

## Law-Ethics Conflict: Jaffee v. Redmond

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### Overview

Since the early 1950s, court interpretations and legislations have been sought to establish some form of privileged status regarding the psychotherapeutic communications and the medical records/data in general. Subsequently, in 1996, the Supreme Court of the United States ruled in *Jaffee v Redmond* HIPAA case that the psychotherapeutic communications should be privileged in any federal court.

Moreover, the medical privacy rule underlying the Health Insurance Portability and Accountability Act (HIPAA) allows the US Department of Health and Human Services to give both the patients' medical records and psychotherapeutic notes the necessary confidentiality protections as outlined in the legislations (Mosher & Swire, 2002, p. 575).

Further, due to the underlying risk that different people may interpret these legislations in different ways or that these legislations may be in direct or indirect conflict with the existing Ethics Code for psychologists, this article seeks to discuss the ethical and legal implications of the *Jaffee v Redmond* HIPAA case.

### Legal implications

In the early 1990s, many federal courts in almost 50 States sought to establish federal privilege regarding the psychotherapeutic communications except that they had not reached a decisive conclusion.

However, through the *Jaffee v Redmond* case, the US Supreme Court established an absolute privilege as opposed to a qualified privilege, which in this regard excludes case-by-case considerations seeking to factor in the impact of any evidence protected by the federal privilege in court proceedings.

As a result, the ruling implies that the privilege established in the psychotherapist-patient communications should be very reliable and unambiguous to maintain confidence and trust in the psychotherapist-patient relationship (Mosher & Swire, 2002, p. 576).

# Law And Ethics Conflict Essay

**S Ben Porath**



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## **Table of Contents Law And Ethics Conflict Essay**

1. Understanding the eBook Law And Ethics Conflict Essay
  - The Rise of Digital Reading Law And Ethics Conflict Essay
  - Advantages of eBooks Over Traditional Books
2. Identifying Law And Ethics Conflict Essay
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Law And Ethics Conflict Essay
  - User-Friendly Interface
4. Exploring eBook Recommendations from Law And Ethics Conflict Essay
  - Personalized Recommendations
  - Law And Ethics Conflict Essay User Reviews and Ratings
  - Law And Ethics Conflict Essay and Bestseller Lists
5. Accessing Law And Ethics Conflict Essay Free and Paid eBooks
  - Law And Ethics Conflict Essay Public Domain eBooks
  - Law And Ethics Conflict Essay eBook Subscription Services
  - Law And Ethics Conflict Essay Budget-Friendly Options

6. Navigating Law And Ethics Conflict Essay eBook Formats
  - ePub, PDF, MOBI, and More
  - Law And Ethics Conflict Essay Compatibility with Devices
  - Law And Ethics Conflict Essay Enhanced eBook Features
7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Law And Ethics Conflict Essay
  - Highlighting and Note-Taking Law And Ethics Conflict Essay
  - Interactive Elements Law And Ethics Conflict Essay
8. Staying Engaged with Law And Ethics Conflict Essay
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Law And Ethics Conflict Essay
9. Balancing eBooks and Physical Books Law And Ethics Conflict Essay
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Law And Ethics Conflict Essay
10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine Law And Ethics Conflict Essay
  - Setting Reading Goals Law And Ethics Conflict Essay
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Law And Ethics Conflict Essay
  - Fact-Checking eBook Content of Law And Ethics Conflict Essay
  - Distinguishing Credible Sources
13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
14. Embracing eBook Trends
  - Integration of Multimedia Elements

- Interactive and Gamified eBooks

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