented at the annual convention of the American Speech-Language-Hearing Association, Boston, MA.




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If I use ChatGPT, am I in violation of the ASHA Code of Ethics?



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ChatGPT

What is ChatGPT?

- It's a text generator that uses AI to produce written copy.
- It can create text on various topics based on input.
- It can assist with writing emails, essays, presentations, etc.
- It has limited knowledge after 2021.

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Where can you go wrong with ChatGPT?

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Relying on ChatGPT's "facts"

"A New York lawyer is facing potential sanctions over an error-riddled brief he drafted with help from ChatGPT.

It's a scenario legal ethics experts have warned about since ChatGPT burst onto the scene in November, marking a new era for AI that can produce human-like responses based on vast amounts of data.

[Redacted] faces a June 8 sanctions hearing before U.S. District Judge P. Kevin Castel after he admitted to using ChatGPT for a brief in his client's personal injury case against [redacted]. The brief cited six non-existent court decisions."

Sloan, K. (2023, May 30). A lawyer used ChatGPT to cite bogus cases. What are the ethics? Reuters. <https://www.reuters.com/legal/transactional/lawyer-used-chatgpt-cite-bogus-cases-what-are-ethics-2023-05-30/#:~:text=DUTY%20OF%20COMPETENCE,found%20to%20make%20things%20up>

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Possible Code of Ethics Violations:

Principle I, Rule A: Individuals shall provide all clinical services and scientific activities competently.

Principle III, Rule E: Individuals' statements to the public shall provide accurate information regarding the professions, professional services and products, and research and scholarly activities.

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Possible Code of Ethics Violations:

Principle IV, Rule C: Individuals' statements to colleagues about professional services, products, or research results shall adhere to prevailing professional standards and shall contain no misrepresentations.

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Giving ChatGPT Confidential Information

"Lawyers who use programs like ChatGPT or Bing Chat risk giving AI companies their clients' data to train and improve their models, potentially violating confidentiality rules.

That's one reason why some law firms have explicitly told lawyers not to use ChatGPT and similar programs on client matters, said Holland & Knight partner Josias Dewey, who has been working on developing internal artificial intelligence programs at his firm."

Sloan, K. (2023, May 30). A lawyer used ChatGPT to cite bogus cases. What are the ethics? Reuters. <https://www.reuters.com/legal/transactional/lawyer-used-chatgpt-cite-bogus-cases-what-are-ethics-2023-05-30/#:~:text=DUTY%20OF%20COMPETENCE,found%20to%20make%20things%20up>

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Possible Code of Ethics Violations:

Principle I, Rule P: Individuals shall protect the confidentiality of information about persons served professionally or participants involved in research and scholarly activities. Disclosure of confidential information shall be allowed only when doing so is legally authorized or required by law.

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Not understanding that ChatGPT has inherent biases

“Though chatbots are an ‘exciting technology, they’re not without their faults,’ Google AI executives wrote in a March blog post announcing the broad deployment of Bard. ‘Because they learn from a wide range of information that reflects real-world biases and stereotypes, those sometimes show up in their outputs.’”

Vynck, G. D. (2023, August 16). ChatGPT icons liberal, research shows. The Washington Post. <http://www.washingtonpost.com/technology/2023/08/16/chatgpt-ai-political-bias-research/>

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Possible Code of Ethics Violations:

Principle I, Rule J: Individuals shall accurately represent the intended purpose of a service, product or research endeavor and shall abide by established guidelines for clinical practice and the responsible conduct of research, including humane treatment of animals involved in research.

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If I use ChatGPT, am I committing plagiarism?

Possibly.

Principle IV, Rule L: Individuals shall reference the source when using other persons’ ideas, research, presentations, results, or products in written, oral, or any other media presentation or summary. To do otherwise constitutes plagiarism.

- Taking other people’s ideas and incorporating them into your writing without citing them is typically viewed as plagiarism. ChatGPT does not generate new knowledge.
- You are taking ideas from something, instead of *someone*. Either way, the ideas are not your own. Make sure you comply with your academic integrity policies.

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Do I need to disclose that content was created by ChatGPT?

Possibly.

Principle I, Rule J: Individuals shall accurately represent the intended purpose of a service, product, or research endeavor and shall abide by established guidelines for clinical practice and the responsible conduct of research, including humane treatment of animals involved in research.

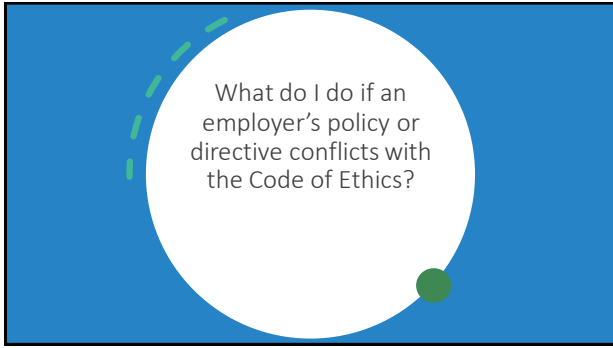
- Depending on what you are drafting (presentation, article, research paper vs. outline, email header, lists), you may need to disclose that you are using AI to write your content.

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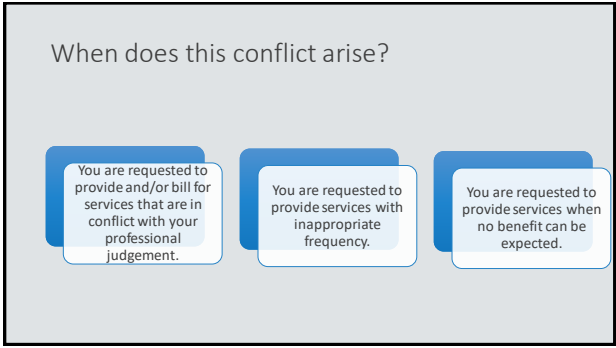
ChatGPT Important Points

- **Comply with Policies.** Know your employer/district/hospital policies and rules regarding use of AI and adhere to them.
- **Don’t use Chat GPT as a research tool.** Information could be biased and even false.
- **Maintain Confidentiality.** Do not provide ChatGPT with any confidential information.
- **Disclose.** Be open about how you create content. If you use ChatGPT to write content, it is likely people will realize you did.

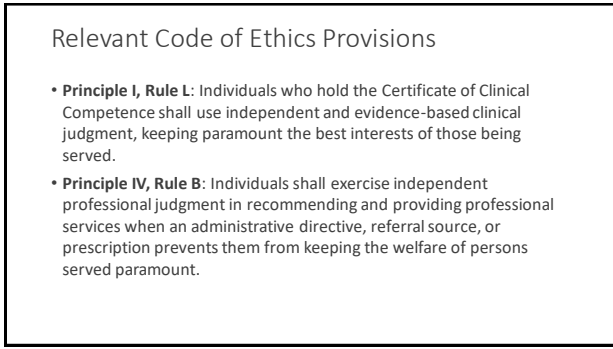
42



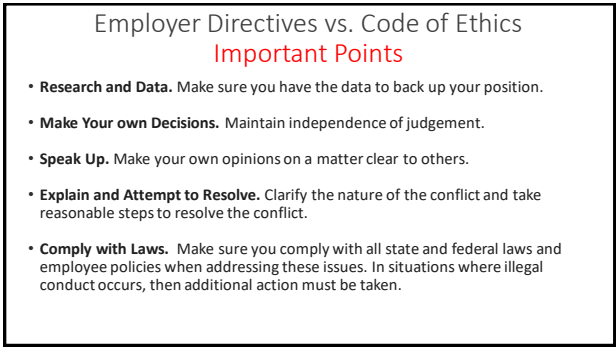
43



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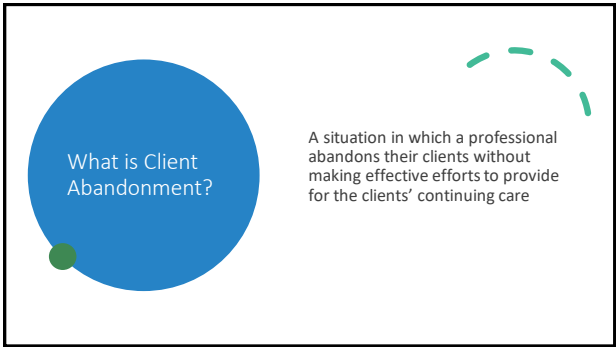
45



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Relevant Code of Ethics Provisions

- **Principle I, Rule B:** Individuals shall use every resource, including referral and/or interprofessional collaboration when appropriate, to ensure that quality service is provided.
- **Principle I, Rule T:** Individuals shall give reasonable notice to ensure continuity of care and shall provide information about alternatives for care in the event that they can no longer provide professional services.

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Some of the Factors that Determine Client Abandonment

- Failing to provide sufficient notice to employers
- Failing to give timely notice to clients, if needed
- Failing to create an interim plan/alternative care options for clients
- Failing to refer clients/patients to other qualified professionals, if needed
- Failing to complete reports, billing and other documentation
- Withholding paperwork

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Am I committing client abandonment if:

I only give 2 weeks' notice?

It depends. Factors to consider:

- Actions needed to ensure continuity of care
- Job duties
- State laws
- Your duration of employment

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Am I committing client abandonment if:

I leave before the school year is over?

Possibly.

However, the fact that you breach an employment contract does not automatically mean that you have violated the Code of Ethics. Client abandonment is based on the efforts made to ensure continuity of care.

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Am I committing client abandonment if:

I leave before my replacement starts?

No.

The fact that an individual does not stay until their replacement has been hired is NOT, on its own, client abandonment.

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Am I committing client abandonment if:

I am fired?

No.

Your employer has the responsibility to transition and ensure continuity of care. However, you should not withhold paperwork, or deliberately take action that could harm patients.

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Am I committing client abandonment if:

I quit because my boss asked me to commit an illegal act?

No.

You will not be committing client abandonment if you refuse to perform an illegal act. However, make sure that what they are asking of you is improper. And take steps to resolve this internally before terminating your position.

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Am I committing client abandonment if:

I leave because I am being physically threatened at work?

No.

If a serious situation arises involving your health and safety, such as threats of physical harm or illness, you are not committing client abandonment.

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Client Abandonment Important Points

- **Recordkeeping.** Ensure you have given your employer required documentation before you leave.
- **Legal Matters.** ASHA cannot advocate for you in a contract dispute with your employer.
- **Document, Document, Document.** Make sure you keep a record of the steps you took to transition clients. Emails and other evidence may not be available to you after you leave your place of employment.

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Questions

- Contact ASHA Ethics: ethics@asha.org
- Resources: <https://www.asha.org/practice/ethics/>
- Theresa Rodgers: rodgerst@eatel.net
- Theresa Rodgers Twitter: [@theresahrodgers](https://twitter.com/theresahrodgers)
- LinkedIn
- <https://www.linkedin.com/in/theresa-h-rodgers-ma-ccc-slp-asha-fellow-1-slp-eds-ld-a9a6601a2/>

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