

The questions contained in this FAQ document were raised by participants during CRCC's 2010 Ethics Webinar Series. Presenters were unable to address each question individually so CRCC's Ethics Committee has reviewed the questions and have outlined their response in a Q&A format. These FAQs are provided as a general educational service and are rendered in response to extremely limited and unverified information. Therefore, the opinions expressed below should not be construed as direct advice regarding the unique or specific ethical or legal issues raised but are a general discussion of the ethical considerations applicable to the question. The considerations described should be regarded only as the Committee's current opinion based on the CRCC Code of Professional Ethics for Rehabilitation Counselors (the "Code") as now in effect, and is not intended to address the laws, regulations or rules of any state, agency or other organization which may also bear on the issues addressed. Further, these FAQs should not be construed as legal advice and you are urged to contact your legal advisor with respect to any legal questions or issues that you may have relating to the topics discussed.

WEBINAR FREQUENTLY ASKED QUESTIONS

Q: Can the sample Professional Disclosure Statements on CRCC's website be modified?

A: CRCC encourages individuals to review the three sample Professional Disclosure Statements for applicability and to modify them as appropriate. At a minimum, the disclosure statement should include the following: (1) the qualifications, credentials, and relevant experience of the rehabilitation counselor; (2) purposes, goals, techniques, limitations, and the nature of potential risks, and benefits of services; (3) frequency and length of services; (4) confidentiality and limitations regarding confidentiality (including how a supervisor and/or treatment team professional is involved); (5) contingencies for continuation of services upon the incapacitation or death of the rehabilitation counselor; (6) fees and billing arrangements; (7) record preservation and release policies; (8) risks associated with electronic communication; and, (9) legal issues affecting services. (*Related Standard: A.3.a*)

Q: If a client does not sign the professional disclosure statement, does that indicate the goals for counseling are not mutually agreeable and therefore the relationship would not be therapeutic?

A: A professional disclosure statement is meant to describe such things as the roles and responsibilities of both parties as well as the services to be provided. It is not meant to be used as a document that signifies consent for services. The client's refusal to sign a professional disclosure statement does not necessarily indicate that the client does not agree with the goals of the counseling relationship. It is the rehabilitation counselor's responsibility to explore with the client the reason they refuse to sign in the event such refusal is simply based on a lack of understanding of certain aspects of the statement. If, however, the client does not wish to sign for any reason, the rehabilitation counselor should simply document such refusal in the case file noting that he or she did discuss the contents of the statement with the client. (*Related Standards: A.3.a & A.3.b*)

Q: What should a rehabilitation counselor do when the client is advised by his or her attorney not to sign the Professional Disclosure Statement?

A: The rehabilitation counselor may provide services to the client, but must document the case file noting the client would not sign the Professional Disclosure Statement. (*Related Standard: A.3.a*)

Q: If a workers' compensation jurisdiction requires one mandated signed consent for all case management services, can the CRC use a patient consent obtained by a nurse case manager to implement vocational services instead of the CRCC disclosure statement?

A: Forms that are meant to obtain consent for services are often insufficient for use in lieu of a separate Professional Disclosure Statement. If agency consent forms do not include all the components required to be present in a Professional Disclosure Statement, rehabilitation counselors should create their own Professional Disclosure Statement as a supplement to agency forms. Rehabilitation counselors are also obligated to review the Professional Disclosure Statement with the client orally, in writing, and in a manner that best accommodates any of their limitations. (*Related Standard: A.3.a*)

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WEBINAR FREQUENTLY ASKED QUESTIONS

Q: When working in a rural area, how should a rehabilitation counselor address non-professional interactions with a client or former client?

A: Rehabilitation counselors should avoid non-professional relationships with clients, former clients, their romantic partners, or their immediate family members, except when such interactions are potentially beneficial to clients or former clients. See the related standard for detailed guidance on this matter. When non-professional interactions occur, the rehabilitation counselor should allow the client/former client to initiate contact. (*Related Standard: A.5.d*)

Q: I am a rehabilitation counselor that has a client that shares the same hobby. The client has initiated contact with me multiple times regarding our shared hobby and I would like to spend time with the client in hobby-related activities after I have closed his file. Would this type of interaction be in violation of the Code?

A: The Code cautions rehabilitation counselors to avoid non-professional interactions with clients, former clients, their romantic partners, or their immediate family members, except when such interactions are potentially beneficial to the client or former client. Non-professional interactions should also be time-limited. The situation described appears to be more of a long-standing interaction and appears in conflict with the Code. (*Related Standard: A.5.d*)

Q: How would a rehabilitation counselor deal with potential legal issues when he or she has knowledge of a terminally ill client's suicide wishes?

A: CRCC cannot comment from a legal perspective. From an ethical perspective, the Code allows a rehabilitation counselor the option to break or not break confidentiality in this matter, depending on applicable laws and after seeking legal consultation or supervision from an appropriate party. (*Related Standard: A.9.c*)

Q: What obligation does a rehabilitation counselor have when a client informs him or her confidentially that he or she has been diagnosed with HIV and the client does not want to inform his or her spouse of the diagnosis?

A: The rehabilitation counselor should encourage the client to inform his or her spouse of the diagnosis. Limits of confidentiality should have also been addressed at the outset of the relationship as part of the professional disclosure process and should again be addressed with the client. In addition, the rehabilitation counselor should consult legal counsel and the Department of Health requirements to determine what information can and/or must be revealed and to whom. (*Related Standards: B.2.a and B.2.b*)

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WEBINAR FREQUENTLY ASKED QUESTIONS

Q: What action should a rehabilitation counselor take when a client reports abuse or neglect?

A: The rehabilitation counselor may be required to report such information in order to protect others from serious and foreseeable harm. Limits of confidentiality should have also been addressed at the outset of the relationship as part of the professional disclosure process and should again be addressed with the client. If unsure as to the reporting requirements, the rehabilitation counselor should promptly seek legal advice unless there is an imminent probability of harm that requires the rehabilitation counselor to take immediate action. (*Related Standards: B.2.a*)

Q: Is a rehabilitation counselor allowed to release records from another source if the rehabilitation counselor's employer paid for the service/evaluation?

A: Payment for a service/evaluation should have no bearing on the release of records. Rehabilitation counselors should not release records from another source. Instead, rehabilitation counselors should refer the client back to the original source in order to obtain a copy of the record. (*Related Standard: B.6.c*)

Q: If another agency requests copies of a client's records and the client signs a release, what records can be provided?

A: A rehabilitation counselor may only provide their records to the agency. Records from other sources may not be provided. The agency would need to request those records directly from the other source. (*Related Standard: B.6.c*)

Q: When a rehabilitation counselor orders an evaluation on a client, may the rehabilitation counselor provide a copy of the report to the client?

A: A rehabilitation counselor may provide the client a copy of the report, unless prohibited by law. The rehabilitation counselor has a responsibility to educate the client regarding the information in the report if the report contains information that is sensitive, confusing, or detrimental to the client. (*Related Standard: B.6.c*)

Q: If the client refuses to sign the disclosure statement, how can the rehabilitation counselor communicate with other people in order to help the client?

A: A Professional Disclosure Statement is a document that outlines the rights and responsibilities of both the rehabilitation counselor and the client. It is not consent for services or a release of information/release for information. (*Related Standard: A.3.a*)

Q: If your client is verbally fluent in English but can only read Spanish, would you need to provide a translator for the Professional Disclosure Statement?

A: The rehabilitation counselor could provide the Professional Disclosure Statement in Spanish or should provide the client with a translator to review the Statement. The Statement should also be reviewed orally. (*Related Standard: A.3.a*)

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WEBINAR FREQUENTLY ASKED QUESTIONS

Q: I am preparing a transferable skills report for a long term carrier primarily using information from the case file. If I need to obtain clarification from the evaluatee on any aspect of the file information, would I need to have the client sign a Professional Disclosure Statement?

A: If you need to contact the evaluatee for any reason, and provided you have authorization to do so, you would need to provide the evaluatee with a Professional Disclosure Statement so that they may understand each of the important aspects addressed within a Professional Disclosure Statement. *(Related Standard: A.3.a)*

Q: Can an attorney who has been retained to act on behalf of a client in a forensic case sign the Professional Disclosure Form? Can an attorney sign forms on behalf of parents or legal guardians of the client?

A: An attorney cannot sign documents for the client even if they are acting on behalf of the client. With regard to an attorney signing on behalf of a parent or legal guardian, the attorney may only sign documents if they have been appointed as the legal guardian by the court. *(Related Standard: A.3.a)*

Q: I work with individuals who are not Certified Rehabilitation Counselors. My coworkers are allowed to have long-term friendships with clients that receive services at our center, but it is recommended I do not enter into a friendship with a client. Are my coworkers, who are not certified, expected to abide by the CRCC Code of Ethics?

A: CRCC does not have jurisdiction over individuals who are not certified, although it is still CRCC's desire to have all rehabilitation counselors act in accordance with the Code of Professional Ethics for Rehabilitation Counselors, which has been endorsed by the profession. Individuals who are certified must abide by the Code regardless of the behavior of coworkers. *(Related Standard: A.5.d)*

Q: May a rehabilitation counselor attend the funeral of a client?

A: A rehabilitation counselor may attend the funeral of a former client. *(Related Standard: A.5.d)*

Q: When a rehabilitation counselor's role changes, does the client/evaluatee need to agree to the change?

A: When the rehabilitation counselor's role changes, they are obligated to obtain informed consent from the client/evaluatee and explain the right to refuse services related to the change. *(Related Standard: A.5.f)*

Q: How does a rehabilitation counselor obtain a court directive to clarify the nature and extent of responses to a subpoena?

A: The rehabilitation counselor should seek advice from legal counsel with regard to a subpoena. *(Related Standard: B.2.c)*

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WEBINAR FREQUENTLY ASKED QUESTIONS

Q: Can a client have someone attend a counseling session who is not a helper of any kind, just an individual the client wants to be present?

A: A client retains the right to decide who can be present as a client assistant, unless the situation prohibits the individual from being present, such as may be the case when certain standardized testing instruments are administered. *(Related Standard: B.3.d)*

Q: When performing a defense vocational evaluation in a workers' compensation setting with a non-native English speaker, I used a professional interpreter at the request of the referral source. How would this be handled under B.3.d?

A: Interaction with an interpreter should be handled as a professional relationship. The interpreter should be apprised of the need to maintain confidentiality. *(Related Standard: B.3.d)*

Q: Does the client assistant statement in Standard B.3.d signify that a client has the right to choose their interpreter? What if a client refused an interpreter and there were no other interpreters available?

A: A client does have the right to refuse services from a particular interpreter. If that is the case, the client should be made aware of the impact of their decision, which may simply be a need to reschedule the meeting to a later date. *(Related Standards: A.3.b and B.3.d)*

Q: If the client/evaluatee requests a copy of the report that I generate, but the insurance company is the payer, what is my obligation? Can I provide the report directly to the client or must I refer the client to the insurance company for a copy of the report?

A: When providing direct services, after a counseling relationship has been established the client is entitled to receive copies of reports directly from the rehabilitation counselor, regardless of the payer source. When providing indirect forensic services, where the rehabilitation counselor is employed by a third party as a case consultant or expert witness, the evaluatee should be directed to the referral source in order to obtain a copy of the report. *(Related Standard B.6.c and F.1.d)*

Q: Can a rehabilitation counselor generalize what is contained in a report if they are not in a position to release the report directly to the client?

A: The rehabilitation counselor should not generalize information contained in the report. The rehabilitation counselor should refer the client to the original source in order to obtain a copy of the report. *(Related Standard: B.6.c)*

Q: How long should a rehabilitation counselor keep their records?

A: Rehabilitation counselors should maintain their records in accordance with national or local statutes or agency policies governing record retention. *(Related Standard: B.6.e)*

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Q: What are reasonable efforts for continuation of services in a disaster? Should I provide a name of someone to contact?

A: Rehabilitation counselors should have a plan in place in the event of a disaster or termination of practice, incapacity, or death of the rehabilitation counselor. Pertinent details should be communicated to the client as part of the disclosure process with relevant information contained in the written professional disclosure statement that is provided to the client. *(Related Standard B.6.f)*

Q: How should a rehabilitation counselor address information gained about a client that is obtained in a nonprofessional setting that would be important in the counseling process but the client has purposely not brought to the attention of the rehabilitation counselor? Would it be unethical to bring up the information in a later session, given that the info was obtained outside of the formal counseling environment?

A: Information obtained about a client outside the counseling process that has an impact on the provision of rehabilitation counseling services should be discussed with the client during the next session. Assuming that the rehabilitation counselor did address issues such as limits of confidentiality as part of the professional disclosure process at the outset of the counseling relationship, the client should not be surprised by the fact that the counselor is addressing the matter. *(Related Standard: A.3.a)*

Q: How would a rehabilitation counselor obtain permission to disclose information regarding a deceased client?

A: A rehabilitation counselor does need to follow any legal requirements and agency policies in terms of preserving confidentiality of deceased clients. Legal counsel should be able to advise on the best way in which to obtain permission for release of confidential information should that be allowable under the law and agency policy. *(Related Standard: B.3.g)*

Q: If a rehabilitation counselor sends an email to an individual who works in an agency setting and they allow other agency employees to read and respond to the email, does this violate client confidentiality?

A: Rehabilitation counselors should be careful to disclose any limits of confidentiality, including the extent to which other professionals may have access to their information if that is known to them, as part of the professional disclosure process at the outset and throughout the counseling relationship as needed. It is also assumed that the agency would have appropriate policies in place for them employees in order to protect confidential information. *(Related Standards: A.3.a, B.1.d)*

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WEBINAR FREQUENTLY ASKED QUESTIONS

Q: A referral source has indicated that my role is that of a case manager, not an advocate. How should I address this matter?

A: It is required that a rehabilitation counselor fully inform the client regarding their role in the rehabilitation counseling process. This should be done via the professional disclosure statement and reviewed with the client orally and in writing. The role of the rehabilitation counselor should also be communicated with the referral source. With regard to advocating for a client, in general, a rehabilitation counselor should provide information to facilitate a client's self-advocacy whenever possible and should only advocate on behalf of the client after receiving prior consent from the client. *(Related Standards: A.3.a, C.1.b)*

Q: Are the only options available to a rehabilitation counselor working through constructive actions within an organization is for the counselor to refer to the appropriate certification or quit?

A: A rehabilitation counselor should first attempt to work within the organization to affect change and if change cannot be affected the rehabilitation counselor may need to reconsider employment with that particular organization. *(Related Standard E.1.b)*

Q: If a rehabilitation counselor is asked by a client to advocate on their behalf in a criminal hearing, how much information can the rehabilitation counselor disclose in court, such as a psychological report that the rehabilitation counselor is not trained to interpret?

A: A rehabilitation counselor can only respond to information that they produced. Rehabilitation counselors should not disclose or interpret information provided by others. *(Related Standard: F.1.c)*

Q: How does a rehabilitation counselor justify using the Dictionary of Occupation Titles (DOT) which has not been updated in 20 years?

A: While there may be limitations in this resource, which can be identified within the report, at this time the DOT remains the most comprehensive source available. *(Related Standard: F.2.e)*

Q: When working in a forensic setting, how is disclosure of information balanced between the payer (i.e. attorney, insurance company) and the evaluatee? For example, if the evaluatee requests a copy of the counselor's records, but the payer does not want the records released.

A: It is not the rehabilitation counselor's role to disclose confidential information to anyone other than the referral source. If an evaluatee wishes to obtain a copy of the rehabilitation counselor's records, they should have their attorney obtain the records from the referral source. *(Related Standard: B.6.c)*

Q: Define "behavioral differences with the use of the internet"?

A: When a rehabilitation counselor is engaging in distance counseling, they need to be aware that the same visual cues and voice intonations, for example, that would exist in a face-to-face counseling process do not exist with electronic communications. Rehabilitation counselors must be aware how these issues may impact the counseling process. *(Related Standard: J.1.b)*

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Q: Many clients, including those who are deaf or hard of hearing prefer to communicate via email. How does a rehabilitation counselor limit communication to information that is not client-specific?

A: It is the rehabilitation counselor's responsibility to ensure the confidentiality of client information when using technology. In order to maintain such confidentiality, a rehabilitation counselor should encrypt and/or password-protect confidential electronic communications. *(Related Standard: J.3.c)*

Q: How do you ensure confidentiality when meeting with a client in a public setting?

A: A rehabilitation counselor who has a need to identify a suitable public location for meetings should check with local libraries, attorney offices, and other colleagues who may have locations available for use. Knowledge of these resources and prior visits to these locations before establishing meetings with clients is a reasonable course of action to take to facilitate confidential provision of services. *(Related Standard: B.3.a & B.3.e)*

Q: If a client requests a copy of their records, are electronic notes also a part of the client's record?

A: Rehabilitation counselors must be aware that electronic messages are a part of the client's record. *(Related Standard: J.6.a)*

Q: A colleague repeatedly comes to work late and leaves early without the knowledge of their supervisor. Can CRCC take action against this individual?

A: An individual's work patterns are an employment related matter and cannot be addressed by CRCC.

Q: If an individual holds a license in addition to holding a CRC, which Code of Ethics should be followed?

A: An individual holding multiple credentials and licenses must adhere to all applicable Codes. If there is a discrepancy between codes, CRCs will be held to the CRCC Code. *(Related Standard: L.2.d)*

Q: What are some credible models of ethical decision-making?

A: Examples of ethical decision-making models are provided in a comparative chart in The CRCC Desk Reference on Professional Ethics. The Desk Reference is available for purchase through the publisher, Elliott & Fitzpatrick. Representative models include those from Taryvdas (1998), Cottone (2001), Garcia, Cartwright & Borchukowska (2003), Corey, Corey & Callanan (2007), and Herlihy & Watson (2007).

Q: State agencies refer to "consumers". Does the term "client" in the Code refer to "consumers"?

A: The term client and consumer have the same meaning. *(Glossary)*

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WEBINAR FREQUENTLY ASKED QUESTIONS

Q: What is the difference between a client and an evaluatee?

A: A client is an individual that receives services from the rehabilitation counselor. An evaluatee is a term used in a forensic setting that denotes an individual who is the subject of an objective and unbiased evaluation.
(Glossary)

Q: What is CRCC's opinion regarding the use of social media (Twitter, Facebook, etc.) in the counseling relationship?

A: This is an emerging issue that will require more in-depth exploration and monitoring over time. Rehabilitation counselors may wish to consider developing a policy as to if/how they will communicate and sharing it with their clients as part of initial and ongoing professional disclosure practices. Initial considerations include the importance of noting that CRCs are held to the same level of expected behavior and competence regardless of the technology used. Each social networking site operates differently and it is important to understand what precautions need to be taken in order to maintain confidentiality or if confidentiality can even be maintained within that environment. Disclosure and informed consent are also basic tenets that must be considered in any communication. It is also important to consider the type of communication and interaction. There is certainly a distinction between counseling and communicating. For example, it is common to simply confirm or change the time of an appointment using electronic communication. However, distance counseling and other rehabilitation counseling services would require the CRC to take precautions to ensure the confidentiality of information transmitted such as proper encryption. Another important consideration is whether the site would allow the appropriate level of control for dissemination of personal information in order that professional boundaries are maintained throughout the course of the client-counselor relationship.
(Related Standards: A.3.a, A.3.b, A.5.d, and the majority of Section J)