Licensing Board Complaints: Minimizing the Impact on the Psychologist’s Defense and Clinical Practice

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Most psychologists who face board complaints experience significant personal and professional distress. As a result, they become vulnerable to cognitive, emotional, and behavioral responses that may compromise their clinical work as well as their ability to defend themselves. Awareness of some of the most common sources of distress associated with complaints can allow psychologists to take steps to minimize, if not obviate, problematic countertransference, impaired objectivity, and self-defeating responses throughout and beyond the complaint investigation and adjudication process. Further, awareness of these pitfalls can inform the work of the supervisors, consultants, and psychotherapists who assist psychologists facing ethics complaints.

Keywords: ethics, licensing board complaints, supervision, countertransference, impaired objectivity

How does the experience of having a licensing board complaint affect psychologists’ concurrent and future clinical work? How does the associated distress affect their ability to effectively defend themselves? Psychologists are certainly aware of the possibility of becoming the subject of a board complaint (Montgomery, Cupit, & Wimberley, 1999). Educating themselves about common reactions, related pitfalls, methods of coping, and strategies for preventing errors will minimize the potential for mistakes in psychologists’ work and in their defense. Further, supervisors, consultants, and psychotherapists who assist psychologists facing complaints can be most effective when they are cognizant of problems that may occur during various phases (i.e., notification, investigation, adjudication, implementation of sanctions including rehabilitation plans, and subsequent practice) of the process.

Numerous articles about board complaints have appeared on Web sites and in professional journals, newsletters, and books in recent years. Some address the personal impact on psychologists (Montgomery et al., 1999; Schoenfeld, Hatch, & Gonzalez, 2001; Thomas, 2001; Van Horne, 2004), and others offer advice to those facing complaints (Adams, 2001; Bass et al., 1996; Bricklin, Bennett, & Carroll, 2003; Caudill, 2005; Chauvin & Remley, 1996; Crawford, 1994; Fleer, 2000; Jesson & Mande, 2001; Lewis, 2004; Remley, 1992; Thomas, 2002; Williams, 2000). Many authors describe or provide critiques of licensing board practices and procedures (Gonsiorek, 1997; Gutheil & Gabbard, 1998; Kirkland, Kirkland, & Reaves, 2004; Peterson, 2001; Plaut, 2000; Reaves, 2000; Van Horne, 2004; Williams, 2001). Others discuss strategies for preventing complaints (Bennett, Bryant, VandenBos, & Greenwood, 1990; Haas & Malouf, 2005; Hedges, 2000; Hilton, 1997; Hopkins & Anderson, 1990; Kirkland & Kirkland, 2001; Knapp & Slattery, 2004; Koocher & Keith-Spiegel, 1998; Nagy, 2005; Reid, 1999; Welfel, 2002; Woody, 1997; Younggren, Harris, & Bennett, 2005).

The abundance of recent publications and commensurate awareness undoubtedly contribute to psychologists’ fears of becoming the subject of a complaint. Yet, some authors have suggested that these fears may be exaggerated (Reaves, 2000; Van Horne, 2004). Montgomery et al. (1999) surveyed psychologists in Texas about their experiences with board complaints. Although 72% of respondents knew a colleague who had a complaint filed against them, and 14% had been threatened with a complaint, only 11% had actually experienced a board complaint in their careers (Montgomery et al., 1999).

Perhaps the fear among psychologists is actually based on the notorious experiences of a small number who are engaged in certain types of practices. According to Harris (2003), psychologists who practice in high-risk areas are at greater than average risk of becoming the subject of a board complaint. Specifically, he identified psychologists involved in custody evaluation, contested divorces, supervision, and third-party evaluations as examples. Harris added that psychologists who provide services to high-risk clients (e.g., those who are suicidal, violent, involved in unrelated lawsuits, or present with recovered memories of abuse) are much more likely than most to experience complaints.

Williams (2000) provided an illustration of Harris’s (2003) point:

Perhaps there is nothing that transforms ordinary citizens into rabid litigants as quickly as a divorce-related child custody dispute. There is a certain likelihood that whichever angry parent fails to gain the psychotherapist’s nod for exclusive custody will find a way to file a complaint against that psychotherapist. Such complaints run the gamut from the legitimate (e.g., accusing the psychotherapist of failing to properly assess both parents prior to rendering an opinion...
regarding custody) to the outlandish (accusing a blameless psychotherapist of using the mandated evaluation as an opportunity to sexually molest a minor child). (p. 78)

Kirkland and Kirkland (2001) provide further evidence of the risks associated with custody evaluations. They surveyed 61 member boards of the Association of State and Provincial Psychology Boards about complaints and disciplinary actions related to custody evaluations. They found a significant increase in related complaints in recent years and concluded that psychologists who conduct custody evaluations are “extremely likely” (p. 171) to experience a complaint. They also found, however, that only “1% [of complaints filed] resulted in findings of formal fault or probable cause against licensees” (Kirkland & Kirkland, 2001, p. 172).

However unlikely a formal disciplinary action, psychologists notified of a complaint worry about the outcome. Welch (2001) observed that “penalties can vary from minor nuisances to complete loss of career” (p. 4). Those who know they have violated a rule may experience greater fear than psychologists who feel more confident in their innocence (Schoenfeld et al., 2001). If they recognize the violation but disagree with the rule, they may believe their actions were justified and, therefore, may feel indignant and incredulous (Adams, 2001; Williams, 2000). Nevertheless, any sanction has the potential to negatively affect the psychologist’s practice (Bricklin et al., 2003). Possible consequences include exclusion from insurance provider panels, loss of hospital privileges, increased premiums for or loss of malpractice insurance, loss of membership in professional associations, attrition of referrals, and financial losses (Adams, 2001; Bricklin et al., 2003). Even when the ultimate outcome of a complaint is dismissal, having to defend oneself can be expensive, time-consuming, and stressful (Montgomery et al., 1999; Peterson, 2001; Schoenfeld et al., 2001; Welch, 2001).

Psychologists are not alone in their expanding consciousness about board complaints. Clients have become increasingly well informed about both their own rights and the responsibilities of psychologists (Hedges, 2000). Talk shows, print media, and Internet sites afford consumers ready access to information about mental disorders, treatment protocols, and professional ethics. Such access to information can enable clients to ask better questions, become more sophisticated consumers, and appropriately address psychologists’ mistakes when they do occur. On the other hand, clients may misunderstand professional nomenclature or misinterpret technical information and, as a result, inaccurately perceive certain professional decisions and behaviors as ethical violations. A consumer could, for example, review the American Psychological Association’s (APA, 2002) Ethical Principles of Psychologists and Code of Conduct (hereafter referred to as Ethics Code) and learn that psychologists are required “to avoid harming their clients/patients . . . . ” (p. 1065). That client may be dissatisfied with a psychologist’s recommendation and “feel harmed.” Seeking additional help to determine options for recourse, the client might seek out a publication geared to help consumers of psychotherapy.

The author of one such book cautions consumers: “Psychotherapists, generally, are unwilling to give their customers information. They also usually do not publicly discuss, write about, or adequately attempt to prevent harm to clients” (Striano, 1988, p. 95). Without actually defining “harm,” Striano poses the question, “What to do if you have been harmed?”, and then suggests filing a complaint with a state licensing board or ethics committee.

Another book, written for psychotherapists and consumers, portrays the prohibition against certain multiple relationships as damaging to clients (Heyward, 1993). Heyward, a self-described ethicist, wrote about her own experiences as a psychotherapy client in When Boundaries Betray Us: Beyond Illusions of What Is Ethical in Therapy and Life. In it, Heyward described the psychological damage she incurred as the result of her psychotherapist’s refusal to develop a friendship with her. Heyward recounted the conversation in which her therapist told her they could not be friends. She characterized this refusal as “violence” (p. 83) and the limited therapeutic relationship as “horribly abusive” (p. 106). Such publications may encourage clients whose psychologists refuse such requests to conclude that these decisions are unethical.

Clients with histories of abuse, deprivation, or neglect may be especially vulnerable to misunderstanding their psychologists’ interventions, as well as the intent and application of professional ethics codes. Hedges (2000), Welch (2000), and Williams (2000) have asserted that clients with such histories are at greater risk for reexperiencing related feelings in the context of the transference, even when the psychologist’s behavior is ethical and appropriate. Such feelings have the potential to fuel misunderstandings and lead to board complaints (Hedges, 2000).

Previous publications have addressed licensing board complaints in terms of incidence rates, problematic board procedures, risk management, and consumer issues. The current article builds on this foundation by addressing the potential emotional and psychological impact of a board complaint on psychologists’ professional functioning. The complaint process is examined in terms of associated sources of stress, common responses, and the potential impact on psychologists’ clinical practice and on their ability to defend themselves. Understanding and anticipating these possible pitfalls will help psychologists take steps to minimize or eliminate their negative impact. Strategies and resources for effectively navigating the complaint process will inform psychologists facing board complaints, as well as the supervisors, consultants, and psychotherapists who assist them throughout and following the process.

Effect of Board Complaints on Psychologists

Psychologists facing board complaints experience a wide range of responses. Most are significantly distressed (Adams, 2001; Montgomery et al., 1999). Terror, outrage, shock, disbelief, guilt, anger, and embarrassment are commonly reported by psychotherapists notified of a complaint (Chauvin & Remley, 1996). Montgomery et al. (1999) surveyed psychologists (N = 31) who had board complaints about the emotional impact of the experience. Although a small sample, slightly more than half reported feeling shocked, worried, and angry; others described themselves as depressed (Montgomery et al., 1999).

Being accused of unethical behavior and, in some cases, having one’s professional integrity questioned in such a dramatic and potentially public way is emotionally challenging (Adams, 2001; Chauvin & Remley, 1996; Montgomery et al., 1999; Schoenfeld et al., 2001; Thomas, 2001, 2002). The stress associated with facing such allegations can compromise psychologists’ objectivity and effectiveness in their clinical work (Chauvin & Remley, 1996) and
may contribute to serious mistakes in responding to complaints (Welch, 2001).

Several authors have demonstrated a connection between distressing emotions and professional impairment (O'Connor, 2001; Shapiro, 2003; Sherman & Thelen, 1998). Sherman and Thelen (1998) surveyed psychotherapists and reported that they “see their work as typically hindered to some extent when they are experiencing problems in their personal or professional lives” (p. 83). When their subjects rank-ordered the professional factors they found difficult, the most distressing was a malpractice claim. Although not considered separately, it could be deduced that board complaints would warrant similar reactions.

Chauvin and Remley (1996) noted that because of the emotional and psychological impact of a board complaint, respondents are often unprepared to respond to allegations in a “rational, cautious, and appropriate manner” (p. 563). To “endure successfully the disruptive experience of being accused, . . . they must also pay attention to their own emotions” (Chauvin & Remley, p. 563). Welch (2001) described some of the more common ways in which psychologists undermine their defense in board complaints, such as prematurely agreeing to a resolution plan and admitting to violations they did not actually commit. Emotional distress is likely to play a role in such errors.

Sources of Stress Throughout the Complaint Process

Receiving notification that a complaint has been filed, the first phase of the process, is disconcerting at best. The investigation and adjudication phases of the complaint process are also fraught with personal and professional challenges. During and following the implementation of sanctions or rehabilitation plans, psychologists may continue to experience repercussions in their clinical work. Although there is significant variability across jurisdictions with regard to specific policies and procedures for handling complaints (Bricklin et al., 2003; Reid, 1999; Van Horne, 2004), there are similarities in terms of the impact of each general stage on the psychologist. Awareness of common sources of stress associated with each phase of the process can inoculate psychologists and perhaps minimize this impact.

The length of time between notification and resolution of a complaint represents one source of stress for the psychologist. Many board complaints are reviewed and dismissed quickly or shortly following receipt of an explanatory letter from the psychologist (Reaves, 2000). In other cases, the process may continue for months or years. In any case, unexplained periods without contact from the licensing board (particularly those that follow investigative interviews, the submission of records, or written responses to allegations) can spawn a series of imaginative projections and may generate unnecessary and unproductive distress.

In reality, the length of these periods may depend on factors unrelated to the individual situation. Staff resources, the availability of board members, and the number and relative seriousness of other pending cases are examples. Recognition of these other influencing factors can mitigate anxiety associated with what feels like interminable waiting.

When a complaint continues beyond the initial request for records, the time and money required to respond can become another source of stress. This potentially labor-intensive process might involve hours spent redacting and duplicating records, as well as composing written responses to board inquiries and attending meetings (e.g., with a lawyer, consultant, or investigator). A prolonged investigation may also be financially draining (Adams, 2001; Peterson, 2001; Saeman, 1997; Schoenfeld et al., 2001; Williams, 2000). Time away from work to address the complaint can result in lost income. Further, the cost of legal counsel, collegial consultation, and personal therapy can represent a substantial investment. When psychologists are found in violation, they may be fined in addition to having to pay for required assessment and treatment (if impairment is suspected), remedial education, and/or supervision. Psychologists facing complaints may, understandably, resent the disruption in their lives and therefore resist adjusting their schedules, reducing work loads, and allocating money to fund their defense. Yet, taking these practical steps, to whatever extent is necessary, will likely diminish their impact.

Finding the appropriate personal and professional support required to maintain one’s mental health while enduring a complaint can also be difficult. What information can be shared is limited by the obligation to protect client privacy. Further, attorneys often caution psychologists to avoid discussing the complaint with others. If a malpractice suit is filed, those with whom the psychologist has discussed the case could conceivably be called as witnesses. Isolation, on the other hand, can rob the psychologist of an important antidote to distress and impairment—peer support (Coster & Schwebel, 1997; Lewis, 2004).

When the client is discussing the complaint publicly, rumors may circulate, fueling self-consciousness. Psychologists practicing in small communities (e.g., geographic, ethnic, or cultural) face unique challenges (Helbok, 2003; Schank, 1998; Schank & Skovholt, 1997), among them the fact that they are more likely to be well known. The risk to their professional reputations is significant. Those who anticipate or experience harsh judgment may avoid social and professional activities that expose them to such scrutiny. Shameful feelings and a wounded professional self-concept can flourish in the absence of opportunities for reality testing. Seeking support, while protecting client privacy, is essential to resilience. Further, engaging in rewarding relationships and activities throughout the complaint process will likely afford opportunities to fortify self-esteem needed to work effectively and to prepare an adequate defense.

When a complaint progresses to the point at which disciplinary action is likely, several sources of stress emerge. Meetings with board members can be daunting. The future of the psychologist’s career may seem contingent on how well he or she presents in one meeting. Even with benefit of legal counsel, psychologists’ vulnerability in these circumstances is significant. At this stage, concern about the possibility of public notification intensifies. Of course, board rules regarding what information is made available or disseminated to the public differ by jurisdiction (Bricklin et al., 2003; Reid, 1999; Van Horne, 2004). If there is a finding of violation, and if an account of it is published in the newspaper or professional newsletter, psychologists may feel angry, victimized, and mischaracterized. Some express remorse, humiliation, and shame. Grief over anticipated loss of status is also common.

The complaint adjudication process is stressful at every stage. Psychologists can, however, inoculate themselves by developing patience, realistically allocating time and money, and availing themselves of personal and professional support.
Emotional, Psychological, and Behavioral Responses to Board Complaints

Receiving notification from the licensing board that a complaint has been filed sends a wave of anxiety through any psychologist, even when the complaint appears to be unfounded or is not unexpected. Sometimes complainants threaten to file or inform psychologists that they have filed a complaint against them. Other times, psychologists are aware of having made an error that violated an ethics code or rule. Still, the reality of being investigated by a board is quite different from an awareness of the theoretical possibility. Psychologists attempting to cope with a complaint may experience a range of emotional and psychological responses, many of which have the potential to compromise clinical effectiveness and lead to self-defeating behavior.

Denial and Overconfidence

Psychologists may cope with distressing feelings related to the complaint by denying or minimizing the seriousness of their situations. They may comfort themselves with the belief that nothing could possibly come of these allegations. This perception is realistic in that only a small percentage (less than 0.13%) of board complaints are deemed serious enough to result in formal disciplinary actions reported to the Association of State and Provincial Psychology Boards (Van Horne, 2004). These data do not, however, reflect cases that resulted in educational requirements, warnings, reprimands, or other informal actions taken by boards. Even when a complaint is dismissed following an initial investigation, there are often many steps required to resolve it.

Psychologists who maintain that they have been falsely accused may believe that the complaint will be dismissed immediately on discovery that the client has questionable motives or is seriously mentally ill. Williams (2000) has challenged this notion. He pointed out that some allegations are groundless or based entirely on a client’s vindictiveness, desire for financial gain, false memories, distorted thinking, predatory behavior, or “the characteristic misperceptions and exaggerated emotional reactions that are common to individuals with personality disorders” (p. 79). Dismissal is not, however, automatic. Clients with serious mental health problems are at least as vulnerable to mistreatment as other clients. Therefore, even when a complainant is recognized as seriously ill, and the psychologist is confident that the allegations are false, an investigation may still be required to demonstrate that to the board. Failure to accurately perceive the seriousness of the allegations and the stakes involved may place psychologists at greater risk for responding impulsively, without benefit of collegial or legal consultation.

Denial, like other defenses, can be adaptive in that it provides relief from acute distress and may enable the individual to continue functioning while simultaneously coping with distressing life events. When excessive, however, denial can be dangerous (Williams, 2001) in that it may lead to procrastination and avoidance and may compromise judgment about both the seriousness of the situation and how best to respond.

Anxiety

Perhaps the converse of denial and overconfidence is anxiety. Indecisiveness, distractibility, and obsessive preoccupation with mistakes and possible repercussions can become intolerable, and psychologists may be tempted to take some immediate action to relieve their discomfort. Several authors have described the ways in which psychologists sabotage their cases by reacting without appropriate forethought and accurate information (Adams, 2001; Bricklin et al., 2003; Fleer, 2000; Hedges, 2000; Thatcher, 2000; Welch, 2001). A psychologist who is experiencing significant anxiety is vulnerable to taking such self-defeating actions.

Psychologists who are notified of a complaint may panic and consider contacting the client to attempt an informal resolution, apologize, obtain more information about the allegations, or capitalize on a therapeutic opportunity. Others, feeling momentarily overwhelmed by the prospect of responding to the allegations, consider mailing their licenses to the board. Some contemplate destroying, augmenting, or altering records, which itself constitutes a legal and ethical violation (Fleer, 2000). Fleer has warned that “if record alteration is detected, the defense of the underlying complaint is nearly impossible” (Fleer, 2000, p. 212). In other cases, anxious psychologists write lengthy responses or initiate precipitous meetings with investigators, hoping that their explanations will abort the process and bring relief from their acute distress. They may want to acknowledge what they presume were their mistakes and just clear up what they believe to be a simple misunderstanding. Anxiety may also precipitate lying to conceal errors.

Taking any of these steps, particularly without benefit of counsel and lacking a clear understanding of the focus of the investigation, is likely to create additional problems. Thatcher (2000) discussed the risks associated with such preemptive attempts to quell anxiety. She cautioned that such impulsive responses “can actually generate additional charges . . . . At best, they furnish the basis for a myriad of questions from the Board’s expert witness” (p. 219).

Depression

Nearly 45% of surveyed psychologists who had been the subject of a board complaint acknowledged having depression (Montgomery et al., 1999). Competently meeting all of the obligations and responsibilities associated with responding to a board complaint, under the best of circumstances, can be challenging; doing so while battling depression can be especially difficult. A psychologist who is depressed may have a distorted and excessive sense of responsibility or generalized guilt and so may be overly conventional, inadvertently informing investigators of other possible errors that were not the focus of the investigation. Welch (2001) has encountered psychologists who, perhaps out of naiveté, fatigue, or remorse over client dissatisfaction, have confessed, even when they were innocent of the allegations. Some psychologists have sent self-incriminating letters to the board or expressed their unedited thoughts and feelings to an investigator whose professional etiquette was mistaken for longed-for sympathy and concern (Adams, 2001).

Depression can also result in impaired concentration and memory, sleep disturbance, low self-esteem, a lack of motivation, and feelings of apathy, hopelessness, and despair. These symptoms increase the risk of missing deadlines, failing to return phone calls, and submitting incomplete materials, all of which will be detrimental to the psychologist’s case (Adams, 2001). A depressed
psychologist may also become socially withdrawn, limiting access to personal and professional support. These symptoms, in combination with a depressed mood, can make cogent thinking and thorough, thoughtful preparation difficult or impossible.

Clearly, facing a board complaint is a distressing experience that has the potential to spawn denial, overconfidence, anxiety, and depression. Each of these responses, if not recognized and effectively managed, may result in impaired judgment, negatively affecting ongoing clinical work as well as decisions in responding to the complaint.

Impact of a Complaint on Clinical Practice

Continuing clinical practice with a complaint pending, although often necessary, is fraught with potential for distress and related mistakes. Montgomery et al. (1999) reported that 34% of psychologists facing complaints believed that their work was negatively affected by the experience. But some psychologists find their work a welcome distraction, affording opportunities to experience success and satisfaction in their professional lives, antidotes to the negative effects of the complaint. Whether or not a pending complaint compromises clinical effectiveness, there are related circumstances that undoubtably create the potential for such compromises.

Effect on Clinical Judgment in Concurrent and Subsequent Cases

Psychologists who are practicing with either a concurrent or past complaint may encounter related clinical and ethical challenges in their work. Understandably, they may be extremely vigilant about ensuring that they behave ethically. Yet, anxiety and fear have the potential, paradoxically, to contribute to the creation of the very situation they are trying to avoid: making mistakes that could result in another complaint.

A client whose presenting issues, history, personality, or symptoms resemble that of the client in the complaint case almost always generates at least some anxiety. If the complaint involved a client who was violent or suicidal, for example, seeing another individual with a similar presentation will be unsettling and may prompt, for example, a precipitous and possibly unwarranted hospitalization. If the allegations involved sexual misconduct, whether or not the psychologist was actually guilty, a client presenting with a sexualized transference would likely be anxiety provoking. The psychologist, fearing another complaint, may be at risk for clinical mistakes such as prematurely terminating treatment; over- or underpathologizing the client; and ignoring, overfocusing on, or in some other way mishandling these issues.

A general mistrust of other clients represents another possible sequela of a complaint. Psychologists may become emotionally distant, cautious, and suspicious of their clients. Some type of self-protective stance may be inevitable and, to the extent that it challenges self-defeating naiveté, helpful (Hedges, 2000; Welch, 2000). This countertransference might, on the other hand, become too generalized and too pronounced, and it may unnecessarily inhibit creativity and professional effectiveness. In the extreme, such a defensive posture may impair clinical judgment.

Another situation that carries the potential to compromise a psychologist’s judgment occurs when a client is concurrently involved in a legal case, and it seems likely that the psychologist’s records will be scrutinized in a legal venue. Particularly when the client expresses concern about what is in the record, the psychologist may begin to worry that the individual will be negatively affected by, and perhaps angry about, what has been written. Fearing a complaint, the psychologist may be tempted to alter the record to make it more favorable to the client’s case, hoping to minimize anticipated dissatisfaction. As discussed, such alterations to the record would constitute another violation (Fleer, 2000).

Experiencing a complaint can threaten psychologists’ professional self-confidence and exacerbate their sense of emotional vulnerability. These conditions may increase the risk of turning unconsciously to other clients for reassurance about competence and worth. Psychologists may confide in particular clients about the allegations, make subtly self-deprecating comments, or behave in other ways that covertly elicit reassurance. Clients perceived as especially nurturing, grateful, or sympathetic, for example, may become the subjects of such countertransference. Psychologists might also become overly accommodating, avoiding interventions that could cause anxiety or anger.

The many ways in which psychologists’ work might be affected by a complaint are as varied as their own idiosyncratic histories. Insight about these unique vulnerabilities, and recognition of countertransference when it occurs, can help psychologists anticipate and guard against their potential negative effects.

Continuing Treatment in a Case Under Board Review

Psychologists might be at greatest risk for impairment when they continue to work with a client whose case is the subject of a pending complaint. Although it is rare for clients who are dissatisfied enough to complain to want to continue treatment, it does occur. When the complaint is filed by another professional or by a client’s estranged family member, the client may not even be aware of it. In these cases, the client typically does not want to terminate treatment, and the psychologist may be reluctant to do so, not wanting to disappoint or harm the client.

Treatment under these circumstances is replete with ethical land mines. The risks identified for concurrent clinical work are applicable and may be intensified. Psychologists may be even more likely to be distracted, preoccupied, and worried, given that they are reminded of the complaint each time they see the client. Additionally, they are at risk for using the therapy to gain information that might illuminate the complaint and help with their defense or for using the client as a confidant with whom to commiserate about the board or the complainant. When the nature of the allegations is serious enough to warrant a court order for records, clients may be angry about the invasion of their privacy, and psychologists might, for their own (i.e., the psychologist’s) protection, encourage them to take legal action to stop it. Clients who feel guilty about their psychologists’ distress, in combination with feeling grateful and indebted, may be compelled to help. They may be unable to differentiate their own needs from the needs and feelings of their psychologists. A parallel process can occur in which psychologists have similar difficulty separating their needs from those of their clients.

The psychologist who continues treatment in a case that is the subject of a pending complaint runs the risk of causing harm to the client. Evaluating that risk, however, is complex. Psychologists
must carefully weigh the harm that could be caused by terminating against the potential for harm to the client if they continue treatment. They also must accurately and continually assess their ability to maintain objectivity in the case. The clinical aspects of such decisions should be considered in consultation with a knowledgeable and objective colleague or supervisor; the legal liability should be assessed with an attorney.

Strategies for Coping With a Complaint

Receiving notification of a board complaint is, at best, an unnerving, unpleasant experience, but it is not inevitably devastating or debilitating. The psychologist’s decisions and actions immediately following and throughout the process can positively—or negatively—influence the ultimate impact on their clinical work, the strength of their defense, and the degree of disruption to their personal and professional lives.

When informed of a complaint, psychologists are likely to fare best if they first take time to think carefully before taking any action, including discussing the matter with anyone. Adams (2001) recommends that, before doing anything else, psychologists notified of a complaint “sit down quietly—or, if it is [their] habit, go for a walk or a run. This is the moment for reflection” (p. 173). Following this initial period of reflection, psychologists will benefit from taking the following steps to minimize the possibility of self-defeating errors.

Select an Attorney

Hiring an attorney who has experience with licensing boards, ideally the board governing psychologists, can make a significant difference in the outcome of a case (Adams, 2001; Fleer, 2000; Welch, 2001). Choosing a friend, particularly one who specializes in another area of law, may be appealing, but is generally unwise (Adams, 2001). A successful criminal or civil attorney may be unfamiliar with administrative law and may use strategies that are ineffective or even harmful to the psychologist’s defense (Adams, 2001; Bricklin et al., 2003). State psychological associations, local bar associations, and colleagues may be able to recommend a qualified attorney. Bricklin et al. (2003) have suggested seeking out an attorney who is a former administrative law prosecutor or hearing officer and is currently in independent practice.

Notify the Malpractice Insurance Company

Many malpractice insurance companies require immediate notification by policy holders when they become aware of a complaint (Adams, 2001). Some policies include coverage for board actions. Reviewing the policy is critical to avoiding missteps that may result in a denial of otherwise-available coverage.

Review Health Insurance Provider Contracts

Insurance contracts often stipulate that providers inform the company about ethics complaints and malpractice suits. Precise contract language does vary, however. Some contracts require notification when there is an allegation; others specify that they be contacted if there is an actual finding of unethical conduct. It is important to recognize that clients may, in addition to filing a board complaint, register their grievance with the insurance company. Psychologists should familiarize themselves with each contract to avoid violating its requirements and risking exclusion from the provider panel on that basis.

Seek Personal Support

Research with psychotherapists documents the importance of a strong support system in buffering the impact of distressing life events (Coster & Schwobel, 1997). Although psychologists must refrain from discussing details of a complaint case (to avoid compromising the defense and to protect client privacy), at least informing partners or spouses, family members, and others who are close may be necessary to explain obvious distress and to obtain emotional support. Chauvin and Remley (1996) caution that “keeping the entire experience a secret . . . may lead to even more emotional turmoil and stress for the accused” (p. 565). Reminders of one’s value and competence as a friend, partner, or parent may bolster shaken self-confidence, as can engaging in pleasurable activities that require other skills.

Use Professional Resources

Numerous professional resources are available to help psychologists navigate the complaint process and monitor their clinical judgment as they respond to complaints. Membership in professional associations represents a potential asset. The APA Insurance Trust, for example, offers legal and ethics consultation to insured members. The APA Practice Directorate has assembled a wealth of helpful information on its Web site and has published an informative brochure for members facing board complaints (Bricklin et al., 2003). The APA Ethics Office also provides ethics consultation to members. Many state psychological associations have ethics committees that also offer consultation to members.

Clinical supervision or consultation, either individually with a knowledgeable colleague or in peer consultation groups, can be helpful in maintaining professional self-esteem and decreasing the likelihood of clinical errors by monitoring for compromised objectivity and countertransference. Supervisors and consultants-colleagues can also assist with client selection, when feasible. Careful screening of clients can help to balance caseloads by difficulty and can allow psychologists to avoid treating individuals who are especially likely to engender anxiety.

Colleagues who specialize in ethics can help identify the ethical issues involved in the complaint, particularly when mistakes have been made (Thomas, 2002). Ethics consultation can also help psychologists develop a conceptual understanding of factors that contributed to their errors. Inadequate training, distressing life events, medical or mental health conditions, circumstances unique to the particular case, and related blind spots are factors to be considered (Schoener & Gonsiorek, 1989). Resulting insights form the foundation for proactively designing a plan for correcting residual problems. The ability to articulate to the board a clear understanding of mistakes and related ethical issues, and to demonstrate a commitment to rectifying problems, are likely to result in improved practices and to augment the psychologist’s defense.

Psychotherapists can provide opportunities for psychologists to examine the relationship between their personal histories and vulnerabilities and their unique responses to the involved client and to the complaint process. In this way, psychotherapists can

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Engage in Professional Self-Reflection

A final strategy for coping with a complaint is to view it as an opportunity for professional self-reflection and improvement. At many points, psychologists may feel too angry or overwhelmed to engage in productive introspection. When the most acute distress has abated, however, many say that they had been thinking about revising their informed-consent materials, updating assessment protocols, organizing a peer consultation group, joining a professional association, or seeking continuing education in a particular area of practice. Being the subject of a complaint may provide the impetus for initiating these changes. Time and money spent on required supervision or education may feel more worthwhile to psychologists who take an active role in determining how the experience can further their professional goals.

In short, psychologists facing complaints must take steps to insulate their clinical work from the impact of personal distress. Their efforts will be most effective if they use the expertise of a supervisor, peer consultation group, ethics consultant, their state or national association’s ethics committee, and/or a personal psychotherapist. Similarly, psychologists can enhance the effectiveness of their defense with assistance from an attorney, an ethics consultant, and their professional association. Responding to a licensing board complaint is a serious matter—one that no psychologist should attempt in isolation.

Implications for All Psychologists

Sometimes, in spite of psychologists’ best efforts, complaints are filed against them. Although psychologists cannot completely control whether they become the subject of a complaint, certain strategies can minimize the risk. Choosing continuing education programs focused on evolving standards of practice, ethics codes, and relevant laws will be helpful. Regular consultation with trusted colleagues can be structured into one’s work schedule to ensure appropriate scrutiny and feedback regarding clinical work. In this context, psychologists might also specifically invite colleagues to challenge them when there is any question or concern about their clinical work or the ethics of their professional behavior.

Psychologists must also commit to addressing ethics-related concerns about their colleagues’ professional behavior. The APA Ethics Code (APA, 2002) requires psychologists to resolve such a concern “by bringing it to the attention of that individual, if an informal resolution appears appropriate and the intervention does not violate any confidentiality rights that may be involved” (p. 1063). As difficult as such conversations may be, they serve to prevent both mistakes and complaints. Further, most psychologists would rather learn of a possible ethical error from a well-intentioned colleague than from the licensing board or an investigator from the attorney general’s office.

Learning about a colleague who has had an ethics complaint filed against him or her may be frightening and cause psychologists to avoid the accused individual. Fears of incurring vicarious liability can result in knee-jerk firings of accused employees, abrupt terminations of supervision, and premature evictions from independent practice or consultation groups. Following an investigation, such actions may turn out not only to be unwarranted but also damaging to psychologists and harmful to their clients. The psychologist whose employment is terminated will be forced to precipitously end treatment with other clients, and those who are ostracized from consultation and supervision may be at greater risk for making clinical errors.

When psychologists reach out to an accused colleague, they are not condoning errors in judgment or even egregious violations. Rather, doing so reflects recognition of the complexity of psychologists’ work and of their vulnerability to making mistakes. Meeting this challenge is in the best interests of both consumers and the psychologists who serve them.

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LICENSING BOARD COMPLAINTS


Received February 2, 2004
Revision received January 10, 2005
Accepted March 14, 2005