CLEAR Lenses: An Integrative Model of Ethical Reasoning

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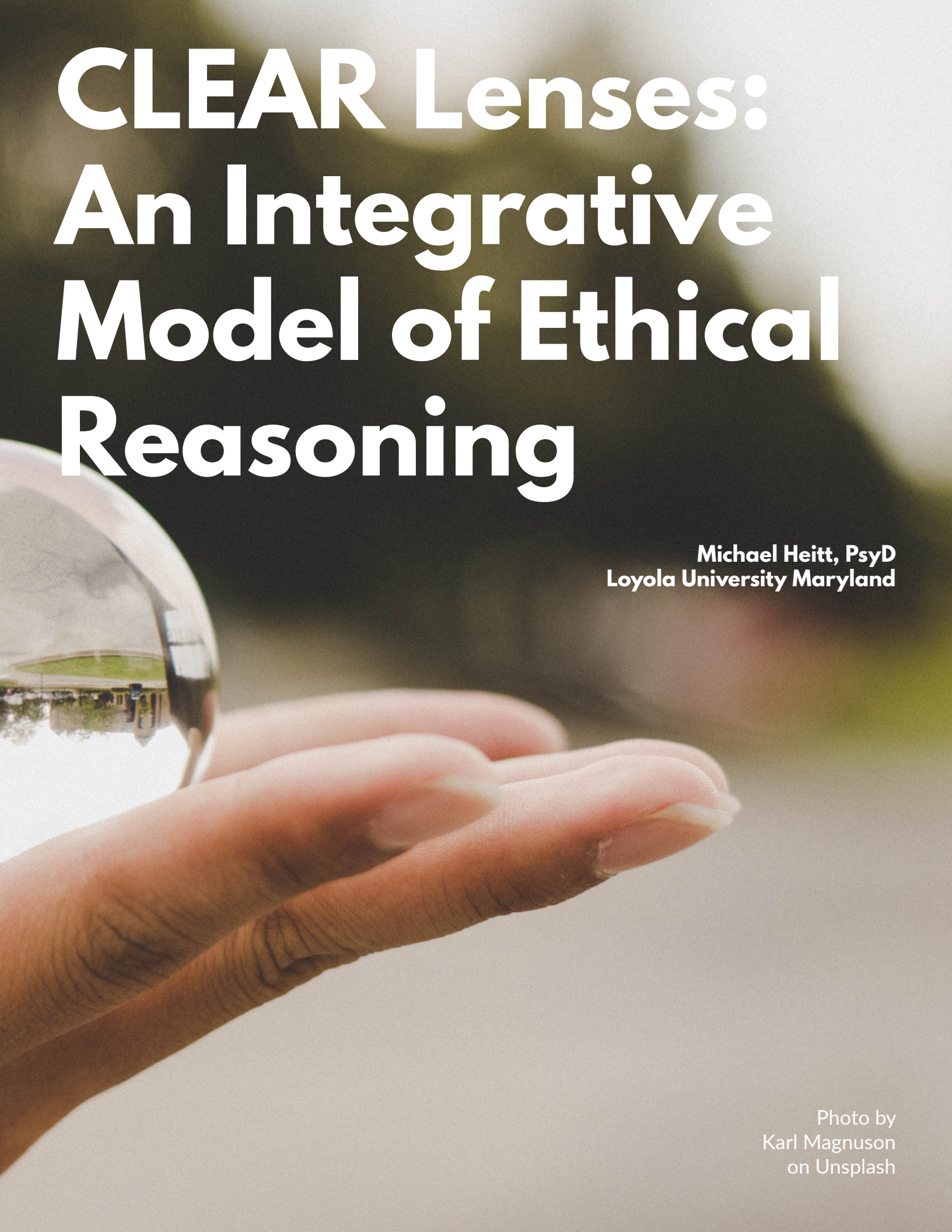

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Ethics are often thought about as moral principles or moral philosophies that discriminate proper, from improper, conduct. But as we know, psychotherapy is a highly complex interpersonal process which rarely can be broken down into purely right or wrong steps. We are thus required to consider the pros and cons of nearly all of our interactions with and regarding our patients. We must think critically about whether our actions are benefiting or harming our patients or others, if we are supporting the autonomy of our patients or protectively coddling them and how we are setting limits or parameters within the therapeutic relationship. Even though after the fact, these considerations might appear to be common sensical, they are rarely straightforward or universally applicable to all situations. Our professional ethical code of conduct can guide us with such decision making.

In contemplating decision making, it's useful to think about how people learn and develop moral reasoning. Kohlberg (1958) offered a model of moral decision-making that is quite interesting to ponder. He posited that there are three stages of development of moral reasoning: Pre-Conventional, Conventional and Post-Conventional. In the Pre-Conventional stage, children make moral decisions primarily to avoid punishment. During the Conventional stage, they learn to respect and follow rules, honoring the institution of the rules. And in Post-Conventional reasoning, children appreciate that they should do the "right thing" for society's sake. There is an expanding awareness of justice and fairness, and growth from childhood primal narcissism to societal awareness of a greater good.

If we apply Kohlberg's model to ethical reasoning, we can think about the graduate student who dutifully follows his supervisor's directives so he doesn't get in trouble or so he receives a passing grade. With more experience, including incidences of good outcomes as well as mistakes, the same student later learns about his profession's code of ethics, and opts to follow the listing of enforceable standards because they're widely accepted by his fellow practicing clinicians. And over time, he develops a better appreciation of the overarching aspirational principles of the ethical code and his clinical decision making is guided by societal norms and values rather than a set of rules.

This developmental process demonstrates a gradual evolution from rigid rule-following to aspirational strivings toward ethical righteousness. For example, some clinicians maintain detailed medical records so their employer doesn't criticize them; others do so because one's institutional policies might dictate the minimum requirements of the chart; and others keep good notes, so the patient is best served in the unfortunate event that another clinician needs to step in if the therapist is disabled or dies unexpectedly.

Most codes of ethics incorporate both rules that, if broken, may yield punishment as well as overarching aspirational goals by which clinicians should be guided. Most clinicians are quite familiar with the enforceable "standards," such as those that dictate maintenance of confidentiality, the necessity of being competent to

practice, how one is and is not permitted to represent himself to the public, etc. Far fewer clinicians are equally familiar with the overarching aspirational – but not enforceable – principles such as beneficence and nonmaleficence, supporting and encouraging the autonomy of those with whom we work, and respect for others' rights and welfare.

When the clinician loses sight of these principles, and instead focuses exclusively on avoiding punishment for violating an enforceable standard, he functions at a regressive, lower level of moral reasoning. The punishment-avoidant clinician may not consider the guiding moral principles and may be at risk of thinking primarily in a manner that is self-protective rather than focusing on what is best for his patient.

A similar "short-sightedness" issue is likely to occur when the clinician approaches an ethical decision thinking only of ethical factors rather than also taking into account other dynamic factors that may mediate the outcome, such as the clinician's theoretical orientation or clinic policies. Thus, it is imperative that clinicians adopt a multi-factorial approach to their ethical decision making which takes into account other issues beyond the ethical code.

We've all heard the parable about the blind men and the elephant: a group of blind men encountered an elephant – an animal with which none of them were familiar – and they each explained what they thought they had discovered given their very limited perspectives. The blind man who touched the elephant's trunk thought he was holding a snake; the man touching the elephant's leg believed he found a tree; the elephant's body was assumed to be a wall; and a rope was found by the man holding the elephant's tail. If we approach our clinical interactions with patients in a unidimensional manner, we risk being as cognitively blind as the men were visually about the elephant. Instead, we should consider multiple factors when making decisions in our clinical work, and we should integrate these often-conflicting factors in our decision making. In addition to clinical matters, surely ethical issues should be considered, as should regulatory parameters such as licensing laws. In thinking about how we protect ourselves, risk management must be a consideration. There are also basic, practical issues such as administrative practices that often come into play. When we integrate and balance all these perspectives, we can make better, more thoughtful and holistically-oriented decisions.

We can think about these different perspectives as separate and distinct "lenses" through which we can look at or view the situation at hand. Instead of wondering whether the scenario requires clinical thought or ethical reflection, it makes sense to use all five lenses, one at a time, to yield the most comprehensive and integrative approach to decision making and problem solving. Below is a diagram of the five lenses: Clinical, Legal, Ethical, Administrative and Risk management, or CLEAR lenses (Heitt, 2014, 2018).

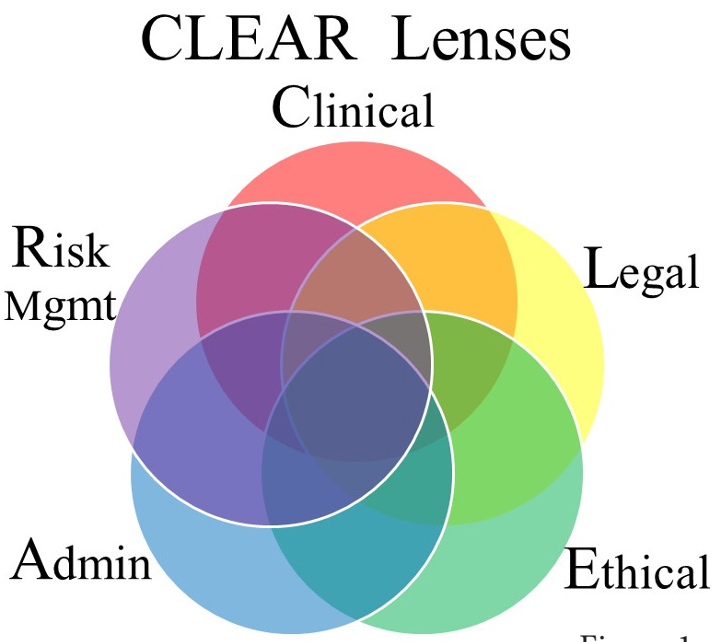

Figure 1.

Interestingly, as you see in Figure 1., each of the lenses overlap with each of the others. For example, when considering what to do when a patient talks about childhood abuse, the clinician should consider the Clinical implications this disclosure may have on the therapeutic relationship, the Legal mandates that may require reporting the suspected abuse to authorities, the Ethical consideration of supporting patient autonomy and dignity if she does not want anyone else to know, Administrative issues such as proper documentation of the therapy session and any actions considered and Risk management matters including how the patient was given informed consent regarding situations that may necessitate breaching confidentiality. From this we can see that there is far more to consider than just whether the clinician is obligated to make a report of abuse to the authorities or not. The punishment-avoidant clinician may act out of an abundance of caution and in a knee-jerk reaction, contact the local authorities to report the suspected child abuse. But in the process, this overly cautious clinician may inadvertently cause significant harm to the patient if there was not an adequate informed consent discussion during which the patient's autonomy was supported so she could decide whether or not to even disclose any details about the alleged abuse. Similarly, because only certain types of suspected abuse are typically mandated to be reported (e.g., child abuse by a family member as opposed to an assault by a neighbor), the decision to "be on the safe side and make the report" may actually result in an illegal and unethical unauthorized breach of confidentiality.

Thus, it is clear that these matters are quite complex, and they require great consideration and contemplation. Furthermore, most clinicians typically undergo extensive clinical and ethical training but receive relatively little exposure to applicable laws and administrative and risk management matters. When faced with anxiety-provoking, difficult decisions, clinicians often default to what they know best and fail to consider other less-familiar yet still quite essential issues.

In Table 1. below, there is a brief, non-exhaustive list of examples for each of the five lenses. Many issues may be associated with more than one of the lenses. For example, "extra-session contact," as listed under the Clinical lens, may refer to the

fantasies a patient generates after running into the clinician outside of the office. Under Legal, extra-session contact might involve HIPAA regulations and whether the clinician uses an encrypted email service or communicates via publicly-accessible social media with patients. The Ethical implications of extra-session contact could include respect for the patient by maintaining confidentiality rather than openly acknowledging the patient when in a public setting, thereby inadvertently "outing" her as a therapy patient. From an Administrative perspective, it may be necessary to be accessible to patients who are in crisis or even patients who just need to reschedule a therapy appointment. And the Risk Management lens may expose a need for the therapist to revisit his informed consent process so his patients know how accessible he will be and how to gain access to him outside of session.

Most professional dilemmas present with a variety of facets to consider. Viewing such situations utilizing the CLEAR lenses provides increased clarity and a comprehensive and integrative perspective. With this outlook, clinicians are better prepared to make a more informed, well-considered decision about how to proceed.

Clinical	Theoretical orientation and techniques Patient diagnosis Transference and countertransference Cultural/Diversity issues Maintenance of boundaries Extra-session contact Termination of therapy
Legal	State Practice Act Regulations associated with Practice Act Medical Records Act Duty to Report Child Abuse & Neglect Health Insurance Portability & Accountability Act Institution-specific policies
Ethical	Aspirational principles (e.g., APA) Beneficence and Nonmaleficence Fidelity and Responsibility Integrity Justice Respect for People's Rights and Dignity Enforceable standards Resolving Ethical Issues Competence Human Relations Privacy & Confidentiality Advertising & Other Public Statements Record Keeping & Fees Education & Training Research & Publication Assessment Therapy
Administrative	Fees and billing practices Interactions with insurance company Record storage and retention Scheduling of sessions Advertising practices Group practice contracts Employment policies
Risk Management	Informed Consent process Documentation Consultation with others

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