

Frequently Asked Questions Regarding the Ethical Issues Related to the Recent Supreme Court Decision Overturning *Roe v. Wade* (1973)

This FAQ was drafted by the 2022 Chair, Mary M. Brabeck, PhD, and Vice Chair, Evelyn A. Hunter, PhD of the APA Ethics Committee, with support from the Ethics Office staff, to provide their initial thoughts about ethical issues confronting psychologists following the overturning of *Roe v. Wade*, 401 U.S. 113 (1973) (*Roe v. Wade*, 1973) in June 2022, and the elimination of abortion as a constitutionally-protected right. The FAQ was endorsed by the Ethics Committee on September 23, 2022.

From the outset, it is important to note that the impact and implications of the recent US Supreme Court decision, *Dobbs v. Jackson Women's Health Org.*, 597 U.S. (2022) (*Dobbs v. Jackson Women's Health Org.*, 2022) are evolving and will change over time. It is also important to note that because psychologists are licensed by states, the impact on ethical practice may affect psychologists differently based on laws within the state/s where they are licensed and/or practice. Therefore, in preparing this FAQ, we address concerns and questions of psychologists generally.

Introduction - The Values of Psychology

The values of psychologists outlined within the general Principles of the *Ethical Principles of Psychologists and Code of Conduct* (APA Ethics Code) focus on psychologists' obligations to avoid or minimize harm, to work within the limitations of their expertise, and to respect the rights of individuals to privacy, confidentiality, and self-determination. The following standards of the APA Code, in particular, provide guidance and important considerations for psychologists in applying these professional values to their practices: Section 4: Privacy and Confidentiality; Standard 1.02 (Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority); Standard 1.03 (Conflicts Between Ethics and Organizational Demands); Section 6 concerning Record Keeping; and the various standards related to Informed Consent.

1. Question: As a practicing psychologist, what should I consider regarding my ethical duty in the wake of the *Dobbs v. Jackson Women's Health Org.*, 2022 decision?

Answer: On the one hand, *Dobbs v. Jackson Women's Health Org.*, 2022 has shifted the ground under our feet. On the other hand, psychologists already have guidance in the APA Ethics Code in approaching at least some of the issues raised by *Dobbs v. Jackson Women's Health Org.*, 2022, including confidentiality, competence, informed consent, avoiding harm, and similar standards that inform their ethical practices. Psychologists do not disclose confidential information about any topic without proper authorization; they are careful about what they put into records to minimize harm to patients; they explain to patients any foreseeable risks to confidentiality as part of the informed consent process; they document the informed consent process; and they use their clinical knowledge to best serve their patients.

2. Question: Does the APA Code offer guidance on how a psychologist should address, in an informed consent process, questions and concerns that might arise from a client/patient related to information on reproductive services, including abortions?

Answer: Psychologists obtain and document informed consent as required in Standard 3.10 (Informed Consent). The future relationship between the psychologist and the client/patient will be determined by the process of explaining the psychological services offered. Before providing services, psychologists should explain to the client/patient any limitations that may exist for the services that the psychologist may offer, including the limits of confidentiality (Section 4: Privacy and Confidentiality). It may be advantageous for the psychologist to include within the informed consent document information on specifically how discussions and information related to reproductive services, including abortions, will be addressed as well as any foreseeable limitations to confidentiality.

3. Question: What proactive steps should a psychologist consider to limit the negative impact on clients/patients of the possibility of being required to disclose records?

Answer: Standard 3.04 (Avoiding Harm) states that “(a) Psychologists take reasonable steps to avoid harming their clients/patients, students, supervisees, research participants, organizational clients, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.” Psychologists obtain informed consent (Standard 3.10), maintain confidentiality (Standard 4.01), and discuss the limitations of confidentiality imposed by legal requirements (Standard 4.02). Psychologists minimize the improper use of information in written and oral reports and consultation (Standard 4.04; also see Standard 6.02b). As with other sensitive issues, psychologists should also consider how best to document interactions with patients in their record keeping so as to minimize harm, as noted in Standards 4.01 (Maintaining Confidentiality) and 6.01 (Documentation of Professional and Scientific Work and Maintenance of Records).

4. Question: What guidance is offered by the APA Code for psychologists when their ethical practice may conflict with laws and regulations due to the impact from the recent decision by the US Supreme Court overturning *Roe v. Wade*, 1973?

Answer: Psychologists work in many settings in which their ethical practices may result in conflicts with laws and regulations (and/or organizational policies). Standard 1.02 and Standard 1.03, (Conflicts Between Ethics and Organizational Demands) both state that the responsibility of the psychologist is to clarify the nature of the conflict between the legal authority or the organizational policy and make known their commitment to the Code, and “take responsible steps to resolve the conflict” consistent with the standards of the Code. Unlike some other professional ethics codes, the APA Ethics Code does not require that a psychologist follow the law when a conflict arises and allows a psychologist to engage in civil disobedience in the face of an unjust or unethical law. Standard 1.02 states a psychologist may not defend the violation of human rights by stating that they were following the law. The APA’s policies have affirmed that reproductive rights are a human rights issue [APA Resolution Affirming and Building on APA’s History of Support for Reproductive Rights](#). In the end, each psychologist must weigh the consequences of their decision when navigating these issues and attempt to resolve the conflict in ways that are consistent with the APA Ethics Code based on their own circumstances. The goal of the Ethics program at APA is to be helpful to psychologists navigating these conflicts and that is why we offer confidential consultations to those seeking guidance in considering the options psychologists face.

5. Question: If a psychologist receives a request to release records or disclose information related to clients/patients with whom they may have discussed obtaining an abortion, what guidance does the APA Ethics Code provide related to ethics that the psychologist should consider?

Answer: Psychologists have an ethical obligation to protect the confidentiality of those to whom they provide services. In addition, it is important that psychologists discuss with clients/patients the limitations of confidentiality as part of the informed consent process. As noted in Standard 4.05 (Disclosures), psychologists may disclose confidential information with the appropriate consent of the client/patient. Without such consent, psychologists may only disclose confidential information as mandated by law (or permitted by law if the reason for the disclosure is for a valid purpose). This standard does not require that a psychologist disclose confidential information, but rather identifies the very limited circumstances in which a psychologist may disclose without client/patient authorization. It will be important for the psychologist to consider Standard 1.02 and also relevant laws in determining whether disclosure is mandated, and to again weigh the consequences of their action or inaction. It may be helpful for psychologists to consult their insurance provider or an attorney who specializes in risk management concerns before making a decision.

Finally, the APA Practice Directorate has released helpful information for practitioners concerning the legal issues involved: [Frequently asked questions about abortion laws and psychology practice \(apaservices.org\)](#) Additional information may be added by APA offices in the future and we encourage psychologists to access this information on the APA website as it becomes available.

If you have additional ethical concerns in your state resulting from the *Dobbs v. Jackson Women's Health Org.*, 2022 decision, please contact the APA Ethics Office by clicking on the **Contact the Ethics Office** box at [Ethics Office \(apa.org\)](#).