Workplace Ethical Issues: Can They Be Resolved?

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- [Announcer] At this time it is my pleasure to introduce our presenter, who will discuss workplace ethical issues and how they can be resolved. Glenn Waguespack is a private practice audiologist in Shreveport, and Chair of the Louisiana Licensure Board. He has served two terms as President of the National Council of State Boards of Examiners for speech language pathology and audiology, and continues to provide board member training in ethics at the annual meeting. A past member of the ASHA Board of Ethics, he is past chair of the ASHA CEB and the CAA, and was audiology vice-chair for the Council of Clinical Certification. Welcome Glenn, and at this time I'll hand the mic over to you.

- [Glenn] Thank you, what we're going to do today is talk about workplace ethics. There are a lot of different ethical scenarios and various aspects. One of the things we need to worry about I think is what happens in our workplace, and there are different ways of dealing with workplace ethics. Certainly if we have any issues in the workplace, our first course of action is to try to resolve them as much as we can within that particular setting. There are some workplace ethics, ethical issues that are so egregious that they really cannot be resolved and need to be reported to some particular agency depending on the source of the ethics complaint. What I'm going to do is kind of go over these learning outcomes with you. We're going to delineate the principles of audiology ethical issues. We're going to explain what to do when an ethical issue occurs in the workplace, and hopefully explain how to resolve the workplace issue if possible before we report it to a regulatory agency or a professional association. What we need to do with workplace issues is to try to resolve them as much as possible. A lot of our colleagues have ethical issues, and it's incumbent upon us to recognize those and then know what to do with them as far as that's concerned. I gave you my learning outcomes and I gave you disclosure. I should probably also disclose to you that one of the problems that I have with ethics is that it's hard to talk about ethics without entering into moral values and judgment. Many years ago on the licensure board I tried to come up with some type of rubric that we could use to determine ethical behavior, and one of the very wise members of the licensure board

indicated that ethics was kind of like pregnancy. You couldn't be just a little bit unethical just like you couldn't be a little bit pregnant, and whether your pregnancy was intentional or accidental you were still pregnant. And the same thing applies to ethics. Whether it's intentional or accidental, you're still guilty of unethical behavior at times. And so what we're going to do is try to focus on how we can resolve some of these issues and without taking into account too much of the moral judgments or other kinds of judgments that play into it. There's a big focus on ethics. A lot of our professional associations are now requiring ethics for continuing education. We're going to talk today abut workplace ethics.

However as you know, that ethics takes place in all practice settings. Sometimes we have trouble interpreting the particular aspects of a code of ethics and trying to actually apply it to what's going on. Some of you are from states that have ethics requirement for license renewal, and I'll just give you an example of some of those. I know of eight states. If there are more states, please let me know if your state has a requirement for license renewal. In Alabama, it's recommended, and I think their language reads should have something, one hour in ethics every year, and I talked to somebody at a meeting last month and they're going to actually recommend changing that to say it shall or it must be in ethics every year. A lot of the other states that are involved in it are Kentucky, Texas, Ohio, West Virginia, D.C., Oklahoma and Wisconsin. There are a lot of states that have contemplated the requirement of ethics training for license renewal as part of their continuing education requirements. However, the scarcity of courses in ethics and the preapproval methods and all those other things that enter into it I think have kept states from actually going that way. We're not going to specifically talk about sanctions for any of the things that we're talking about today, but I just wanted to kinda give you an idea of some of the differences in sanctions for ethical misconduct related to professional associations versus state regulatory bodies. What I'm going to do today is just kinda give you a background, some background information on ethics, and then we're actually gonna go into scenarios that may occur in the workplace, and they are scenarios that we would like your opinions on. You will

find that ethics is not something that's clearly black and white. There are a lot of gray areas. I have trouble focusing on the gray areas. Things are either black or white to me so we need your help in trying to determine whether an ethics violation has really occurred and what we should do about it. In terms of professional associations, most professional associations will either give you a reprimand or a censure or suspend your certification or membership, or revoke your certification or membership. Some of those are private; some of those are public. State regulatory bodies such as licensure boards can do a public reprimand. They can also do other things like restrict your practice. They can get you where it hurts as far as imposing monetary fines. They could suspend your license, revoke your license for periods of time, and that certainly impacts your ability to practice.

So just keep these in mind as we go over the different things and we try to engage in ethical decision-making so we can determine whether it's something that might require something as serious as revocation of a license, or whether it's something that can be taken care of in the workplace. If you look up ethics in terms of definitions of ethics, you'll find all kinds of things. Most of them relate to moral principles. Google says it's moral principles that govern a person's behavior or the conduct of an activity. Merriam-Webster will say it's the code of good conduct. Others say it's moral principles or values that address whether actions are right or wrong. Now if you go into any kind of research regarding ethics, you'll come upon Kitchener's model that has to do with moral principles underlying ethics. And Kitchener believes that these moral principles underlie ethics in any setting regardless of whether it's the workplace or other places. In terms of moral principles, he talks about autonomy which is your freedom of choice. He talks about justice which is equality and treating all individuals fairly. He talks about beneficence which is doing good and contributing to the welfare of the patient. He talks about non-malfeasance which is not causing harm to others. He talks about fidelity, which is loyalty, faithfulness and honoring commitments, and then also talks about professional competence in terms of knowing the boundaries, excuse me. And as we go through these, we'll kinda look at them and see which ones actually apply to

the things we're talking about. Okay, in terms of ethics and the law, it's hard to talk about ethics without talking about morality and talking about law. And so Slocum talks about in his work with ethics and the law talks about how decisions can be either legal and moral which is hopefully how we all practice. We practice according to a code that's moral. We practice within legal boundaries so we don't practice outside legal or moral issues. Now there are also things that can be illegal and moral. In the aftermath of Hurricane Katrina in New Orleans in 2005, there were a lot of instances of people stealing food, stealing diapers for their children. All of those are illegal in terms of stealing, but it's hard to make moral judgments because those people were actually doing something that was of necessity, so even though it was an illegal activity, you might consider it moral. There are other things that can be legal and immoral.

For example, do not resuscitate orders are actually legal. In the eyes of some they are immoral. There are states where assisted suicide is considered legal, but many people feel that's immoral as well. And then certainly there are those that are illegal and immoral, which something like murder which I hope none of us actually are guilty of, but there are certainly parts of the situation that will play into the relationship of ethics to the law, and relationship of ethics to moral judgements. Now what I've done here is looked at ethics in the workplace, and this is not limited to audiology. This is primarily what you would see like in big corporations and those kinds of things, just examples of unethical behavior that might occur in a large corporation, something like making long-distance phone calls at a company expense, taking excessive leave, improper usage of the machines like using the copy machine for your own personal use, taking home company assets which is a big deal, breach of company rules and regulations, offensive communications with others in the workplace and working for multiple organizations. There have been instances of people who will work for one organization and also work for another organization, and that's not to say people can't have two jobs. A lot of us in this profession know that the pay is not that great in some places, so it's sometimes necessary to have two jobs, but we want to be sure those two jobs are not in conflict with each other as far as their rules and their regulations. Now in

terms of workplace ethical issues, how we're made apprised of issues and dilemmas that are specific to the workplace, different sources of identification, human resources. You may be in a large facility, wherein human resources will come to you and say hey, your colleague is doing such and such, and that's not really considered ethical as far as what we consider to be ethical in this particular facility. A lot of your workplace dilemmas come from practitioners in the same facility. Many facilities have more than one audiologist working. Some audiologists practice according to what we consider ethical guidelines. Others may engage in practices that we consider unethical, so a lot of those workplace issues come from practitioners at the same facility. They come from practitioners in other facility. And the audiology community is relatively small. We know a lot of other audiologists in our own community or in our own city. We also know audiologists in other states, and often the practitioners in other facilities are the ones that make us aware of what's going on in our particular facility.

Certainly a big source of complaints come from the consumers and the general public, and we tend to take those perhaps a little more serious than we do some of the others, probably because our job is to serve the consumer in the best way possible, in the most ethical way possible. When a consumer has an issue with something we're doing in our audiology practice, then we start to worry about it a little bit more than we might with other kinds of ethical dilemmas reported by other sources. There are also other sources that I haven't mentioned that could possibly lead to the identification of workplace ethical dilemmas. What we're going to talk about is when possible we need to resolve the workplace ethical dilemmas. We're going to identify them and resolve them. Others sometimes are more serious and cannot be resolved onsite, and we need to know the difference between those that we can resolve within our workplace facility, and those that need to be reported to a professional association, a licensure board, or some other source, and really should not be resolved, are egregious enough so that they should not be resolved within our facility. Now there's a model that has been developed by Shelly Chabon and John Morris in their textbook for resolving ethical dilemmas, and it's a model that applies to work settings. It applies to other settings as

well. And where possible, it's a good idea, this is an excellent model and I'll show you in a minute a diagram that goes through the steps involved in ethical decision-making. But it actually begins with a question about whether an ethical dilemma has occurred. So if somebody comes to you and says John is doing this, I think your first course of action is to look at it in terms of whether it's an actual ethical issue or whether it's something else. You know, it could be personality conflicts which don't really rise to the level of ethical situations or dilemmas at all times. You identify the parties involved in it. Is it just this one audiologist engaging in unethical practice, or is everybody within the facility also involved with this? It discusses your options for decision-making in terms of is it something you can fix onsite, or is it something that you need to really look a little deeper into and perhaps report it to an appropriate agency or a regulatory board? Here we have our options for decision-making in terms of what we ought to do with the problem we've identified, and then the course of action is, what are we going to do with this? We've identified it; we know who's involved in it. Here are our options; what are we going to do?

So what it actually does is takes a problem or an ethical issue in a workplace and looks at it in terms of identifying the issue all the way through resolution of the problem. And as I said before, sometimes this can be resolved onsite. Sometimes it cannot and should not be resolved onsite. If we look at the model from Chabon here, what we're looking at is something that comes to us and we say, are we actually facing an ethical dilemma? Is what's happening considered unethical in terms of our code of ethics from our professional associations, from our licensure board? Is it an issue concerning the way we practice? So the first thing we look at is, are we facing the dilemma? And then we have to look at the relevant facts in terms of, well is is just a personality conflict? If it's personality conflict, there may be a way to resolve it without actually going any further with it. So we look at the relevant facts and the values and the beliefs involved in that. And then we say, who are the key people involved? Is it your supervisor if you have a supervisor? Is it your boss if you have a boss? Is it your partner? All of the people involved in making that particular decision and in identifying that particular

ethical dilemma. Then you want to state the dilemma clearly. It's like, what are we dealing with here? Is it an issue that we can say it's happening for example, are you billing fraudulently? That would certainly state your dilemma clearly. And then from there you analyze it, and you say how are we dealing fraudulently, what's happening here? What's going on with this? Are we billing insurance companies fraudulently? Are we billing all patients fraudulently? In terms of identifying it, we need to know exactly from a very clear standpoint what the dilemma is here. What are the possible courses of action? Well, if it's something we can resolve onsite, we'll certainly do that. If it's concerned with fraudulent billing, it may not be something that we can consider dealing with in the workplace. It may be something that needs to go a little further than that. What are the conflicts that arise from each action? If we're identifying a problem with a coworker for example, and you, say, turn that coworker in to a professional association or a regulatory board, how's that going to impact your ability to continue working with that coworker? Then what are you going to do? Are you going to fix it onsite? Are you going to report it to a professional association? Are you gonna report it to a regulatory body or a licensing board? Exactly what are your plans for this?

And so in looking at the ethical decision-making model, you take all of these things into effect. You take your ethical principles and your code of ethics into effect. What provisions of your code of ethics could you possibly have violated or have involved in this situation? You look at cultural heritage and values, social roles, self-interests and the laws that govern the practice of audiology. Now, is there consensus? If the problem occurs in the workplace, and you're dealing with, say, something reported by human resources? If you go to human resources and you say, okay, here's the problem, I've identified the problem; here's how I'm going to recommend fixing the problem, does Human Resources agree? If it's something like dealing with a coworker, you can say here's what I've recommended. Are we going to have consensus on this in terms of how we're going to actually deal with it? Okay, this is just a kind of a schematic of the diagram in terms of how it works. Are we going to actually face an ethical dilemma? What are your relevant facts and beliefs, and who are the people

involved? And then it goes through the entire model of ethical decision-making in terms of how you're going to deal with the problem. What I'm going to do next is give you an ethics exercise where I would like you to actually look at the scenarios and then give me your idea of what you would do with this dilemma. Can you tell the difference between an ethical issue? A couple of questions that have come up is, can you clarify on how to tell the difference between an ethical issue and a personality difference? For example, in terms of a personality difference, if you have a problem, say you're sharing an office with another audiologist, and that particular audiologist perhaps doesn't always get their paperwork done on time. Perhaps that audiologist plays on the computer all the time, playing games or doing whatever on the computer. You might think, well perhaps that audiologist is not doing what they ought to. They're playing on the computer all of the time. Then you look at the workload and you think, well they don't really get all their work done on time but perhaps they stay after work and do their workload. So it's something that would rise to the level of a personality difference as compared to now, if your office mate is fraudulently billing, then that goes a little beyond that of a personality conflict.

So you would worry about what to do there because you're placing yourself in jeopardy. You're also placing that person in jeopardy. You know our ethical prescriptions require that if we are aware of an ethical problem that we report that ethical problem if we cannot resolve it. And as far as the question concerning whether we ought to involve a third party, it all depends on the actual severity of the problem and what the problem is. It's always better if you can resolve the problem one-to-one, face-to-face. Now I know that's difficult. You often don't want to go with, say you're in practice with another audiologist, and that audiologist is engaged in behavior that you consider unethical, it's difficult to go to that person, and say, "Hey, what you're doing is considered unethical; "you need to fix it". You know, that can create all kinds of future problems. So if you're working with somebody who will not really listen to you in terms of being objective about what is going on, then probably the best course of action is to get a third party involved. And it may be something like Human Resources.

It may be something like if there's somebody else that could actually talk to that person, perhaps somebody from outside the practice if there're just two audiologists in the practice. So you'll need to kinda look at the situation, and that all goes back to that model where you're trying to actually identify the problem and trying to determine the best course of resolution. If the course of resolution is something that you can resolve by talking to the person in question, by all means go ahead. Usually by the time this rises to the level of an ethical situation or a dilemma, you will know whether or not you can actually discuss that with that particular person. If you can, then you do it. If you know that it'll be futile to try to talk to this person about it, that's when I think you would get to a third party and have them to try to resolve the problem. So what I've done here is done some different scenarios, and I would like your input on the different scenarios. Now some of them you might be able to resolve in the workplace, and that's certainly something that I'd like you to consider is, if it's something that you can resolve in the workplace how you're going to resolve that. If you cannot resolve it in the workplace, then we need to know what you would recommend.

So we'll look at each of these scenarios and actually talk about what other course of action might be available. If you are such that it cannot be resolved in the workplace, it may be something that you want to report to a professional association, you want to report to a regulatory body, or some other agency that's involved with it. A lot of it will depend on the particular job setting you're in, and we'll have a couple of examples that'll be different job settings so that you can see what happens in each. Now let's look at the first ethical scenario here. A private practice audiologist sees a 75 year old patient referred by a local medical center for a hearing aid consultation. So the patient comes along with a copy of the audiogram. The audiogram was done at the local medical center. All right, at the top of the audiogram, the audiologist who works at that particular medical center has their name printed. At the signature line where the line says audiologist, the bottom of that audiogram has a signature designating the testing was performed by a fourth-year audiology extern. Now this happens in your community, so you are aware that the person doing the testing was the fourth-year

audiology extern. You know it's not the actual audiologist. So is there a violation here, and if so, what would you say that particular violations is? Okay, in terms of violations, well if you look at it at face value, you say yes a violation occurred, and that particular violation would be perhaps misrepresentation of credentials because that fourth-year audiology extern is signing off as an audiologist when they do not possess the requisite qualifications to be considered and called an audiologist. So certainly what you would want to do is to have that person sign that with the appropriate designation, so they would sign and under it say, fourth-year audiology extern or whatever kind of designation they would make just so that a person looking at that audiogram who is not familiar with the particular job setting and the people who work in that job setting, the people would actually know from looking at the audiogram that the audiogram was performed by a student extern and not by an audiologist. So what's the best way to resolve this problem? We've identified misrepresentation of credentials, and is there a way to fix it? Can we resolve it in the workplace, or should it be something that should be reported to some other agency?

Okay, there's a comment that says if the patient has Medicare, there's a violation, and that violation is certainly a very common one. It's certainly one we need to be cognizant of. Those of you who do Medicare billing know that if you're going to have a student or anyone else actually assist with performing the testing that you're going to need to provide 100% supervision for that particular patient. So yes definitely, if there's Medicare there's been a violation. We're assuming that the patient is being billed. If the patient is 75 years old, they probably do have Medicare so that patient would have certainly have violated a principle. What we don't know in this particular scenario is whether the audiologist is there. Nothing in this scenario tells you whether the audiologist is also in the test booth with the patient. So one of the courses of resolution is to have the extern only sign their name in the chart, and all audiologists sign their name on the audiogram. So that would certainly be a workable solution. Many of your centers like medical centers have gone to electronic medical records. In that electronic medical record, you would have the patient sign their name, I mean the extern sign

their name in the medical records as the extern, but you would also have to have the audiologist. So how would you fix this problem so that it doesn't continue to occur? Is there anything you could do? Okay, there's a comment about what if the student provided the test and the supervisor was present? It's still a misrepresentation if you look at the audiogram, if the audiogram is sent to somebody who does not know it, and the extern signs only their name and does not indicate that they are fourth-year extern. If that audiogram is sent to somebody in an other state or in another city, it would be assumed that the person performing the test was the actual audiologist. So is this something that you could actually fix from a standpoint is this is something that's occurring in your city, you're aware of it. I don't know how frequently this has occurred. It may be occurring on a regular basis. It may be occurring with all patients. Is there a way you can actually fix it? Would you report the audiologist? Some of our licensure laws and some of our professional associations may hold the student extern responsible in terms of ethics. Some hold the supervisor responsible. It all depends on the particular job setting you're in, the particular state.

Probably the easiest way to resolve this problem, and somebody has mentioned it is call the supervising audiologist and say, hey Joe, I just got an audiogram from your office or your center or whatever you want to call it, and I noticed that the bottom of the audiogram this extern has signed off as the audiologist. And explain to them that it gives the impression of a misrepresentation of credentials. It may be that there's really no misrepresentation of credentials. Perhaps the audiologist was standing over the shoulder of the extern, actually watching the test, but in terms of signatures, it's very important that the signature be explicit enough so that anybody looking at the audiogram would know that the test was performed by the audiologist. Now as somebody mentions, if it's Medicare and the student was left to perform the test without the supervisor being present, then you have a whole other ballgame, and a whole other issue to deal with. In this particular scenario what I was trying to get at was the fact that the easiest resolution in this situation would be to call somebody at that particular job setting and say hey, you need to be sure that your student signs off as

the student extern, and that you sign somewhere as the audiologist. We're assuming here the audiologist provided the supervision. But that would be the easiest and most simple way to actually deal with the issue. So this one can be resolved in the workplace. It is a misrepresentation of credentials. I don't think it rises to the level of reporting it to a professional association, a state licensing board or anything like that. This is one of those things that you can resolve in the workplace. Now if you talk to the supervisor, the supervisor is not willing to do it, to make the change or not talk to the student extern, then and if the practice continues, then certainly it's something that you would look at from a whole different standpoint, and you would probably report that violation to the professional association or to the regulatory board.

Okay, a lot of counseling is involved in this particular situation from the standpoint of the supervising audiologist. You might feel like if you actually talked to an audiologist on staff there that you're doing counseling. We won't call it counseling when it comes from one audiologist to another, but certainly that audiologist needs to counsel the extern about the need to sign the audiogram with the designation that they are a student extern. And certainly the audiologist needs to sign off on it as well. Let's look at the next one here. Okay, 60 year old woman sees an audiologist for a possible hearing aid fitting. She comes to your office with a copy of her audiogram that shows only air conduction thresholds. Now I'm assuming that this billing was done, I mean this testing was done by an audiologist, so we're not going to factor that into the equation here. She also has an EOB that indicates that for this test she was billed for 92557. She questions the billing because she had an audiogram performed in another city, and it was certainly more comprehensive. It involved what you would bill for a 92557 CPT code. It actually included pure tone, air, bone, speech, et cetera, et cetera, et cetera, yet here she has an EOB that says she underwent the testing; CPT code 92557 was billed, but all that's shown on her audiogram is the actual code. all she has on her audiogram is the actual air conduction testing. So is it a violation? Most definitely, it's certainly fraudulent billing for services that were not performed or not completed. In this case, the person who did the testing and did only air conduction

thresholds should certainly not have billed for 92557. Now as we all know, the reimbursement is much better for 92557. I would assume that reimbursement had something to play, had some part to play in all of this, but it's very critical that we bill only for the services that we performed. You didn't do bone conduction; you didn't do any kind of speech testing. So there's different opinions on this in terms of resolution. Some people believe that you contact the audiologist and question and say that you didn't do all of the services that were billed. That's certainly one way to resolve it. It would certainly be resolved in the workplace. The only unknown factor here is you've only got one patient, so you don't know if this is a common practice with that particular audiologist. If you talk to the audiologist, and the audiologist says, oh okay I made a mistake in billing, thank you for calling this to my attention, you may look at it a little differently than if the audiologist says, you know, this is my office, I bill according to the test I administered, blah blah blah blah blah.

So it's certainly something that you want to look at. If you can resolve it with the audiologist who performed the testing, that would be the most appropriate course of action. Why did the audiologist bill for 92557 when only air conduction testing was completed, and somebody makes the comment unless the audiologist made extensive notes that they attempted speech and bone but for some reason the patient was not compliant or difficult to test, that's certainly an option. I would assume that if we're going to adhere to prevailing practice standards, that we would say that those tests were attempted somewhere on the bottom of the audiogram. I'm still not sure if I had done that what I would have billed for. And that's still a judgment call there. If I attempted the testing in my own practice, I probably would not bill 92557. I would probably only bill for what was actually accomplished. There're certainly audiologists in the country who bill according to the testing that was attempted even if it was not completed, and so that's a judgment call on your part. Let's say that you contacted the audiologist and you did not get the feeling that the audiologist really was amenable to any of your suggestions or your concerns or your issues or whatever. It's kind of the thing where if the audiologist tells you mind your own business; you run the practice

the way you want, I'll run my practice the way I want, how would you resolve this issue now? You've gone beyond the workplace here. Certainly you've identified the issue. You've come up with a possible resolution. Let's say that resolution doesn't work when you contact that audiologist. Where do you go from here? Somebody says it's unusual to see another audiology practice billing codes. I think a lot of that depends on the particular insurance company. I know that if I have a service performed that's not audiological, some of my insurance companies will provide an EOB. Some will not provide an EOB. Some provide only the name of the provider. It all depends on the particular company as to whether the coding is provided or not. In terms of resolution, would you say to report this audiologist to some other professional association or some other agency? Somebody says contact the billing department instead of the clinician. That's another very good suggestion. A lot of that depends on the particular structure of your particular setting. It may be that a mistake was made in billing. Maybe the patient was scheduled for a complete audiological and the person did only air conduction testing for a variety of different reasons, but you have a billing clerk or billing person that does the billing, and she looks at the appointment book and sees that the person was scheduled for an audiological.

So in that particular case, the error lies not with the audiologist per se but with the person who did the billing. Even though the audiologist is responsible, and should give the billing person the appropriate code, often our practices become so busy that we just send the patient back up to the front and say take care of it on your way out or whatever. Are you agreed that if this is not resolved either through contacting the audiologist, contacted the billing department, are you agreed that this is perhaps a scenario where the violation should possibly be referred to some other place? And we're getting some yeses. In terms of yes, it's certainly something that you might want to investigate it. It all depends on the practices and the policies of your particular professional association. Some professional associations may conduct their own investigation; some may not. Some licensing boards conduct their own investigation; some did not, so in this case it may be that no violation has occurred, but that's

something that you would not be able to resolve within your workplace so it would go to another party or another place, and hopefully those people would be in a position to actually look into it. If a violation did actually occur, and the audiologist was actually guilty of fraudulent billing, then certainly it's something that you would report to your regulatory agency or to your licensing board, and let them get involved in it. Of course and in the days of patient confidentiality, you would certainly want to redact all of the information, the identifying information about the patient, but I think the important thing is that your audiogram show the air conduction thresholds and also the EOB show that on that particular day the patient received the air conduction testing, but the basic comprehensive audiometry code was billed.

Okay, let's look at another one here. The only audiologist in a rural speech and hearing center notifies the director of her plans to leave the center in six months to work in a university setting. Although multiple advertisements and recruiting efforts are made, the center still has not employed another audiologist in six months. The audiologist signs the contract for the university, and at that time leaves the center with no audiological services. Patients complain to the director that they've been abandoned, and there's no one there to work on their hearing aids. Is this a violation? Yes, no, no, and most of the responses are no because, you know, here's a situation where the audiologist gave the director six months' notice. The contract may specify that the audiologist continue in the practice until a replacement is found. I don't think there're many audiologists that would sing a contract that way, particularly if you're working in a rural place, but most of the contracts specify that you give x amount of notice, either two weeks or three weeks or a month or whatever that particular contract might specify or that particular job setting might specify. In this case the audiologist gave six months' notice, so there's really no violation occurring on the part of the audiologist. Can you think of any ways to resolve the problem? Here we have a poor patient who's left without any hearing aid service in a rural area where there're no other audiologists. What would you recommend to that particular audiologist, I mean to that particular patient? Any suggestions as to how we would deal with that patient? We've probably

already told the patient that the audiologist didn't really abandon them, that the audiologist gave ample notice, that the center was unsuccessful in finding a replacement. Refer to the nearest facility is certainly an excellent suggestion, and that may be one way to resolve it. It may be that the patient will have to drive a few miles, but if they want their hearing aid serviced, and the services are not available at that particular center in their particular area, then they may need to go to a different facility for any kind of hearing aid service that they might occur. This center could certainly say the center 30 miles away or 60 miles away or whatever can provide some hearing aid maintenance for you. We will certainly be glad to notify you when we have secured another audiologist and those services are available within our facility.

So there is a way to deal with this. You don't want to leave the patient hanging, and I think in many cases it's kind of, the center's response is kind of tough. You know, the audiologist gave us six months' notice. We can't find anybody who wants to work in this Podunk area. We can't help you with any. Certainly it's better if the people at the speech and hearing center provide some alternative to the patients since patient care is what we're concerned about here. Let me let you look at another scenario here. This one is a little more complicated. An audiologist is habitually late for work, has difficulty performing simple audiology tests. He's suspected of being impaired. So Human Resources addresses the problem with him. He admits to social drinking. He assures Human Resources that he would be more cognizant of his audiological duties in the future. It's been three months; there's been no change in his behavior. So are we dealing with a violation here? What's your response; do you think that a violation has occurred? Yes, there's a violation, and I think you have attempted a workplace resolution in that you've actually talked to Human Resources about it, and most of you want to report it to the local board. And that's certainly a good resolution of this problem. What you're dealing with here is probably an impaired practitioner. You're certainly not in any position to make that judgment yourself, and the best resolution in this case would be to actually refer that patient to your local board and let them make a determination. Various licensure boards have different policies in place for reporting

violations that have to deal with impairment, not only with alcohol but with drugs and all kinds of issues like that. Somebody recommends firing the person. That's certainly one of the things that Human Resources might be able to do if you're in a situation like that. Human Resources might say I gave you ample warning. Your behavior hasn't changed. You still can't perform this simple task. You can't complete the medical records in our facility. You're not being here on time every day. So, you know, that's one option to you, and that's one way of resolving the problem. If you do let the person go for some reason, I think you're still obligated to report that person to another authority. In this case, it's probably to your local licensure board. As you know, we're certainly responsible for reporting ethical violations if we become aware of them. In this situation, I think an ethical violation probably has occurred. I can't say for certainty. I'm certainly no expert. He admits to social drinking, but a lot of people drink socially and are still able to perform the tasks required of their daily duties, and so in this case I think it would be my ethical obligation to report him even though he may no longer work in this particular facility.

Okay, let's look at another scenario here. Okay, this one is a little different here. It might require a little more thought. Two audiologists in private practice are concerned because their production has been down for the last two or three months. Although the two have agreed-upon prices for hearing aids, audiologist number one decides to charge more for patients who have no insurance coverage, who drive nice cars, and who live in a better section of town. A patient complains that she and her friend have the same aids fitted about the same time, and she was charged considerably more for hers. So is there a violation? And I'm seeing a lot of yeses. It's certainly a violation if you have agreed-upon prices, it's certainly considered unethical to look at where your patient lives and determine your prices based on the fact that they live in a nice neighborhood, and probably have more money than some of your other patients who may live in a different part of town, not knowing that perhaps these two people are friends and might discuss their hearing aids. You know it's very common for patients to at parties or restaurants or wherever to say, oh I see you have hearing aids, where did

you get your hearing aids? And then if you know the person well enough, you may say what did you pay for the hearing aid? So in terms of it, it's two audiologists in private practice. It's an ethical violation, but this is one of the situations that may not really be a legal violation. You know, we don't specify, our licensure laws don't specify how much we should charge. They say we should treat patients equitably, but that's in terms of ethical principles. It's not necessarily in terms of legal violations. And so the most appropriate course of action there is to talk to your fellow audiologist and say, hey I charged Ms. Jones this amount for a hearing aid, but you charged Ms. Smith that amount for hearing aids, and they've talked about it and there's some concerns because they have the same hearing aids but were charged different prices, and the aids were dispensed the same week. And so we need to be more careful in how we do it. How are we going to resolve it?

One resolution is certainly to discuss it with your fellow audiologist, with your partner, and say we're going to actually stick to the prices we agreed upon regardless of whether the patient can afford to pay for it or not afford to pay for it or whether they're affluent or not very affluent or whatever. How're we gonna deal with it in terms of the patient? What are we gonna do for that patient that we charged more for? Any suggestions for what we ought to do? You know, you hate to admit to a patient you were overcharged lady, I'm so sorry, but the most appropriate course of action is to adjust the price to match the lower of the two sales. Now in terms of what you tell the patient, I think that's primarily left up to you, but, you know, the patient who was charged more definitely needs to be refunded the portion of the problem to make it a more equitable sale in terms of comparing her sale to that of her friend in terms of the sale there. So this is something that you can do. Whether you would report it or not, most of the time this is something that can be resolved in a workplace situation. If your audiologist is not willing to do it, or if it happens frequently, or if you're concerned about it, you may want to report it to a professional association or a board, and let them investigate it and decide whether it's a problem. It becomes an issue here in terms of your continued ability to work with that other audiologist in terms of deciding

what to do as far as prices are concerned. And you can't help but wonder if it's spilled over into other areas like audiological evaluations that may not be covered by insurance, or self-pay patients that you're providing other sources for. So it becomes an issue in terms of what you're going to do. A very good solution to this is to certainly refund the patient the money. The person who made the comment about it's not really a legal issue was right on. It's not really a legal issue. It goes back to legal issues and moral issues and ethical issues. We certainly might think it's morally wrong and ethically wrong to charge a different amount for different patients. It's certainly not legally wrong except I don't know what kind of arrangement the two audiologists in practice had, but certainly somebody says be transparent. It's very important that we be transparent in all of our transactions with patients. Somebody says what happens if it's not a matter of your being more affluent and more able to afford it in terms of your wanting to help the first person in terms of their not being able to afford a cost. And that's certainly something you may want to consider. It's certainly when you talk to the other audiologist, it's something that may come up. He may say, I charge Mrs. Smith more because, you know, of this. I charge Mrs. Jones less because she really can't afford it. It goes back to what they've agreed upon. I would think that prevailing standards of practice would require that audiologists who are in practice together dictate the way that they do their costs in terms of we're either going to charge the same thing for everyone, or we're going to charge different prices depending on the situation.

Let's look at the next one here. A newly graduated audiologist is hired to join a 10-year audiologist in a busy ENT practice. It was determined that the senior audiologist would devote his time to the hearing aid practice while the new hire would be responsible for diagnostic evaluations. Now the important thing here is that the senior audiologist is not really a supervisor as such because we assume that audiologists coming out of training programs, coming out of clinical AUD programs have their requisite knowledge and skills to go into practice. We worry about them being able to practice on the first day so we assume that he's not a supervisor. In terms of the structure of the practice,

it may be that the audiologist is his supervisor for 90 days or whatever, but a lot of that depends on the structure of the practice. In this situation, the ENT physicians complain to the senior audiologist the new audiologist hire is too slow, resulting in patients having to wait too long. So the senior audiologist tries to talk to the audiologist about the hire. He doesn't like it very much, and so he packs up his office and turns in his resignation. He says, you can have it; I'm not working here anymore. Is this an ethical violation? Most of you say that it's not really an ethical violation. Was there a way to have resolved this in terms of an in-workplace solution? Could we have fixed it? Yeah, the ENTs could have gone to the new person directly and not to the senior audiologist. It was like saying I know you well, John, you've been here 10 years. Mike's only worked here a few months. Let me tell you about the problem I'm having with Mike. He really should have. It's something that the ENTs first of all should have talked to the new audiologist about. The new audiologist may have engaged in unprofessional behavior in terms of not discussing it with the doctor.

Somebody brings up the question about whether it was patient abandonment. I wouldn't consider it actual patient abandonment in this case because there's another audiologist onsite. It's not like you're abandoning all the patients. And it may be that some patients were scheduled for the new audiologist that afternoon, and maybe the other audiologist had a full schedule with respect to dispensing of hearing aids, but I think it's something that could have been fixed. It's something that could be resolved onsite. It's not necessarily something that should be reported to a licensure board or any other professional association. Okay, in terms of summarizing it here, ethics are not really intended to represent moral judgments. But workplace ethical issues are influenced by moral judgments that are made throughout life. You know, your parents taught you an ethical moral set of values. You know that it's considered immoral to go out and shoot somebody. So a lot of what you do as an audiologist is colored by what you have been taught as people growing up in a home environment. Ethical violations occur on a continuum from the intended which is like if you fraudulently bill to those that occur through negligence. You can actually have documentation errors that you're

actually negligent in. They're not really ethical violations, but I think what happens, what we want to emphasize is that what one person views as an ethics violation may be viewed as an acceptable standard of care by another and it is important to remember this. And that's why we have gray areas that arise when potential ethics violations are not clear-cut and they're subject to interpretation. I wanted to leave you with one train of thought here, food for thought here. It's not something that we're going to discuss 'cause I don't really know how to discuss it. It's something that as audiologists we're going to be faced with in the future. That's over-the-counter hearing aids. As all of you know, over-the-counter hearing aids are big in terms of discussions by professional associations, by licensing boards and all that sort of stuff. And so what I want to leave you with is a couple of questions here. Should audiologist include over-the-counter aids along with your other inventory? Do you think it's something that you ought to do? What kinds of services should you provide for patients who have already purchased them? So if somebody comes to you with a over-the-counter aid, are you ethically obligated to do something about it? Can an audiologist be charged with a violation of workplace ethics if either is not met? So if you don't actually sell the hearing aids or keep them in your stock, and if you refuse to work on over-the-counter hearing aids, are you behaving unethically? So hopefully at some point, we will get some resolution on what's happening with over-the-counter hearing aids and know exactly where to go with it. And I want to just leave you with this as well. Ethics is not really concerned with getting people to do what they believe to be right, but rather with helping them to decide what's right. Thank you for your attention.