



ETHICS FOR REHABILITATION COUNSELORS PROGRAM I

A HOME STUDY PROGRAM

COMMISSION ON REHABILITATION COUNSELOR CERTIFICATION
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INTRODUCTION

The Commission on Rehabilitation Counselor Certification (CRCC) believes that individuals certified as rehabilitation counselors (CRCs, CCRCs, CRC-MACs, and CRC-CSs) should continue to expand their skills in order to enhance the quality of services they provide. CRCC's certification renewal requirements are designed to encourage rehabilitation counselors to continue their professional education through courses and other activities that will help them serve their clients more effectively.

Because of this belief, all Certified Rehabilitation Counselors must demonstrate that they have attained 100 clock hours of continuing education over their five-year term of certification of which a minimum of 10 hours must be in ethics.

CRCC has prepared this material to help meet the continuing education needs of Certified Rehabilitation Counselors. The materials in this package cover eight specific areas and are designed to provide participants with valuable information that can be used in a variety of work settings. Each module is based on the ethical concerns or issues most prominently seen by the CRCC Ethics Committee.

The essays included in this home study course have been written by experts in the field of rehabilitation counseling who address the various aspects of the ethical challenges, dilemmas and responsibilities faced by certified professionals. The essays reflect the unique perspectives and writing styles of the experts, which are preserved to give the home study course participants the benefit of the authors' experience and presentation styles.

By completing this home study course, participants should be able to apply relevant ethical principles to their professional activities and to understand ethical dilemmas in accordance with the tenets of their respective codes of professional ethics.

Participants seeking continuing education credit are required to read each module and complete the set of questions for each module according to the instructions. Upon completion, the complete set of questions for all eight modules must be submitted to CRCC for evaluation along with the required fee of \$50.00.

The content of this package has been approved by CRCC for its certified individuals for a total of 4.0 clock hours of continuing education in the area of ethics.

FROM THE AUTHORS...

These materials have been written to respond to the continuing needs of rehabilitation counselors who provide rehabilitation services to individuals with disabilities.

Many of the authors served as Commissioners on the Commission on Rehabilitation Counselor Certification and on the Ethics Committee of the Commission.

Laurence Gordon, Ed.M., CRC, was the 1999-2000 Vice-Chair of CRCC and former chair of the Commission's Ethics Committee. He is a former President of the International Association of Rehabilitation Professionals (IARP), formerly NARPPS, and served as the first Chair of the Case Management Coalition Association.

He has more than 30 years in the field of vocational rehabilitation in both the public and private sectors. His service in the public sector culminated in his appointment as Director of Vocational Rehabilitation with the Massachusetts Rehabilitation Commission. He served in that position from 1975 to 1978 when he left to join the private sector in California. Mr. Gordon now serves as President of Rehab Data, Inc., a vocational rehabilitation and medical management bill review company. He also provides management consulting services to case management companies nationally. He is a vocational expert and an employment network (EN) for the Social Security Administration.

Mr. Gordon believes that it is vitally important for all rehabilitation counselors to understand the Code of Professional Ethics and the ethical process in order to practice ethically. He believes that this is even more critical for those who practice in the private for-profit sector since many individuals believe that the for-profit sector, by definition, must be unethical. One way to dispel this misconception is to ensure that those counselors who do practice in that sector maintain the highest ethical standards.

Jack Hackett, MS, CRC, LMHC, is a counseling psychologist and program manager with the U.S. Department of Veterans Affairs, Vocational Rehabilitation and Employment Service in Des Moines, Iowa, where he provides vocational rehabilitation services to veterans. He previously served with VA's Central Office in Washington, DC, as a program consultant working with Quality Assurance, Employee Training, and Self Employment. He currently serves as the Vocational Rehabilitation and Employment Officer for the VA Regional Office in Des Moines, IA. Jack held that position for 17 years and has served with the VA for the past 35 years. Jack is a past president of the National Rehabilitation Counseling Association. He was a 1994 Switzer Scholar and in 1995 was selected VA Employee of the Year by the Air Force Association. Jack served as a Commissioner for the Commission on Rehabilitation Counselor Certification and is a past chair of the Ethics Committee. He is currently serving on the Governor's Advisory Council for Brain Injury. Jack has been a frequent presenter at state and national rehabilitation conferences and has written several articles. Jack received a Masters Degree in Rehabilitation Counseling from West Virginia University in 1972 and has made a life long commitment to the values and independence and empowerment. Jack can be reached at jackha@mchsi.com.

Manuela K. Kress, Ph.D., CRC, LPC is the Director of Employment Advocacy at Michigan Protection and Advocacy Service, Inc. She was formerly an Assistant Professor and Program Director of the Rehabilitation Counseling Program at the University of South Carolina, School of Medicine. She completed a five-year appointment (1995-2000) as a CRCC Commissioner.

While a Commissioner, Dr. Kress served as the Co-Chair of the Supervision Committee, and served for four years on the Ethics Committee. She is a past board member of NRCA and past president of the Great Lakes Region of NRCA. She has published and presented on ethics, women with disabilities, disability management, psychiatric rehabilitation and job placement.

Dr. Kress believes that the study of ethics is vitally important to the work of rehabilitation counselors at any stage of their careers. Studies have shown that most ethical decisions are made unconsciously or consciously at the intuitive level. Even if a counselor does seek consultation they typically do not consult all of the resources available to them nor do they weigh out all of the possible options.

Dr. Kress hopes that this study guide will at a minimum increase the readers' awareness of ethical dilemmas that they face on a daily basis. She hopes that this increased awareness will lead counselors to seek out available resources to assist in ethical decision-making such as the Code of Professional Ethics for Rehabilitation Counselors. Dr. Kress believes that increasing ethical awareness and ethical practices will lead to improved counselor-client relationships, client services and client satisfaction with services.

Chow S. Lam, Ph.D., CRC, is Distinguished Professor of Psychology and Director of the Rehabilitation Psychology Program at the Institute of Psychology of the Illinois Institute of Technology. Dr. Lam has been recognized by the field as a top educator, researcher, and leader and received numerous teaching and research awards. He is a Past President of ARCA (1999-2000) and served on CRCC as Treasurer, Chair of the Examination and Research Committee, and member of the Ethics Committee. Dr. Lam believes that “ethics is the key to assist professionals in distinguishing between right and wrong and ultimately in making sound moral judgments. Therefore, rehabilitation counselors need ongoing training and education in the area.”

Dennis R. Maki, Ph.D., CRC, LMHC, ACS, is a Professor in The Graduate Programs in Rehabilitation and Chair of the Department of Counseling, Rehabilitation and Student Development at The University of Iowa. Dr. Maki has had over 30 years of experience as a rehabilitation counselor, educator and researcher. His scholarly interests lie in clinical supervision, assessment, graduate rehabilitation counselor education, and cross-cultural issues related to disability and rehabilitation. Dr. Maki was President of the Council on Rehabilitation Education as well as a Past President of ARCA. He is also the recipient of numerous professional awards including the National Council on Rehabilitation Education's (NCRE) Rehabilitation Educator of the Year. He has been a consistent contributor to the professional literature. Dr. Maki is the Co-Editor of the texts, Applied Rehabilitation Counseling (1986), Rehabilitation Counseling: Profession and Practice (1997) and the Handbook of rehabilitation Counseling (2004) as well as the Directory of Doctoral Studies in Rehabilitation (1985; 1992; 1999).

Gwen Roldan, Ph.D., CRC, CVE, is a rehabilitation psychologist in private practice. She was Assistant Professor of Psychology at the Institute of Psychology of the Illinois Institute of Technology. During her affiliation with IIT, she taught courses on counseling theories/techniques and practicum. Dr. Roldan sees ethics as the essence of practice in private rehabilitation.

Horace W. Sawyer, Ed.D., CRC, is professor at the University of Florida. He has served as a rehabilitation counselor, rehabilitation and vocational consultant, and educator/trainer in the field of rehabilitation for over 30 years. He has extensively published in the professional

literature, presented at national and international conferences, co-authored books, and participated actively in professional organizations.

In the field of rehabilitation counseling and related rehabilitation consultation, special attention must be paid to ethical considerations. Our profession is changing and responding to a marketplace of unique opportunities and service challenges. This response is not waiting for updated standards of practice, professionalization developments, role definitions, and accepted and well-recognized professional identities. For these reasons and many others, a clear focus on ethical behavior and defining ethical dilemmas is critical as we move toward a more crystallized and accepted profession worthy of higher status and opportunities.

Linda Shaw, Ph.D., LMHC, CRC is a Professor and Head of the Department of Disability and Psychoeducational Studies at the University of Arizona. She has served as the President of the Council on Rehabilitation Education (CORE) and on the Consortium for Rehabilitation Counseling. She is a former Vice-Chair of the Commission on Rehabilitation Counselor Certification (CRCC) and is a former Chair of the CRCC Ethics Committee. Dr. Shaw is a Past President of the American Rehabilitation Counseling Association (ARCA) and also served as the Co-Chair of the Alliance on Rehabilitation Counseling. She has published, presented, and consulted on issues related to professional ethics, disability human rights issues, and professional issues in rehabilitation counseling. She has co-edited two books, several journal special issues and is the author or co-author of numerous book chapters and journal articles.

A solid foundation in ethical practice is absolutely essential for the practicing rehabilitation counselor. The relationship between counselors and the individuals seeking counseling is generally regarded to be the single most important factor in the counseling process. A counseling relationship is impossible without the presence of trust that the counselor will act in ways that respect and protect the rights of the individuals served. Counselors-in-training routinely receive pre-service training in ethics within their university programs. This is a positive and important step toward building a solid foundation in ethical practice. However, it can be difficult for students to successfully apply the principles and hypothetical knowledge they have acquired, given their limited "real world" experience. They have not yet confronted the sometimes-confusing demands of employers, legal systems, and insurance companies.

The study of ethics should not cease when one leaves the classroom. This is the time when the study of ethics should become a real, "lived" experience. Even the most ethical and experienced counselor will be continually challenged by emerging areas of practice and by new clinical situations that may pose ethical dilemmas that do not parallel previous experience.

The home study program provided here represents a sampling of issues and concepts that should prove useful to the practicing rehabilitation counselor concerned with ethical practice. It is, by no means, inclusive of all the potential ethical challenges that rehabilitation counselors confront, but rather it seeks to discuss and provoke, through discussion, some key common ethical concerns. It is hoped that those who complete the program of study will use it as a springboard to launch their own personal ethical inquiry and to continue to develop their own professional education in ethics.

Vilia M. Tarvydas, Ph.D., CRC, has had more than 35 years experience as a rehabilitation counseling educator and practicing rehabilitation professional. Currently, she is a Professor and the Clinical Coordinator of the Graduate Programs in Rehabilitation at The University of Iowa. Also she is the Director of the Institute on Disability and Rehabilitation Ethics, a cross-disciplinary and cross-institutional community of scholars whose work is intended to improve

the quality of ethical practice experienced by people with disabilities through research, education and consultation. She holds a B.A. in Sociology from Northwestern University, an M.A. in Rehabilitation Counseling from the University of Wisconsin-Milwaukee, and a Ph.D. in Rehabilitation Psychology from the University of Wisconsin-Madison. Her clinical practice has emphasized traumatic brain injury and physical medicine rehabilitation. She has served as a clinician and as program director of a medical neurobehavioral unit and as a psychologist for acute rehabilitation units. Her scholarly works and presentations have concentrated on the areas of ethics, ethical decision-making, and professional standards. She has published extensively in these areas, and her most recent textbook (2007) is *Counseling Ethics and Decision Making* that is in its 3rd Edition. She has been prominent in leadership of the major professional organizations in rehabilitation counseling and counseling, having served as President of the American Association of State Counseling Boards, National Council on Rehabilitation Education, the American Rehabilitation Counseling Association, and been co-chair of the now disbanded Alliance for Rehabilitation Counseling. Dr. Tarvydas was chair of the committee that developed the unified Code of Professional Ethics Rehabilitation Counselors in the late 1980s, served as a member of the taskforce that revised the 2002 Code in 2002, and most recently chaired the CRCC Taskforce that revised the Code of Professional Ethics resulting in the current 2010 version of the Code. She also chaired the work resulting in the Scope of Practice for Rehabilitation Counseling and has received the 1999 Eda Holt Lifetime Rehabilitation Achievement Award from the Commission on Rehabilitation Counselor Certification, ARCA's James F. Garrett Distinguished Career Research Award in 2008, and the NCRE Distinguished Career in Rehabilitation Education Award in 2008. Dr. Tarvydas has chaired several ethics committees in medical facilities and for the profession, and was Chair of the Iowa Board of Behavior Science Examiners and their Disciplinary Committee from 1999-2008. In addition, she has been a member of the American Counseling Association Ethics Committee and the Judicial Council of the American Occupational Therapy Association. In 2009 she had the honor of serving on the Committee on the Qualifications of Professionals Providing Mental Health Counseling Services under TRICARE of the Institute on Medicine, National Academies of Science

Virginia A. Thielsen, Ph.D., CRC, LPC, has a long-standing interest in the ethical competency and decision making of rehabilitation counselors. Recently, she was a member of a research team that investigated the ethical beliefs and behaviors of rehabilitation counselors. Through her experience as a rehabilitation counselor and clinical supervisor in a variety of community based settings, Dr. Thielsen has developed a specific interest in the use of ethical decision-making models to identify and address diversity issues in the counseling relationship and has co-presented on this topic at the national level. Her practice and research interests also include clinical supervision and transition issues for youth with disabilities. Dr. Thielsen is currently teaching both masters and undergraduate courses as an adjunct faculty member in the Rehabilitation Counseling Education Program at Michigan State University.

MODULE I – DUAL RELATIONSHIPS

LEARNING OBJECTIVES:

As research on the harm done by dual relationships becomes available, counselors are becoming more aware of the risks posed by this complex area of ethics.

After reading this article the counselor will be knowledgeable about how to avoid dual relationships with clients that could impair professional judgment or put the client at risk.

The reader will be able to:

1. Define “dual and multiple” relationships.
2. Identify reasons dual relationships have the potential to be harmful to the client and to the counseling procedure.
3. Recognize several danger signs of potential dual relationships.
4. Describe several strategies for limiting the potential for harm in a dual relationship.

ETHICS: SETTING BOUNDARIES

By: Vilia Tarvydas, Ph.D., CRC

Non-professional relationships with clients or dual relationships are one of the most serious but least understood of the ethical issues facing the rehabilitation counselor. To avoid the dangers they pose, counselors must be extremely careful to set appropriate boundaries with regard to their professional relationships and to constantly re-examine those relationships in an ethical context.

Before we begin our discussion, let’s clarify some of the terms we’ll be using. First, what is a “dual” relationship? Basically, it means that a counselor has assumed more than one role with regard to a client, a subordinate, or a student. This concept may also extend to “multiple” relationships, a more complex ethical problem for counselors who, in the context of their work, may have to maintain relationships with several parties who have potentially conflicting interests. This may be more obvious for private sector counselors who must balance obligations to the client, the client’s family, the client’s employer, the counselor’s employer, and the third-party payor such as an insurance company.

Second, who are the parties to a dual relationship? For the purposes of this discussion, there are two: the “counselor” (i.e., the “person in power”) and the “recipient” (a client, subordinate, or student).

Where’s the Harm? One of the problems with dual relationships is that they are not inherently unethical. Many are formed for the best of motives, and some even achieve beneficial goals. Mentoring relationships have increased in popularity and are an example of a dual relationship that is often beneficial. However, recent research has established that there is a grave potential for harm to the parties in a dual relationship, especially clients. This is true even if they were the ones who sought the secondary relationship (e.g., a social or even an intimate

friendship). The harm, which may not be recognized at the time, is that there is a “power differential” between the counselor and the recipient who, as a client, subordinate, or student, may be in a vulnerable and, therefore, frightening position. This is particularly true with regard to client/counselor relationships in the rehabilitation field since the counselor may have substantial control over a client’s access to benefits, training, or other resources.

Recipients may not be the only ones who suffer. Dual relationships, if harm is perceived to have been done, can result in disciplinary, even legal action against the counselor. For example, a growing number of states have now made it a felony for a counselor of any type to have a sexual relationship with a client. The CRCC Code requires a five-year gap between termination of services and sexual interactions with a former client. (A.5.b)

Another problem is the difficulty counselors may have in maintaining appropriate boundaries in a professional relationship. As a counselor, an individual’s primary ethical obligation is to guard any professional relationship against intrusions by other relationships that may exist (family, social, business), even when such relationships pre-date the professional one. As you can see, the existence of such ties could, in themselves, impair the professional’s judgment or produce ethical dilemmas.

Then there is the issue of empathy. Even in a strictly professional relationship, the need for a counselor to place himself or herself in the client’s place may, over time, expand the emotional boundaries of the relationship beyond that which is intended and controllable by the counselor. The tendency to bond with others we care for is human nature and not necessarily inappropriate unless it leads the counselor to lose objectivity or behave in an inappropriate manner. Therefore, the key is that the counselor does not deny the bond, but seeks to monitor and manage this tendency.

Responding to the Real World: In an ideal world, counselors would have no trouble setting boundaries and adhering to them. The real world is a different matter. Here are some examples of situations where a counselor might inadvertently or even consciously establish a dual relationship.

Instructor: A student asks to discuss some problems that have arisen in class. During the course of these talks, the instructor becomes aware that personal counseling is needed to resolve some of the student’s problems. Because of the existing student/instructor bond, the instructor is tempted to temporarily “switch” roles and act as a counselor.

Relative: A family member who desperately needs substance abuse counseling either refuses to see or has no access to an “outside” counselor. The counselor, who is highly qualified in that area, is urgently asked to take the family member on as a client.

Subordinate: Over time, a supervisor finds the company of one of her female subordinates extremely congenial and those feelings of friendship are obviously returned. The subordinate regularly suggests social activities that the two might enjoy together.

Looking for Danger Signs: In evaluating the boundaries of a professional relationship, there are some danger signs that the counselor can use to “red flag” the potential for a dual relationship. For example:

It is only natural to develop feelings of friendship or special empathy toward certain people. However, counselors must avoid using relationships with clients, subordinates, or students to meet their own emotional needs.

Feelings of friendship and understanding normally grow more intense over time. However, counselors must constantly gauge their emotional investment in particular clients, subordinates, or students to ensure that the relationship is progressing in a controlled, intended, and ethical fashion.

Clients who still require services, but who have exhausted their financial resources may offer to “barter” their professional services in another field for continued counseling. Although this approach is becoming more acceptable under certain circumstances, it is a gray area that requires extremely careful monitoring. An area where the potential conflict of interest is still very clear is that of doing business with or purchasing services from a client.

Even administrative relationships have a potential for exploitation because of the power that rests with the supervisor. Here again, counselors are under an ethical obligation to actively monitor for harm with regard to their relations with subordinates.

Avoiding the Pitfalls: In general, the level of actual or perceived harm in a dual relationship is based on the level of intimacy that exists. In some cases, a counselor may not realize “going in” that there is any potential for harm in a dual relationship. In others, the counselor may be slow in responding to changes in the relationship that could result in impaired judgment on the part of the counselor. Since total avoidance of dual relationships may not always be possible, counselors should be aware of some of the precautions they can take with regard to their professional relationships. For example, counselors should:

- Inform the “recipient” in the relationship of what will be involved as well as the potential risks.

Example: You are a supervisor who will be asked to evaluate the performance of a new intern at the end of three months. During the evaluation period, you treat the intern as a peer and she comes to regard you as a friend. The intern should be told at the outset that you would be responsible for objectively evaluating her professional performance at the end of her trial period. You should also describe the criteria that will be used.

- Re-evaluate the relationship with the recipient through periodic discussions to clarify misunderstandings or identify any harmful changes that may have taken place.

For example, you might periodically remind the intern of your responsibility to objectively evaluate her performance at the end of the trial period. Equally important, you should clearly identify areas where improvement is required before the final evaluation takes place in time so that the intern will have sufficient opportunity to correct the situation.

If you feel establishing a dual relationship is absolutely necessary (e.g., counseling a family member who would otherwise refuse assistance), evaluate the potential risks and benefits for each of you. If you decide you must enter the relationship, set up a mechanism that will allow you to confer periodically with an objective, outside consultant.

In such situations, you would have to discuss your intended approach in detail with the recipient (whether the person is a client, subordinate, or student) in order to address issues of confidentiality (how much the consultant will be told).

Arrange for close supervision if you feel more intense reviews are needed to ensure professional objectivity and prevent harm to the recipient.

Document your actions and rationale. This approach has two advantages: first, it will allow you to study the progress of the relationship and may alert you to potential risks or conflicts of interest; second, it will provide you with a degree of protection should charges of harm or exploitation surface at a later time.

Summary: Avoiding dual relationships may not always be possible. Therefore, it is up to the counselor to constantly evaluate each situation, identify the potential for harm, and take appropriate action. While an individual may enter a dual relationship with every intention of remaining objective, he or she may find the situation has reached a point where it is impossible to “pull back” emotionally. From the counselor’s perspective, the results may be mixed feelings and impaired judgment. From the recipient’s it may be a feeling of helplessness or exploitation.

REFERENCES

Commission on Rehabilitation Counselor Certification. (2010). *Code of professional ethics for rehabilitation counselors*. Schaumburg, IL: Author.

RECOMMENDED CITATION

Tarvydas, V. (2009). Ethics: Setting boundaries. (2nd ed.). In Commission on Rehabilitation Counselor Certification (Ed.), *Ethics for rehabilitation counselors, Program I* (pp. 1-4). Retrieved [date] from, http://www.crc certification.com/filebin/pdf/CRCC_HomeStudy1Articles.pdf

MODULE II - SUPERVISION

LEARNING OBJECTIVES:

Whether your responsibilities are clinical or administrative, supervisory ethics are becoming increasingly important to the profession of rehabilitation counseling.

After reading this module the counselor will gain knowledge regarding the ethical responsibilities that are inherent to the supervision of counselors and other individuals in the service delivery system.

The reader will be able to:

1. Describe why credentialing bodies are concerned about supervisory practices and how this trend influences the practice of supervision.
2. List a number of ethical responsibilities to be incorporated into supervisory responsibilities.
3. Recognize the various potential types of conflicting obligations and parties to which the counselor owes these obligations while in the role of a supervisor.
4. Describe the factors of ethical risk that contribute to the vulnerability inherent in the supervisory role.
5. Identify several resources to the ethical decision-making process applicable to supervisory dilemmas.
6. Describe the five most common issues in ethical supervision and discuss key concerns relevant to each.

ETHICS: WHEN YOU'RE THE BOSS

By: Vilia Tarvydas, Ph.D., CRC and Dennis R. Maki, Ph.D., CRC, NCC

Rehabilitation counselors have numerous ethical responsibilities, e.g. to the client, the client's family, employers, and third-party payors. When the counselor is also a supervisor, the list is even longer and the ethical considerations even more complex.

The need to view supervisory activities within an ethical context is more pressing than ever given the growing "professionalization" that is taking place within the field of rehabilitation counseling. Counseling is now recognized as a licensed profession in 50 states and the District of Columbia, and a requirement for "supervised experience" is almost always a key provision in the governing statutes. Furthermore, access to professional licensing and certification is becoming increasingly important for individuals seeking to establish their credibility as practitioners or to qualify for certain types of third-party reimbursements.

At the same time, those entities that oversee licensing and certification activities are under pressure to identify appropriate supervisory as well as practitioner standards in order to monitor the integrity of their licensing/certification criteria more effectively. Consumers have become more aware of what constitutes "appropriate standards of supervision" and are often willing to sue or file formal complaints against individuals they feel have violated those

standards. In such cases, supervisors must be able to demonstrate that they adhered to accepted ethical standards if they are to demonstrate that their professional practices were appropriate.

One problem is that individuals who are well aware of their ethical obligations as practitioners may fail to apply such principles to the supervisory aspects of their activities. Doing so requires complex, multi-dimensional thinking to enable an individual to address simultaneously the ethical issues affecting both the person being supervised and the client.

Emerging Standards: Clinical supervisors play a number of roles that can lead to ethical dilemmas such as teacher, counselor, consultant, and evaluator. In addition, the political, economic, and technical environments in which they operate require that supervisors be held accountable for their decisions. Some of the factors that must be taken into account include the:

- need to constantly upgrade professional skills and technical knowledge;
- the growing complexity and severity of client situations;
- accelerated formalization of credentialing mechanisms with resultant tightening of supervisory standards;
- increase in client empowerment and self-advocacy with a resultant growth in malpractice litigation;
- movement toward expanded use of managed care to hold down costs; and
- increase in competition among various types of practitioners.

Too often ethics are neglected when identifying supervisory responsibilities. Therefore, it is up to the individual supervisor to:

- direct attention to issues that may raise ethical questions;
- incorporate ethical considerations into his/her supervisory practices;
- emphasize ethical behavior in a way that values appropriate conduct in those being supervised; and
- instruct supervisees or trainees with regard to ethical decision-making.

Vulnerability in Supervisory Relationships: In many instances, the various roles played by a supervisor may produce conflicting obligations. For example, a primary obligation is to ensure the professional development of the individual being supervised. However, there is an equally important, but more direct obligation to ensure the welfare of the clients being treated by supervisees or trainees. On occasion, there may even be lesser obligations to protect the reputation and effectiveness of either an employer or the rehabilitation counseling profession as a whole. These latter obligations are present only to the extent that a company is offering quality services and access to resources that will benefit its clients. However, as you can see, the potential for conflicting obligations (one of the conditions for an ethical dilemma) is embedded in the very essence of the supervisory relationship.

There are other aspects of a supervisory relationship that can produce a vulnerability to ethical misconduct. First, there is the basic difference in the “power” of the participants, (i.e., boss and supervisee or trainee). Second, there is the “therapy-like” nature of a supervisory relationship in the counseling field. Finally, there is the vulnerable nature of the client being served, who may be experiencing severe functional limitations because of the nature of his/her disability.

Ethical Resources: The ethical decision-making process requires an evaluation of what constituted a morally appropriate option for resolving an ethical dilemma. At this stage, several types of moral standards may be employed including codes of professional ethics, laws, ethical principles, and ethical theories. More than one source may be needed to resolve a particular issue, especially since professional codes of ethics provide only broad guidelines for conduct. This need for multiple resources is particularly relevant in instances in which institutional practices may conflict with an individual's code of professional ethics. Nevertheless, it is important for supervisors who are facing a moral dilemma to be cognizant of the dictates of the particular code of ethics that governs their own practice.

In their role as teachers, supervisors should provide new supervisees or trainees with an introduction to their particular code of ethics and, subsequently, help them to learn how this code applies to their day-to-day activities. Because many organizations in the rehabilitation field have codes of ethics, supervisors should be familiar with any that may apply to those individuals they supervise in order to include appropriate ethical considerations when carrying out their administrative-managerial, educational, and clinical-therapeutic roles.

The code of ethics that is possibly the most directly relevant for supervisors is the Code of Professional Ethics for Rehabilitation Counselors developed by the Commission on Rehabilitation Counselor Certification (CRCC). It contains three standards that address clinical supervisory relationships.

The first (H.3.a) concerns the avoidance of dual relationships with supervisees or trainees and requires that supervisors be aware of the power differential that exists.

Standard A.5.a expressly prohibits sexual intimacies with clients. Likewise, such behavior with supervisees or trainees would also be an actionable offense per Standard H.3.b. Standard H.3.d also prohibits subjecting supervisees or trainees to sexual harassment.

The third (H.5.a) concerns the proactive obligation of supervisors to clearly state to supervisees or trainees, prior to and throughout the training program, the levels of competency expected, appraisal methods, and timing of evaluations for both didactic and clinical competencies. Supervisors also document and provide supervisees or trainees ongoing performance appraisals and evaluation feedback. Section B and other standards in the Code, including Standard H.1.c provide direct and indirect guidance to supervisors regarding their responsibilities to protect client confidentiality. These standards require that only counselors or authorized nonprofessionals who have access to confidential records be thoroughly briefed regarding confidentiality mandates and that no taping or recording of counseling sessions be done without prior consent from the client. A related requirement is that of concealing client identities when presenting case studies in classes, at professional meetings, or in articles.

Common Issues in Ethical Supervision: A growing body of literature exists that addresses ethical and legal issues in supervision within the fields of counseling, rehabilitation counseling, and psychology. Rehabilitation counselors with supervisory responsibilities should make a concerted effort to familiarize themselves with this material and its application to their work.

Due Process: The ethical principle of fidelity requires supervisors to ensure that their obligations with respect to fairness, honesty, and informed consent are being met in every supervisory relationship. It is the existence of these obligations that requires supervisors to ensure specific processes occur in which the rights of those being supervised are protected. To this end, supervisees or trainees should be informed beforehand of the requirements of any

academic or clinical training programs, including clear statements of learning objectives, required tasks, roles, responsibilities, and criteria for performance evaluations.

In the area of monitoring and evaluating performance, consistent, careful behavior is critical. It is vital to give supervisees or trainees periodic assessments that provide direct feedback regarding specific behavior that is not adequate as well as targets still to be achieved. It is also important to document the supervisory process, including the provision of sufficient time for an individual to correct any performance deficiencies as well as a formal appeal or grievance procedure to ensure each supervisee or trainee receives due process.

Informed Consent: Informed consent is a concept related to that of due process. It requires that a client must be given sufficient information to make an intelligent, considered choice about whether he or she wishes to undertake a specific process. Information about risks and available alternatives is typically included.

With regard to supervision, there are several aspects to be considered. For example, supervisors must be sure that clients are fully informed of the conditions of their counseling relationship, including the fact that it is being carried out under the supervision of someone other than the counselor. Supervisees or trainees must accurately represent their level of skill and training to their clients and the public. Additionally, clients must be informed of any aspects of the supervisory relationship that will affect them directly such as limits on confidentiality, methods of supervision (e.g., taping or observing counseling sessions), or the fact that the counseling relationship may be time-limited or contingent upon satisfactory performance by the counselor. This process is commonly known as providing disclosure to clients. Standard A.3.a of the Code recommends that disclosure be provided both verbally and in writing.

Dual Relationships: While a great deal of attention has been focused on dual relationships with clients, there is increasing concern about the problems inherent in dual supervisory relationships. First, the very nature of supervision involves a condition of diminished consent for the supervisee or trainee. Second, the existence of a dual relationship between the supervisor and the supervisee or trainee produces two sources of ethical danger; impaired judgment on the part of the supervisor and the risk of exploitation for the supervisee or trainee.

But, what constitutes a dual relationship? Three of the most obvious would include: 1) sexual involvement; 2) a supervisor acting as the counselor or therapist of a supervisee or trainee; and 3) a degree of nonsexual closeness that makes objective assessments difficult or impossible (e.g., intimate friendship or common business interests). At present, there is no consensus as to an appropriate balance between supervision and counseling in the exploration of personal issues. However, the most judicious option would be to help those individuals being supervised to identify personal issues, but to clearly give them the responsibility for resolving such issues, referring them to another counselor if needed.

Competence: Competence may constitute the most pressing ethical issue in supervision. This is the result of the two primary obligations involved in a supervisory relationship; first, that the client receives competent services and second, that the supervisee or trainee be given an opportunity to improve his or her level of competence. There is an underlying concern that supervisors must themselves be competent practitioners with respect to the services being provided and must also have acquired the additional skills and knowledge required for competent performance as a supervisor.

With regard to competency in direct service provision and supervisory skills, rehabilitation supervisors must expand and use their knowledge regarding gender and multiculturalism (as well as other “—isms”) in terms of their impact on all aspects of counseling and supervision.

Another supervisory obligation is the duty to resolve situations in which supervisees or trainees demonstrate that they are either clearly incompetent to engage in clinical practice or are experiencing problems of a serious nature that can be expected to improve with remediation.

To the extent that the problems may be disability-related, a rehabilitation supervisor will have a unique responsibility. Because the tenets of the profession dictate proactive support and remediation to address any identified deficits of this nature, the supervisor must have a clear, constructive definition and process in place to address any impairment of his or her supervisees or trainees.

One model suggests dealing with impairments as follows:

1. identify the problem as well as the degree and nature of the impairment;
2. discuss the issues that may arise and plan appropriate responses with other clinical supervisors;
3. evaluate the possible range of actions to be taken, including rehabilitation plans, probation, or termination, before implementing the most appropriate alternative; and
4. determine how best to deal with any organizational reaction to the supervisory decision and process.

In these types of situations, there is a reciprocal ethical responsibility on the part of the supervisee or trainee to recognize any personal problems that may interfere with his or her practice, to inform the supervisor accordingly, and to seek appropriate assistance.

Confidentiality: Confidentiality as it relates to client information has already been discussed. However, supervisors have an additional obligation to observe confidentiality with regard to their supervisees or trainees. Special care is required because of the nature of the supervisory relationship. Supervisors may be in a position to hear very personal information giving rise to concerns about what should be shared with others. One option is to reveal only information that is directly relevant in evaluating the ability of a supervisee or trainee to function as a professional, and then only after discussing it directly with the supervisee or trainee before the information is shared with others who may require it.

Summary: Initially the ethical burdens of supervision may appear overwhelming. However, rehabilitation supervisors should focus on the fact that the purpose of supervision is simply to educate colleagues-in-training to the best of their knowledge. This encompasses the natural impulse to care for and support the development of those who look to their supervisors as role models and mentors. Thus, the supervisor’s influence lies not only in imparted technical skills, but also in the impressions created by professionals who believe in and consistently practice the principles of autonomy, beneficence, fidelity, justice, nonmaleficence, and veracity.

REFERENCES

Commission on Rehabilitation Counselor Certification. (2010). *Code of professional ethics for rehabilitation counselors*. Schaumburg, IL: Author.

RECOMMENDED CITATION

Tarvydas, V., & Maki, D. R. (2009). Ethics: Setting boundaries. (2nd ed.). In Commission on Rehabilitation Counselor Certification (Ed.), *Ethics for rehabilitation counselors, Program I* (pp. 5-10). Retrieved [date] from, http://www.crc certification.com/filebin/pdf/CRCC_HomeStudy1Articles.pdf

MODULE III – A BUSINESS PERSPECTIVE

LEARNING OBJECTIVES:

Ethical conduct is vital for a number of reasons not the least of which is your firm's bottom line.

After reading this module the counselor will have an understanding that ethical practice is good business practice.

The reader will be able to:

- Examine ethical practices in a business environment.

ETHICS: IT'S JUST GOOD BUSINESS

By: Laurence Gordon, MS, CRC

Webster defines ethics as "a study of standards of conduct and moral judgment or a system or code of morals that apply to a particular profession." German playwright Bertolt Brecht offered a more cynical viewpoint: "Grub first, then ethics."

A rehabilitation cynic might ask if consistently ethical conduct could have an adverse effect on profits. In my experience, it's the reverse that's true – holding to a high standard of professional ethics always makes good business sense.

I remember taking a course on business ethics in the early '70s. Our instructor opened the first class with the observation that "big business is more ethical than the average consumer." To make his point, he used the following example:

Suppose a customer of a large department store received a statement showing an unwarranted credit of twenty dollars. Do you think the customer would call to correct the error? On the other hand, if the same store discovered it had overcharged that customer by only a penny, it would correct the error, even if several months had passed, and credit the account. Why? Unlike its customers, the store must operate under a variety of regulations and could be liable for severe penalties if an audit indicated a pattern of overcharging; therefore, it's just good business for the store to operate ethically at all times.

Unfortunately, questions of professional ethics can be difficult for an individual practitioner to deal with due to the variety of options that may be available and the indisputable fact that not everyone involved will be satisfied by the ultimate choice.

Having consistent guidelines to apply to real-world situations is just one of the "good business" reasons it is so important for Certified Rehabilitation Counselors (CRCs) to be well acquainted with the Enforceable Standards of Ethical Practice that constitute their Code of Professional Ethics (Code).

For example, a recurring problem in private practice is the fact that it is often the insurance carrier or self-insured employer who hires a rehabilitation counselor to provide services to an

individual who suffered a loss. This approach may lead to situations where the financial concerns of the “customer” are in direct conflict with the best interest of the “client.” According to the Code, the client’s interest must come first, even at the expense of the customer. Doesn’t sound very good for business, does it?

Nevertheless, if we examine a sampling of the Standards of Ethical Practice from a business perspective, I think you will see that diligent conformance to the Code’s mandates would always be good for business.

Adhering to the Code can have an immediate financial impact on your business. Demonstrating that you adhere to a consistent code of professional ethics can result in a reduction in your liability insurance premiums. Carriers who know practitioners are subject to oversight and peer review of their professional conduct by an objective organization, such as the Commission on Rehabilitation Counselor Certification (CRCC), can offer those individuals a lower premium because claims experience show the insurer’s liability exposure will be reduced.

Another advantage is what I call the “level playing field.” In other words, practitioners who follow the same code of professional ethics are required to operate their business according to the same high standards of conduct. (No bushwhacking allowed.)

The Code requires that the counselor’s primary obligation be to the client. The referral source must be informed of this, which allows the counselor to avoid possible conflicts with a payer by indicating upfront that the client’s interest must come first. From a business standpoint, it’s always best to avoid potential misunderstandings instead of trying to clear them up after the fact.

Client Advocacy: Here the business advantage lies in the potential for expanding the services you can offer to the client by advocating on behalf of that individual, based on that person’s demonstrated needs, instead of merely following the directives of the payer.

Professional Relationships: Another example of the level playing field or, in this instance, what goes around comes around. Here the Code mandates that counselors treat colleagues and other professionals in an ethical manner. The business advantage: a good reputation and the assurance that this particular Standard works for you as well as your peers.

Public Statements/Fees: More truth in counseling, although this focuses directly on the counselor’s fee structure and marketing methods. Since providing rehabilitation services is an “intangible,” it is particularly important that counselors only sell what they can deliver. The business advantage: increased consumer confidence and less exposure to claims of malpractice.

Confidentiality: The advantage of strict adherence to this in terms of limiting your legal exposure is self-evident, but another “good business” consideration is the need to protect both client and proprietary data.

Assessment: Consistent use of the proper tools is the primary means for a practitioner to provide the type of quality control that is essential to any successful business.

Research Activities: Taking part in relevant research activities benefits everyone – the client, the payer, the practitioner, and the community – by expanding current knowledge and sharing

the results. From a business standpoint, it may also point you in the direction of an emerging trend in rehabilitation.

Competence: In a dynamic field that deals so directly with an individual's ability to function in society, an ethical practitioner is obligated to constantly update his or her skills and knowledge. From a business standpoint, upgraded skills are a definite plus for practitioners seeking to improve their share of the market.

CRC Credential: Protecting the integrity of the CRC credential can also be considered a business development tool. A strong credential helps consumers identify service resources, helps generate client confidence, and ensures that practitioners who hold that credential have met very specific standards in terms of their education and work experience.

From a strictly legal perspective, the CRC designation is the only national credential available to rehabilitation counselors and courts may use it as a basis for comparing a defendant's performance against what would be expected of a competent practitioner.

As stated in the preamble to the Code, rehabilitation counselors are committed to facilitating the personal, social, and economic independence of individuals with disabilities. The objective of the Code is to promote public welfare by specifying and enforcing the ethical standards of behavior expected of rehabilitation counselors. The Enforceable Standards of Ethical Practice are exacting standards intended to provide guidance in specific circumstances. It is essential that rehabilitation counselors demonstrate adherence to ethical standards and ensure that the standards are enforced vigorously. If, as a practitioner, you have reasons to question the ethical propriety of specific behavior, you are encouraged to refrain from such behavior until the matter has been clarified. CRCs who need help can write to the Commission to request an advisory opinion. Counselors who are not certified should request such opinions from professional organizations to which they belong.

REFERENCES

Commission on Rehabilitation Counselor Certification. (2010). *Code of professional ethics for rehabilitation counselors*. Schaumburg, IL: Author.

RECOMMENDED CITATION

Gordon, L. (2009). Ethics: It's just good business. (2nd ed.). In Commission on Rehabilitation Counselor Certification (Ed.), *Ethics for rehabilitation counselors, Program I* (pp. 11-13). Retrieved [date] from, http://www.crccertification.com/filebin/pdf/CRCC_HomeStudy1Articles.pdf

MODULE IV – DEFINING THE CLIENT

LEARNING OBJECTIVES:

In the world of private for-profit rehabilitation, counselors must weigh the often-conflicting interests of individuals receiving services, their employers, the practitioner's referral source, and the payer. The question is who is the client?

After reading this article the counselor will have an understanding of conflict resolution.

The reader will be able to:

1. Understand the nature and source of potential conflicts of interest.
2. Understand how to deal with the issues of conflicting interests more effectively when they arise.
3. Understand how to resolve the conflict by following CRCC's Code of Professional Ethics.

WHO'S THE CLIENT?

By: Chow S. Lam, Ph.D., CRC and Gwen Roldan, Ph.D., CRC

"I work for whoever pays my bill," says a rehabilitation practitioner.

"They pay the bill, so you write the report the way they want it," a supervisor tells you.

"You sold me out to the insurance company. How could you write a report like that?" a client says to you.

"Are you working for me or for the claimant?" an insurance adjuster asks you.

All of these statements involve potential conflicts of interest. Some are factual; some are fictitious. Do the comments sound familiar? The purpose of this article is to examine a common ethical dilemma: who's the client? The intent is to help prepare you to deal with the issues of conflicting interests more effectively when they arise in the future – and they will.

Serving Two Masters: Rehabilitation counselors, particularly those who work in the private sector, must interact with a variety of people: clients, their families and employers, physicians, insurance companies, attorneys, and claims adjusters. In addition, they must deal with different programs, agencies, and service delivery systems to assure timely delivery of appropriate services. Obviously, there is considerable potential for conflicting interests among the various parties dealing with the rehabilitation counselor's client, particularly with regard to service priorities. In order to serve clients with disabilities effectively, a rehabilitation counselor must be aware of the nature and source of such potential conflicts of interest.

In the private rehabilitation sector, the question of "who's the client" is central to the issue of resolving the conflicts of interest in an ethical manner. For counselors who work in the public

sector (a state vocational system, for example) or in a private, nonprofit program, the answer is simple: the client is the person with a disability who is seeking assistance. For counselors who work in the for-profit area of private rehabilitation, the answer is not as straightforward since the interests of the person with a disability may run counter to those of an employer, a referral agency, or a funding source. As a result, private rehabilitation counselors often feel caught between the needs of a client with a disability, the client's employer, and the insurance company paying for the client's rehabilitation services. At times, they may be overwhelmed by economic pressures that make it vital to keep or obtain case referrals from third-party sources in order to continue in private practice and may overlook the issue of conflicts of interests.

Resolving the Conflict: One strategy for resolving potential conflicts of interest is to follow your code of professional ethics. For example, the Commission on Rehabilitation Counselor Certification's (CRCC's) Code of Professional Ethics for Rehabilitation Counselors (Code) provides guidelines of behavior for Certified Rehabilitation Counselors. It does not give guidelines for every situation. However, it does offer statements of principle that must be interpreted by the practitioner and then applied to specific situations. Thus, the Code provides an underlying rationale for the practitioner's behavior that, ideally, is consistent with CRCC's philosophy and mission.

According to Section A.1.a of the Code, the rehabilitation counselor's primary obligation is to clients, and clients are defined as individuals with, or directly affected by a disability, functional limitation(s), or medical condition and who receives services from rehabilitation counselors. Therefore, if a practitioner follows the Code, the answer to the question "who's the client" is obvious. Furthermore, as indicated in an earlier article by Larry Gordon, diligent conformance to the Code is always good for business.

Other areas of the Code that pertain to the issue of conflicts of interest include client rights and counselor responsibilities as referenced in Sections A and B. These sections indicate that a practitioner has an obligation to let the client know what information will be shared with the insurance adjuster. By the same token, the insurance adjuster must be informed about the counselor's obligation to provide only the information about the client that is relevant to the services being rendered. Therefore, the roles and responsibilities of the client, rehabilitation counselor, and the referral source are subjects that need to be clearly addressed at the outset of any counseling relationship. Section C states that counselors are obligated to serve as advocates for persons with disabilities. A counselor must remain unbiased and offer only objective opinions in promoting what is best for the client. Section B addresses the issue of confidentiality. It states that client confidentiality must be maintained by the practitioner who is obliged to follow appropriate procedures when releasing client information.

Corey, Corey, and Callanan (2007) identified seven steps in making ethical decisions that could be helpful to rehabilitation counselors. They are:

- Recognizing a problem;
- Defining the problem (collaboration with client is essential at this stage);
- Developing solutions (with client)
- Choosing a solution;
- Reviewing the process;
- Implementing and evaluating (with client); and
- Continuing reflection.

Conclusion: The Code of Professional Ethics for Rehabilitation Counselors could provide methods to reduce or premeditate conflicts of interest that might threaten the welfare of the clients being served by a counselor. Furthermore, the Code offers specific moral and legal standards with respect to client advocacy, professional relationships, and the competence of the practitioner. If there is reason to question the ethical propriety of specific behavior, rehabilitation counselors are encouraged to refrain from engaging in such behavior until the matter has been clarified. CRCs who need assistance in interpreting the Code can write to CRCC to request an advisory opinion from the Commission.

REFERENCES

Commission on Rehabilitation Counselor Certification. (2010). *Code of professional ethics for rehabilitation counselors*. Schaumburg, IL: Author.

RECOMMENDED CITATION

Corey, G., Corey, M.S. & Callanan, P. (2007). *Issue and ethics in the helping professions*. (7th ed.). Belmont, CA: Thomson Brooks/Cole.

Lam, C. S., & Roland, G. (2009). Who's the client? (2nd ed.). In Commission on Rehabilitation Counselor Certification (Ed.), *Ethics for rehabilitation counselors, Program I* (pp. 14-16). Retrieved [date] from, http://www.crc certification.com/filebin/pdf/CRCC_HomeStudy1Articles.pdf

MODULE V – CULTURAL DIVERSITY

LEARNING OBJECTIVES:

Clients bring their cultural identities with them to the counseling relationship. If you look at only the obvious, visible characteristics that might indicate a person's cultural identity you may be missing the bigger picture.

After reading this article the counselor will have insight into seeing the bigger picture.

The reader will be able to:

1. Enhance their awareness of diversity related to ethical issues.
2. Increase their familiarity with the diversity content of the Code of Professional Ethics for Rehabilitation Counselors.
3. Learn to apply the Code of Professional Ethics to diversity situations.

ETHICS: PERSPECTIVE ON DIVERSITY

By: Manuela K. Kress-Shull, Ph.D., CRC and Virginia Thielsen, Ph.D., CRC, LPC

Diversity...what does it really mean? Traditionally, the term diversity has been used to describe an individual's racial/ethnic background. A more universal definition of cultural diversity includes age, color, race, national origin, culture, disability, ethnicity, gender, gender identity, religion/spirituality, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law. This perspective provides the counselor with a more complete conceptual framework from which to view the client holistically.

Case Study: The following case study is provided as an example of the complex interrelated diversity issues clients routinely bring to us.

Recently John Smith, CRC, was sitting in his office reviewing the medical file for a new client he would be meeting with later that day. It seemed like a fairly straightforward case. A 35-year-old woman who sustained a spinal cord injury in a motor vehicle accident six months ago had received rehabilitation at a comprehensive rehabilitation center and was now ready to return to work. She would be coming to John for vocational counseling.

Sylvia Espinoza arrived with a woman John assumed to be her personal care attendant. Sylvia introduced the woman as Joan Williams. The intake was going well. Sylvia was very open and affable and had appeared to make a positive adjustment to the impacts of her disability on her life. John asked Sylvia to tell him about her family. Sylvia said that she was a lesbian and that her immediate family consisted of her mother and Joan.

Sylvia reported that since her accident she and Joan had moved in with her mother because following her injury Sylvia was unable to maintain her position as a surgical

nurse at a large hospital. Although she was currently receiving disability insurance, she had experienced a major reduction in her income. Her elderly mother, who spoke only Spanish, also required some assistance with daily care. Joan, who was also a nurse, assisted both Sylvia and her mother. Since moving home, Sylvia reported, she had been ostracized by the Latino community for being openly lesbian, and that her mother had experienced fallout from this.

After Sylvia left John realized what he had supposed to be a rather straightforward case had some rather unique issues that may impact the client's rehabilitation. John realized that this case was more complicated than what he had anticipated and that he would be dealing with some issues with which he was unfamiliar. Although he had a great deal of experience working with women with spinal cord injuries, he had only limited experience working with Latino individuals and had no knowledge about gay/lesbian issues.

The situation John found himself in was not unique. What may be unusual is John's awareness of the issues and the openness with which his client addressed issues regarding both her ethnicity and her sexual orientation. John contemplated whether or not it would be ethical for him to continue to work with Sylvia.

For a counselor in John's situation, a brief review of the Code of Professional Ethics for Rehabilitation Counselors (Code) would result in awareness that little attention has been directly given to diversity issues (A.2, D.2.a, G.5.c, G.7.b). However, this does not preclude the Code from being a useful tool in addressing diversity issues. Rehabilitation counselors in John's situation can refer to the Code for guidance. The following illustrations will demonstrate how the Code can be utilized to assist counselors in resolving ethical decisions related to diversity issues.

The Ethical Counselor: We all have some level of personal biases and fears and these need to be acknowledged and examined. The first step for any counselor in John's situation should be to examine his or her own values, beliefs, assumptions and biases (A.4.b). How had his or her background influenced his or her values and beliefs? Does the counselor make stereotypical assumptions about certain groups of individuals? What experience does the counselor have in working with a variety of diverse populations? How successful has the counselor been in working with clients from diverse backgrounds (A.2.a)?

Counselors need to have the courage to investigate the depth of their own diversity related issues and to seek professional consultation and/or personal counseling for those issues that negatively impact the counselor-client relationship. The first basic rule of counseling is to do no harm to the client. If counselors are unwilling or unable to work with a client at this time because of their own prejudices, they must refer them immediately and seek peer consultation or personal counseling to address their own issues (D.1.a). It is not in the client's best interest to have to wait for the counselor to deal with his or her own issues. If John determines that he is not able to effectively work with a Latino lesbian he should refer Sylvia to someone who is ready and able to work with her. Ethical counselors need to be aware of the values and beliefs of their colleagues as well as the appropriate resources available in the community in order to assure that an appropriate place is available to refer clients if necessary.

If the counselor has examined his or her own values and biases and believes that he or she can work effectively with a client, then the issue becomes one of competency (D.1.a). Does the counselor have the necessary knowledge, skills, and experience to effectively and appropriately work with the client? For many rehabilitation counselors, multicultural issues

were only minimally addressed in their training programs and little attention was focused on sexual orientation or gender related issues. Although a great deal of emphasis has recently been placed on these issues in the professional literature, seminars, and continuing education programs, little information is yet available to assist counselors in understanding how these issues are interwoven in the life experience of clients.

Additional knowledge and understanding about these issues can be garnered through consultation with peers, community based experts, other professionals, supervisors and from talking to clients. However, again counselors need to be cognizant of the fact that not all clients may be willing to educate them and that it is the client's right to work with the most knowledgeable counselor available. Counselors need to acknowledge and address their limits of competency with their clients. Is the client willing to educate the counselor and work with the counselor while they are being educated or would the client prefer to work with someone else (D.1.b)? It is the counselor's responsibility to broach these issues with the client, discuss with the client alternative options, and assist the client in assessing which option would be in the best interest overall.

How This Might Play Out for John and Sylvia: Let's say that John has examined his own values and that he has decided that he feels he is competent to work with Sylvia. He has addressed his lack of experience and knowledge by doing additional readings in the areas of sexual orientation and working with Latinos. After consulting with his peers and his supervisor he realizes that he is as qualified as anyone in his office to work with Sylvia. Sylvia comes in for her second appointment. John shares with her his experience and knowledge in working with individuals with spinal cord injuries and his belief that he can help Sylvia to secure suitable employment. He also shares with Sylvia that he has only limited experience in working with individuals who are members of the Latino community as well as the gay/lesbian community. He shares with her his recent efforts to gain more information. He encourages her to express any concern or issues she may have in working with him. Following a frank conversation, John and Sylvia decide to work together and begin to prioritize the issues Sylvia would like to address.

Sylvia states that while she feels that she has adjusted well to most of the changes that have occurred as a result of her disability, she is concerned about the strain that her injury and the move to her mother's house have put on her relationship with Joan and she thinks that they would benefit from seeing someone for couples therapy. Sylvia indicates that she would prefer to see a couple's therapist who is experienced in working with lesbian couples. John tells her that he will check his community resource guide and will speak to his colleagues regarding some possible referral sources for an appropriate therapist. John and Sylvia agree to meet again next week to begin the planning process to return Sylvia to work.

John responded ethically in his relationship with Sylvia. He examined his own values and knowledge and experience in working with all of the diversity issues Sylvia brought with her and he discussed his issues openly with her.

Potential Pitfalls That John Could Have Fallen Into: If John had chosen to transfer the case he would have been acting ethically according to the Code of Professional Ethics for Rehabilitation Counselors (D.1.a). John would have recognized his level of competency and chosen to practice within it. However, had John chosen this option, he would have lost an opportunity to expand and improve his professional knowledge base and therefore his professional competency (D.1.e).

John avoided the pitfall of assuming that there are “problems” inherent in being lesbian, or Latino or for that matter, female. For most clients, these issues are not identified as problems, but rather as part of the complexity of their lives. In actuality, for many people the “problem” lies not within the individual, but in the attitudes held by society. It is inherent upon the rehabilitation counselor to strive to eliminate attitudinal barriers for people with disabilities regardless of their gender, ethnicity or sexual orientation (C.1.a).

A third pitfall John might have fallen into was to treat Sylvia as he would any other client. By doing so, he would have failed to acknowledge and respect Sylvia as a whole person. In an effort to be fair and equitable, John could have inadvertently harmed Sylvia by not acknowledging and addressing important aspects of her life.

Conclusion: The ethical counselor realizes that a code of ethics cannot and will not address all of the issues he or she will encounter in their practice. This does not, however, excuse the CRC from being familiar with the Code and practicing within it. This is essential when addressing counselors’ and clients’ diversity-related issues. Essentially, this can be accomplished by consciously expanding the parameters established by the Enforceable Standards of Ethical Practice to include aspects of diversity in all of the Standards.

REFERENCES

Commission on Rehabilitation Counselor Certification. (2010). *Code of professional ethics for rehabilitation counselors*. Schaumburg, IL: Author.

RECOMMENDED CITATION

Kress-Shull, M. K., & Thielsen, V. (2009). Ethics: Perspective on diversity. (2nd ed.). In Commission on Rehabilitation Counselor Certification (Ed.), *Ethics for rehabilitation counselors, Program I* (pp. 17-20). Retrieved [date] from, http://www.crc certification.com/filebin/pdf/CRCC_HomeStudy1Articles.pdf

MODULE VI – IDENTIFYING ETHICS

LEARNING OBJECTIVES:

If it feels right it must be all right, but is it all right and ethical?

After reading this module the counselor will have an understanding of the ethical procedure and process that the Commission on Rehabilitation Counselor Certification has in place as consumer protection.

The reader will be able to:

1. Understand the criteria necessary for a behavior to constitute a valid ethical violation.
2. Learn the process utilized by the CRCC Ethics Committee in its disciplinary deliberations.

BUT IS IT ETHICS?

By: Laurence Gordon, MS, CRC

As a former chair of the CRCC's Ethics Committee, the number of complaints received alleging ethical violations that do not involve ethics at all surprises me. Therefore, I thought it would be helpful to briefly describe a CRC's obligations with respect to enforcing the Code of Professional Ethics for Rehabilitation Counselors (Code), recap the criteria for an ethical violation (including a streamlined description of the disciplinary process), and take a quick look at "business practices," which seems to be the area where most of the misunderstandings arise.

Underlying the foundation of the Code are the four principle ethics defined by Beauchamp and Childress (1994) and includes the principle of fidelity as introduced by Kitchener (1984). These principles, as integrated into the Code, include:

- **Autonomy:** To respect the rights of clients to be self-governing within their social and cultural framework.
- **Beneficence:** To do good to others; to promote the well-being of clients.
- **Fidelity:** To be faithful; to keep promises and honor the trust placed in rehabilitation counselors.
- **Justice:** To be fair in the treatment of all clients; to provide appropriate services to all.
- **Nonmaleficence:** To do no harm to others.
- **Veracity:** To be honest.

Here's a Typical Example: A national case management company offers a large insurer a huge discount in order to gain its rehabilitation business. A CRC alleges this business practice violates the Code on the basis that "it must be unethical." But is it? Let us start by looking at the CRC's obligations as described in the Preamble to the Code.

Enforcing the Code: Every rehabilitation counselor who achieves certification are obligated to uphold the Code, which is comprised of Enforceable Standards of Ethical Practice that are specific standards intended to describe the level of conduct required of a CRC.

According to the Preamble to the Code, the primary obligation of rehabilitation counselors is to clients. Under the Code, clients is defined as individuals with or directly affected by a disability, functional limitation(s), or medical condition and who receives services from rehabilitation counselors. Part of the counselor's primary obligation includes enforcing the ethical standards of behavior specified by the Code. Therefore, a CRC who has direct knowledge of an ethical violation, whether as an employee or an observer, has an obligation to report it. In other words, a counselor cannot use "company policy" as an excuse to avoid pursuing an ethical complaint.

Pursuing an Ethical Complaint: But is it ethics? Here are the criteria the Committee uses. First, the complaint must be filed in writing by someone with direct knowledge of the violation, giving the details and citing the Standard(s) that have been violated. Equally important, direct knowledge rather than "hearsay" evidence is usually required to file a complaint.

Second, the violation must have been committed by a CRC, who was a CRC at the time of the alleged violation. (The disciplinary process is applicable only to individuals who fall under the jurisdiction of the Code.)

If these conditions are met and it appears that a violation has occurred, the Committee will accept the complaint and begin its review of the case. Leaving aside the many possible permutations described in the Guidelines and Procedures for Processing Complaints, the process is as follows: the person filing the complaint and the CRC alleged to have committed the violation are informed that the complaint has been accepted. The CRC is requested to respond to the allegations in writing. Following receipt of a response from the CRC, the Committee will determine if there is still potential for violation. If so, a hearing may be scheduled at the request of the CRC. If this is not done, the Committee may still elect to hold a hearing or it may decide the matter using the documentation already in its possession. Once a decision is made, all interested parties are informed. If warranted, one of the following sanctions may be imposed on the CRC: reprimand, probation, suspension, or revocation of the CRC credential.

Business Practices: The Good, The Bad, and The Questionable: Now let us look back at our example. Was the CRC who thought offering discounts was unethical obliged to file a complaint? Yes. Did the complaint meet the criteria? No. First, it was made against a company, not a CRC. More important, the practice described did not violate Standards of Ethical Practice noted in Section K. Offering discounts in order to attract clients is a business practice and nothing in the Code prohibits it.

Here are some other business practices that were perceived by counselors as ethical violations, but did not meet the criteria for action by the committee:

- A rehabilitation counseling company offers discounts to its customers based on the number of referrals they make.
- A vocational rehabilitation company offers its clients supported work programs that may have resulted in its clients losing benefits because they were "working."
- A case management company hires unqualified people to provide rehabilitation counseling services to its clients.

- An HMO that employs rehabilitation counselors institutes a policy of recording all calls to monitor service quality.

While none of these situations appear to qualify as Code violations, some are good business practices, some are bad, and some are certainly questionable from a business-ethics standpoint. Does a CRC have an enforcement obligation here as well? Yes, when the best interests of the client are at stake – although the venue for pursuing a complaint would depend on its nature (e.g., attorney general, insurance commission, licensing or regulatory agency, better business bureau, etc.).

For example, as stated earlier, offering discounts to attract new clients is a legitimate business development practice. However, undercutting a particular company's fees in order to drive it out of business is another matter and might constitute restraint of trade. Other practices that would seem to work against the client's interests might include programs that make clients ineligible for benefits they would otherwise receive, hiring unqualified people to provide client services, and instituting policies that could violate client confidentiality.

Although CRCC's jurisdiction is limited to violations of the Code by individual CRCs, it may, upon request, issue advisory opinions in regard to company policies that appear to work against a client's best interest.

REFERENCES

- Beauchamp, L.T., & Childress, J.F. (1994). *Principles of biomedical ethics* (4th ed.). New York: Oxford University Press.
- Commission on Rehabilitation Counselor Certification. (2010). *Code of professional ethics for rehabilitation counselors*. Schaumburg, IL: Author.
- Kitchener, K.S. (1984). Intuition, critical evaluation, and ethical principles. The foundation for ethical decisions in counseling psychology. *Counseling Psychologist*, 12, 43-55.

RECOMMENDED CITATION

- Gordon, L. (2009). But is it ethics? (2nd ed.). In Commission on Rehabilitation Counselor Certification (Ed.), *Ethics for rehabilitation counselors, Program I* (pp. 21-23). Retrieved [date] from, http://www.crc certification.com/filebin/pdf/CRCC_HomeStudy1Articles.pdf

MODULE VII – PUBLIC SECTOR PRACTICE

LEARNING OBJECTIVES:

In studying the issues presented in this article the counselor will enhance his or her knowledge, skills, and abilities with regard to the ethical challenges in public sector practice.

The reader will be able to:

1. Develop a heightened awareness of the ethical challenges facing rehabilitation counselors practicing in the public sector.
2. Identify common sources of potential conflict.
3. Develop resources to assist the counselor in facing ethical challenges.

ETHICS IN THE PUBLIC SECTOR

By: Jack Hackett, CRC

Dealing ethically with clients they serve and agencies they represent can be one of the bigger challenges faced by rehabilitation counselors who work in the public sector. Avoiding a potential conflict of interest requires counselors to communicate early and often with their clients, fellow professionals, governing boards, and their agency managers.

Legal Basis: One of the biggest differences between public and private practice is that public program services and eligibility criteria are mandated by law. Regardless of which system is involved (workers' compensation, veteran's benefits, state/federal assistance programs), it is the system's governing legislation that defines the relationship between the client and the counselor, and the client and the administering agency. A statute may be so worded that it even determines the services a counselor can deliver to the client.

Disclosure: What to expect and what not to expect. It is in the counselor's best interest to ensure that the client understands at the outset why the agency exists, what the program can provide, and what limitations may exist in respect to the counselor/client relationship. An agency may provide a written disclosure form or its intake protocol may cover disclosure issues.

Informed Consent: Ethically the CRC must provide the consumer with sufficient information so that the consumer may make an informed decision about working with the counselor. The information should include:

- the nature of the service offered;
- the role of the counselor in the relationship;
- limits on the counselor's ability to serve in an advocacy role;
- agency policy about disclosure of information;
- limits on confidentiality;
- duty to warn requirements;
- the counselor's role in determining eligibility for benefits;

- any negative consequences from information disclosed by the client as well as consequences for failure to disclose;
- any appeal rights within the agency;
- the counselor's professional background and practice limits; and
- information about ethical practice including informing the consumer of his/her right to communicate with certification and/or licensing boards.

The following example demonstrates the importance of proper disclosure.

Kathy has been assisting Phillip in developing a home-based business in antique brokering. He has been involved in the business for the past two years. Initially Kathy felt the business to be more of a hobby than a business and for the first year Phillip barely broke even. Kathy believed the activity was very important to Phillip's emotional well-being and that earnings were secondary to his improved mental state. Kathy told Phillip that he would not have to be concerned about losing the SSDI payments he had been receiving. Phillip's earnings increased dramatically in the second year, in substantial part due to the acquisition of a valuable art piece found at a garage sale. Kathy closed Phillip's case, reporting his annual salary as reflected by the current year's income in the case file. Kathy was pleased with the case closure, which implied that Phillip has substantial earnings from his business.

The State Vocational Rehabilitation Agencies routinely send the Social Security earnings records from closed cases for reimbursement purposes. This information is considered "common use" and is shared without further consent requirements. When Phillip's earning information was reviewed by Social Security his disability benefits were terminated based on his recent income.

Phillip feels that he was not properly informed of this information-sharing agreement and also that the information provided was not accurate since current income is based on one "lucky" acquisition. He believes there is little likelihood of repeating this find and thus his earnings report does not reflect the true nature of the business, which he still considers more of a hobby than a means to earn a living.

Did Kathy properly disclose to Phillip how information he provided to her would be shared? Did Kathy tell Phillip how his income would be reported at case closure? Did Kathy follow agency policy in reporting Phillip's income and in the decision to close his file? Kathy has an ethical responsibility to follow agency policy and to share with her clients the possible outcomes of that disclosure. An earnings report could meet the VR Agency requirement for accuracy and still not reflect an accurate report to Social Security. As a CRC, Kathy must ensure that her clients are fully informed about the potential consequences of her actions.

Eligibility Decisions: Public sector counselors are often responsible for making eligibility determinations. An ethical conflict may arise between the needs of a consumer and the requirements of the agency for determining eligibility for assistance.

Consider the following scenario:

Terry is working with his client, Sheila, to develop a plan of services that will lead to her employment. Terry enjoys working with Sheila and believes that she is highly motivated to return to work. He feels that she is very talented and will make excellent use of services provided. Because of limited resources, Terry's agency has decided that

services must be prioritized so that people with the most severe disabilities must receive priority. People with less severe disabilities can be served only after commitments are made to the most seriously disabled consumers. Terry feels so strongly about the importance of assisting her that he decides to overstate her limitations and thus find her qualified as seriously disabled. Consequently, he will be able to provide her the services he is convinced she will put to good use.

As a CRC, Terry must follow the agency rules. Here he feels very strongly about Sheila's ability to make good use of his services. He tries to assist her by bending his agency's rules. From the counselor's perspective, it may seem that this harms no one and helps a deserving person.

His motives seem to be altruistic and his actions do not result in his personal gain. However, Terry's action alters the objective evidence about the severity of Shelia's disability; his action constitutes a violation of the Code because he has substituted his own feeling for his agency's rules. This one act may seem inconsequential but it does have consequences that extend beyond Shelia's circumstances. Terry gives up the opportunity to advocate for all clients, including Shelia, by his misrepresentation of her circumstances. As a CRC, he also has an advocacy responsibility that could impact his organization by his advocating for Shelia's needs. His advocacy could be in the direction of challenging the agency to provide better services by including services to people in circumstances similar to Sheila's. Not facing the truth of the situation, he instead promotes the status quo.

Competing Needs: Ethical implications may arise in the conflict between agency goals and client needs. In some agencies or programs, a counselor may exercise a high degree of individual judgment in terms of services offered. If budget restrictions have made cost containment an agency priority for instance, a counselor may feel the agency's policy directs clients to less expensive choices. What might be a "best" outcome in this scenario becomes secondary to financial or policy concerns. The counselor who is trying to serve the best interest of his or her clients and satisfy agency's policy at the same time is facing an ethical dilemma. Of course counselors must apprise their clients of any policy requirements limiting available services and inform consumers of available grievance or appeal processes.

Following is an example of a counselor trying to satisfy agency goals at the cost of negative consequences for the consumer.

George has been attending school as part of a rehabilitation program. While his progress has been erratic, he clearly has the aptitude to complete his program. George says he is having difficulties with his marriage and experiencing financial problems. He finds a full time job and continues his schooling for an additional term, but then stops attending. He wishes to continue with his program and complete his education once he has resolved his personal issues. George admits his job is interesting and uses some of his past skills, but does not pay what he could earn if he completed his training program. After George has worked for six months, his counselor decides to close his case and records the closure as "rehabilitation." George is notified that his case has been "closed."

As CRCs, we are bound to serve the client's best interest. We must also fully inform our clients of the nature and consequences of our actions. In this scenario, the organization's need to "rehabilitate cases" may well have been placed before the client's interest. By closing George's case the counselor may have denied him access to continued training benefits. He

did not fully disclose to George the action to be taken and the consequence of that action. As a CRC, he was ethically bound to make this disclosure. (Most public agencies have requirements for due process and disclosure as well.)

The counselor may have intended to reopen George's case in the future; however, that may not be possible depending on the organization's rules. We do know that George was not fully informed of the counselor's actions and those actions were not consistent with George's desire to continue his plan. A rehabilitation plan is an agreement between the agency and the consumer so changes in the plan require the agreement of both. If this action was taken with George's consent and his plan was changed to reflect a change in goals, there would be no ethical conflict.

Policy Conflicts: A counselor has an ethical responsibility to advise supervisors about the counseling role. By doing so, he or she will hopefully not be asked to compromise standards of counseling practice to achieve agency goals. Management may not always be qualified to determine a counselor's professional responsibilities; it falls to the counselor to raise questions about operating guidelines that may work against the best interest of the client.

In the following example, agency policy conflicts with ethical practice.

A VR agency has a policy of promoting client business and purchasing from clients when possible. Margaret is a consumer at the agency and is continuing to develop computer desktop publishing skills as part of her rehabilitation program. Her counselor is very proud of Margaret's talents and is working hard to promote her success. The counselor arranges for the agency to pay Margaret to train Bob, another client in desktop publishing, feeling this will add to Margaret's experience and will enhance her job skills. Also, Bob will benefit from Margaret's knowledge.

In this situation the counselor has clearly entered into a dual relationship with Margaret. The Code requires that counselors avoid dual relationships not only because they may interfere with the counseling process but also they may affect the counselor's ability to advocate on behalf of the client. The situation is ripe for conflict.

The counselor's intent was admirable to help Margaret and Bob. But, if Margaret could not fulfill her commitment to Bob or if Bob was not satisfied with the services provided, the counselor could not advocate for both clients without jeopardizing the counseling relationship with either client. The counselor has become Margaret's employer and as such must require that Margaret fulfill her commitment to train Bob. If Margaret becomes ill, stressed by the situation, or unable to train Bob adequately, the counselor will be in a position where responding to the needs of one client might have a negative effect on the progress of the other.

The counselor's actions here are further complicated by agency policy. The CRC has a responsibility to bring the nature of the ethical conflict to the organization's attention and to act to change the policy. The counselor need not leave the agency, but he or she is required to communicate with management about the nature of this conflict.

Consultation: When faced with a potential conflict, an agency counselor has a number of resources to turn to for assistance. In the last example, the counselor could have asked for an advisory opinion from the Commission on Rehabilitation Counselor Certification (CRCC). CRCC routinely responds to requests for advisory opinions. This type of external validation

can be of great assistance to the CRC on the job. State licensing boards will also provide consultation upon request.

The counselor may also consult with colleagues and his or her employer. In a public organization, counselors should have access to professional supervision as well as administrative supervision; although, not all supervisors are qualified to provide professional supervision. The CRC must take responsibility for securing professional consultation when not provided by the employer. Agencies usually recognize the difference between professional and administrative supervision and attempt to provide appropriate ethical advice.

Legal Assistance: The counselor may also look to his or her organization for legal consultation. Public organizations have attorneys available for consultation who can serve a valuable purpose in supporting a counselor's decisions. The counselor should learn the organization's process for securing legal consultation and use the resource. If a CRC has malpractice insurance, the insurance company may also offer consultation. If necessary, he or she might consider consulting a private attorney as well.

Document Decisions: In making decisions affecting consumers, quality documentation will serve the counselor well. One must be sure that case recording covers the process used to arrive at a decision. Notes should be included about consultations sought and needless to say, communications with the client about decisions and actions that affect him or her must be documented.

Know the Law: Public rehabilitation involves administration of a body of law and the CRC is obligated to know the law governing counseling practice. Section L.2.c of the Code requires that rehabilitation counselors obey the laws and statutes of the legal jurisdiction in which they practice. When questions arise, a CRC seeks consultation and does not wait until a decision is made to seek help. Developing a network of support will increase a counselor's comfort and confidence in the counselor's role and will result in better services to consumers.

Know the Code of Ethics: The primary purpose of the CRCC's Code of Professional Ethics for Rehabilitation Counselors is to offer practitioners in both the public and private sectors realistic guidelines to ethical conduct. It is incumbent upon the CRC to review the Code, look for opportunities for training, and share ethical concerns with colleagues. Even when a CRC is familiar with the Code, situations may arise that do not easily fit within its standards. Counselors with questions of an ethical nature can consult with peers to obtain another perspective or contact the Commission's Ethics Committee for an advisory opinion.

Ethical practice benefits everyone: the consumer, the agency, the CRC, and the profession.

REFERENCES

Commission on Rehabilitation Counselor Certification. (2010). *Code of professional ethics for rehabilitation counselors*. Schaumburg, IL: Author.

RECOMMENDED CITATION

Hackett, J. (2009). Ethics in the public sector. (2nd ed.). In Commission on Rehabilitation Counselor Certification (Ed.), *Ethics for rehabilitation counselors, Program I* (pp. 24-28). Retrieved [date] from, http://www.crc certification.com/filebin/pdf/CRCC_HomeStudy1Articles.pdf

MODULE VIII – FORENSIC REHABILITATION

LEARNING OBJECTIVES:

After reading this article the counselor will gain knowledge regarding the use of rehabilitation counseling skills in forensic settings and the ethical conflicts frequently encountered within this arena.

The reader will be able to:

1. Identify the differences between counseling environments and legal environments that impact the role of the rehabilitation counselor.
2. Recognize common ethical challenges confronted by forensic rehabilitation counselors.

ETHICS AND FORENSIC REHABILITATION

By: Linda Shaw, Ph.D., CRC and Horace W. Sawyer, Ed.D., CRC

The term “forensic rehabilitation” is broadly used to describe any activity performed by rehabilitation counselors within the legal arena. While in rehabilitation counseling where there is a client-counselor relationship established, counselors refer to those receiving services as “clients.” Within forensic rehabilitation services, there is no client-counselor relationship established when performing such an evaluation; therefore, those receiving services are called “evaluatees” (Barros-Bailey, Carlisle, Graham, Neulicht, & Wallace, 2008). For the majority of rehabilitation counselors, forensic rehabilitation involves consultation activities to determine the impact of a disability on specific case law strategy and more importantly, how the evaluatee information impacts the case. This evaluatee information often includes an analysis of medical, educational, psychological, functional, and vocational parameters of the case. Forensic consultation focuses on expert opinions and conclusions regarding the issues of the case in a report and/or expert testimony within such venues as Social Security and Workers’ Compensation hearings, personal injury and malpractice litigation, product liability combined with disability or injury, and civil rights actions. The rehabilitation counselor may be called upon to perform a wide range of consultation services including case analysis, evaluation of the injured party, labor market surveys, vocational options, rehabilitation services, earning capacity and wage loss, report with conclusions and recommendations, life care planning, and expert testimony in litigation cases.

Rehabilitation counselors who practice in legal arenas have a challenging task. How does one practice ethically while operating outside the usual boundaries of the counselor’s traditional role? Our ethical codes were developed based on the assumption that rehabilitation counselors are acting as counselors, yet in some legal activities, the counselor may never have met the individual with a disability. Nevertheless, rehabilitation counselors like other mental health professionals are increasingly finding themselves involved in legal activities. As Swenson notes,

“The current trend is for increased interaction between the legal and psychological fields. Yet practitioners in both fields often remain uncomfortable and unfamiliar when they move into the other’s domain....A danger for mental health professionals in the courtroom is that they may forget to act like ethical mental health professionals because of social pressures to fit into the courtroom environment.” (Swenson, 1993, p.190).

The different priorities of counseling and the legal system can create ethical pitfalls for the rehabilitation counselor engaged in forensic work. While there is a strong tendency for counselors to act as advocates for their clients, regardless of the arena and the issues at hand, the legal system demands that the expert witness present fair and unbiased conclusions to the court, based on an objective evaluation process. Counselors must be aware of the varying demands of the environments in which forensic services are provided and develop a clear understanding of their roles within such settings to ensure that their behavior is consistent with ethical principles that underlie the standards for ethical conduct for their profession. The following table shows the demands that are placed upon counselors practicing in traditional counseling settings and those that exist in legal environments.

	<i>Counseling Environment</i>	<i>Legal Environment</i>
<i>Primary Role</i>	<i>Client Advocate</i>	<i>Unbiased Expert</i>
Nature of Evidence	Inference, Subjective Data, Hypothesis	Facts, Objective Verifiable Evidence
Nature of Relationship	Helping Relationship	Evaluative Relationship
Goals	Attainment of Client’s Therapeutic Goals	Uncover Facts (may or may not further evaluatee’s goals)
Confidentiality	Yes	No
Responsibility	To Client	To Evaluatee
Accountability	To Client	To Evaluatee and Attorney
Attitude	Supportive, Accepting, Empathetic	Neutral, Objective, Detached
Process	Cooperative	Adversarial
Ethical Priorities	Nonmaleficence, Beneficence, Autonomy	Justice

The inherent differences between counseling and legal systems, combined with the lack of awareness of one system’s priorities by the other, and unfamiliar demands placed upon the rehabilitation counselor by this system, create an environment ripe for a number of ethical dilemmas. Such ethical problems frequently include the following:

Going Beyond One’s Expertise: Frequently, attorneys press rehabilitation counselors to perform consultation and render opinions in areas that fall outside of the profession’s and/or the individual counselor’s scope of practice. As a result, there may be a tendency for rehabilitation counselors to extend beyond their areas of expertise or scramble for additional skills to reach minimum competency in an area with which they have little experience. This may occur because the attorney simply is not fully aware of the limitations of the rehabilitation counselor’s professional role. As often, however, attorneys may attempt to discredit witnesses by deliberately asking their opinions on topics that fall outside rehabilitation counselors’ areas of expertise. Rehabilitation counselors may be particularly susceptible to giving in to the temptation to provide opinions on questionable topics due to the breadth of their scope of

practice, and the high degree of interaction and knowledge they tend to have about other medical and rehabilitation professions. To attempt to render such opinions places the counselor in ethical and professional peril. However, opinions about topics for which the rehabilitation counselor has familiarity, but for which the level of expertise falls short of that required of an “expert” may be harmful in several respects. First, they may mislead the court, thereby bringing harm to the plaintiff or defense. Second, the rehabilitation counselor’s credibility as an expert is vulnerable to attack, thereby discrediting all other testimony, and ultimately, the entire case. Consultants who render opinions outside of their area of professional expertise do an injustice to the injured party, the attorney and/or court, to themselves, and to other practicing rehabilitation counselors. (F.2.b)

Hired Gun Syndrome: Many counselors experience a tendency to respond to an implicit, and sometimes explicit, request of the attorneys who have hired them to “help” the case. This is after all the attorney’s job, and the rehabilitation counselor who is paid by an attorney to perform an evaluation and render an opinion cannot help but be acutely aware that certain opinions will assist the case, while others may be harmful. For example, the counselor may be “pushed” to establish the most advantageous wage loss through recommend job options and/or salary ranges. While most counselors will resist the urge to tell blatant untruths, it can be difficult to resist the tendency to be biased in the opinions formed, and/or to present opinions in a biased manner. The rehabilitation counselor is privy to the attorney’s view of the case and may have to work harder to uncover facts that go beyond his or her view of reality. Furthermore, the rehabilitation counselor may perceive that future referrals are more likely from that attorney if the counselor’s testimony helps the case. Some experts become known as either defense or plaintiff experts and consistently render opinions that support a given position. This may seem logical and perfectly acceptable to many attorneys as their legal perspectives are either plaintiff or defense. The expert, however, is expected to consider all of the facts and information at his or her disposal and to render an unbiased, objective opinion (F.1.a). Those who do not do so are likely to acquire a reputation for rendering opinions that are “bought and paid for” – a clear breach of ethics. Again, the counselor can do substantial harm to all parties involved, including himself or herself.

Unclear Expectations: As mentioned above, many attorneys are relatively unfamiliar with rehabilitation counselors. They may not be attuned to the differences between the two professions and assume that the counselors they employ share their goals and agendas. The attorney may not be aware of each individual rehabilitation counselor’s areas of consultation competence and expertise. For example, the counselor may not have the experience and skills to develop a life care plan or fully develop an ADA case for litigation. The counselor has an ethical responsibility to inform the attorney at the outset of their business relationship about what the counselor can and is willing to do in the case. Unclear expectations may lead to attorneys feeling that they have been “sold short” when counselors later attempt to practice ethically, increasing the pressure to alter their behavior in an ethically tenuous direction.

Negligence/Due Care: Rehabilitation counselors providing forensic services have an obligation to perform a careful, thorough evaluation based on all of the pertinent facts and to arrive at carefully considered conclusions. In so doing, they have a responsibility to carefully seek out all pertinent information (F.1.a). This obligation can be difficult for rehabilitation counselors because of the differing expectations that exist in forensic work. In counseling sessions, counselors are accustomed to seeking to understand the truth as it is perceived by

the client. Often, the counselor does not seek outside validation of the client's perception, since the most important truth in counseling is the client's own truth. The counselor engaged in forensic work, however, is interested in the facts of the matter. While the individual's perception may be important, it is even more important to discover the whole truth by seeking information that either confirms or clarifies the evaluatee's view of things. Counselors must carefully consider what information currently exists, perform a thorough review, and seek out additional or confirmatory information. This can be a daunting task when faced with literally truckloads of medical records and depositions. Rehabilitation counselors may also be tempted to restrict themselves to case review rather than performing an in vivo assessment. This may be appropriate at times, but never gives as complete a picture as when the opportunity exists to perform a personal assessment. Counselors who are rendering opinions with less than optimal information at their disposal should be clear about the limitations of their opinions and freely disclose the sources of their information (F.1.a).

Legal Illiteracy: Many rehabilitation counselors have little information and background experience about the litigation process and the legal system. Most mental health professionals operating within legal arenas have had little formal training in legal procedures and processes. Counselors are not typically trained to know about rules of procedure, rules of evidence, and standards of proof, and how these differ legally from what is generally accepted clinically. Rehabilitation counselors who engage in forensic work are ethically obligated to understand the rules of the environment in which they are operating to ensure that they are able to provide competent, ethical services.

Dual Roles and Limits to Confidentiality: The rehabilitation counselor working within the legal system will experience multiple dual roles. Counselors appearing as expert witnesses on behalf of individuals with disabilities are engaging in dual roles that must be carefully explained to all parties concerned. Counselors are ethically obligated to present carefully considered, unbiased opinions. They therefore have a primary duty to factual information and professional opinions that may conflict with other roles. Counselors who perform assessments or who are testifying about a client with whom they have a counseling relationship have an inherent conflict. They are bound by their ethical code to place the client's needs and concerns above all others. However, by providing objective testimony, they may actually harm their client's case. While it may be argued that ultimately, the truth is in their client's best interest, it is still difficult to reconcile the fact that the counselor's behavior in this case will be perceived as harmful to the client. Most clients believe that by entering into a counseling relationship, the counselor implicitly agrees to act in their best interest. Counselors whose primary obligation is to an objective truth must, therefore, clarify their roles to clients from the outset of their relationship (F.1.b). The need for informed consent in this situation is paramount. Clients must understand the purpose and intended use of any information they may disclose so that they may freely choose what they wish to share and what they do not wish to share. It is important to note that acting in the role of an objective party providing testimony does not absolve counselors from their duties to their clients. Rather, they must be mindful of conflicts where they occur and ensure that they are carefully and forthrightly managed and disclosed. Counselors may also find that they have conflicts with the attorneys who have engaged them, as mentioned above. Is the counselor's primary duty to the truth or to the case? Again, as mentioned earlier, counselors must discuss these issues and clarify their roles to all parties at the outset of the relationship.

Conclusion: Forensic consultation is a practice environment offering great promise, but also great challenges for rehabilitation counselors. Because it is a nontraditional setting, it brings different values, rules, and assumptions, which may create ethical conflicts for counselors. Rehabilitation counselors providing forensic consultation services must be particularly mindful of the issues discussed above and continually strive to practice in a professional and ethical manner.

REFERENCES

- Barros-Bailey, M., Carlisle, J., Graham, M., Neulicht, A. T., Taylor, R., & Wallace, A. (2008). Who is the client in forensics? [White paper]. Published in: *Estimating Earning Capacity*, 1(2), 132-138; *Journal of Life Care Planning*, 7(3), 125-132; *Journal of Rehabilitation Administration*, 33(1), 59-64; *The Rehabilitation Professional*, 16(4), 253-256; *Rehabilitation Counselors & Educators Journal*, 2(2), 2-6.
- Commission on Rehabilitation Counselor Certification. (2010). *Code of professional ethics for rehabilitation counselors*. Schaumburg, IL: Author.

RECOMMENDED CITATION

- Shaw, L., & Sawyer, H. W. (2009). Ethics and forensic rehabilitation. (2nd ed.). In Commission on Rehabilitation Counselor Certification (Ed.), *Ethics for rehabilitation counselors, Program I* (pp. 29-32). Retrieved [date] from, http://www.crcrcertification.com/filebin/pdf/CRCC_HomeStudy1Articles.pdf

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