American Counseling Association Ethical Dilemma

Julia Coley, Ammi Collado, Kelly MacAllister and Amanda Tejada

Argosy University
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"Counselors may be faced with a conflict between their duty to protect confidentiality, to support clients with HIV/AIDS, and not to cause harm to the counseling relationship, and their duty to warn a third party of potential harm" (Alghazo, Upton, & Cioe, 2011, p.4). This quote describes the dilemma counselors face that result from the provided scenario. We will break down the steps used to reach our decision based off the eight step decision-making model (Corey, Corey & Callanan, 2011). We chose to use this model because it implements the six fundamental moral principles for ethical decision-making. These include autonomy, non-maleficence, beneficence, justice, fidelity, and veracity (Corey et al., 2011, p. 24). With the use of those two models, this is how we’ve worked through the given scenario to reach our final verdict.

Identify the Problem

This vignette poses several ethical dilemmas for counselors. First and foremost, the client, Dominique, has disclosed that he has been diagnosed with AIDS. This has caused both his physical and mental health to suffer. He has been engaging in sexual activity with several participants who were all unaware of his diagnosis, as he intentionally did not inform them. He has chosen not to tell his partners about his health concerns which means he is purposefully putting others at risk for contracting this disease. His reasons for not informing his sexual partners include the fact that he is in the public eye and does not want this information getting out. It is understandable that he would want to keep his privacy in this matter however, endangering others due to his own selfish reasons is not justifiable. He is even paying his team physician to keep his diagnosis quiet. Per the American Medical Association Code of Medical Ethics, physicians are required to report an AIDS diagnosis to the Health Department, and encounter criminal and civil penalties if they don't (AMA, 2010, Opinion 2.23, section 5).

Dominique has started a relationship with a new partner and has decided to become intimate with her sexually. Again, she is unaware of his diagnosis. Dominique has expressed his feelings of rage if
she finds out about his HIV and can't stand the thought of being rejected because of it. He verbalized that he would kill her if she found out. The counselor in this scenario happened to stumble upon some concrete evidence on the client's social media page that supports Dominique’s violent nature and vengeful mindset and showed the client comparing himself to Shakespeare’s Othello. This brings up the issue of how the counselor came across Dominique’s social media information. If the counselor did not specifically intend to search for Dominique’s information, then perhaps they are ‘friends’ on their social media pages, which is another area of concern. Specifically searching for information about a client is disrespecting their privacy as well as crossing boundaries and initiating multiple relationships.

**Identify Potential Issues**

For this section, we evaluated the responsibilities and the welfare of our clients and others who are involved in this situation (Corey et al., 2011, p. 24). The client in this situation has the potential to infect a significant amount of people with HIV in addition to those he already has infected, due to his reckless sexual behavior. Dominique’s previous sexual partners may react violently towards him if his diagnosis is revealed. In order to report this sensitive information, we need to confirm Dominique’s AIDS diagnosis. However, the client may refuse to give us his consent to speak with the physician who diagnosed him. Therefore, it poses another obstacle that we may face. Also, because Dominique threatened to kill his girlfriend should she find out about his health issues, her life is at risk. We've also been informed in the vignette that the counselor saw photographs of weapons on his social media page, indicating he has the means to carry out his threat. Dominique’s career could be in jeopardy if his health concerns are public knowledge, as well as his safety, his image to the public eye, his future relationships, and his mental and physical health. Certainly, further potential issues include ethical or legal consequences for the counselor if a proper decision is not made.
Relevant Codes

Section A

A.1.a. (ACA, 2005, p.4) states the primary responsibility of the counselor is to respect the dignity and promote the welfare of clients. This is the initial relevant code to keep in mind throughout this dilemma. We need to continue to endorse our client’s welfare and his dignity as a person, even though we may disagree with how he is behaving socially.

Section B

According to the American Counseling Association’s Code of Ethics, standard 1.b (2005, p.7) declares counselors respect the privacy of their clients and only gather information that the client deems is necessary to share. This applies in the sense of how the counselor obtained the information from Dominique’s social media page. Using social media or search engines to learn information about a client is unethical.

Standard B.1.c. (ACA, 2005, p. 7) states that counselors should not disclose confidential information of their client unless they have sound legal or ethical justification. As counselors, we value our client’s privacy and their right to confidentiality in what they tell us. If we did not uphold this standard, clients would never feel comfortable sharing any personal information with their counselors. In this case, the counselor has ethical and legal justification to report Dominique's threat to society and towards his girlfriend.

Standard B.1.d (ACA, 2005, p. 7) informs us that counselors are to communicate the limitations of confidentiality to their clients, which includes if someone intends to harm themselves or others. Certainly, Dominique has made it clear that he intends to continue having unprotected sexual encounters with others and more recently with his current girlfriend. His decision to deliberately conceal his diagnosis from his girlfriend is identified in his threat to kill her if she discovers it. We are ethically and legally mandated to report this behavior.
ACA Ethical Code, standard B.2.a (p.7) commands confidentiality should be breached if the counselor believes the client will bring harm upon themselves or others. This further supports our duty to warn. In this case, the counselor is obligated to break confidentiality in order to warn the client’s girlfriend of possible danger, and to inform the public of Dominique’s health diagnosis.

Standard B.2.b. (ACA, 2005, p. 7) is in regards to contagious and life-threatening diseases. Counselors are instructed to disclose information to an identifiable third party if they are at high risk of contracting the disease. We are also supposed to assess the client's intent to inform the third party about their disease or to engage in behaviors that may be harmful to the identifiable third party. This standard applies to our case because Dominique has made it clear that he does not intend to tell his girlfriend of his diagnosis or any other sexual partner(s) he's had or will have in the future. He is about to engage in sexual activity with his girlfriend for the first time and this puts her at a definite risk of contracting the disease. We would need to obtain a release of information from Dominique in order to speak with his doctor. However, we expect that the team doctor will not speak with us and confirm Dominique’s diagnosis because he is being financially rewarded for his silence. The team doctor is not adhering to and in turn violating his own Medical Code of Ethics.

Section H

In the ACA Ethical Code (2005) standard H.1.b. (p. 19) discusses conflicts that counselors may encounter between their ethical code and the law. Since this scenario conflicts with our ethical code as well as the law, it supports our thoughts that there is no doubt we are required to take action in order to resolve it.

H.2.d is one of the most important standards because it can be applied to any case we may have as counselors. It states that counselors seek consultation when they are unsure of a particular situation or a course of action that may be in violation of the Code of Ethics that we adhere to. This aspect of our ethical code is discussed in more detail later in this analysis. Finally, standard H.3 (ACA, 2005, p. 19)
indicates that counselors assist in the process of enforcing the ACA Code of Ethics, which is our goal in this paper and in our future careers as counselors.

**Relevant Laws**

While counselors are governed by their ethical code, they must also adhere to the requirements of the law. Florida Statute (2013) 491.0147, subsection 3, declares that counselors are to breach confidentiality if the client were to harm themselves or others. No cause of action or liability shall rise against a licensed professional for disclosing confidential information in these cases. This statute correlates with the ACA Ethical Code B.2.a and is relevant to this scenario.

Florida Statute (2013) 384.24, section 2, insists that it is unlawful for the client to know he/she is HIV positive and continue to spread the disease to others. Dominique is insistently continuing to have sexual intercourse without proper disclosure to those involved. This is a clear violation of Florida law and may result in additional legal issues for Dominique. These state laws greatly impact our final decision for the best course of action in this case.

**Consult with Colleagues**

Counselors are required to seek consultation according to the ACA code of ethics H.2.d. when they are uncertain of a particular situation that might violate one of the ACA ethical codes. They should consult with other competent counselors. One counselor may be aware of other potential issues that another is not aware of in the situation. It is beneficial to our professional role to partake in discussion and consultation with other professionals in our field who abide by the same guidelines. In this situation, only the four of us students consulted on this case study, per the competition rules.

**Consider Options**

There are several options to consider in the situation at hand. It may be productive to educate Dominique about HIV/AIDS, discuss with him the seriousness of his actions and how they’re affecting other individuals, and encourage him to disclose on his own and explore ways he may be able to do this.
The counselor could offer help in communicating his disease to the people in his life through certain interventions. Within the safe counseling environment, it may prove beneficial to practice different scenarios of disclosure with a variety of outcomes. This can be accomplished through role play, imagery, and other behavioral techniques in order to build Dominique’s self-efficacy in deciding when and with whom to disclose (Kalichman & Nachimson, 1999).

We must consider breaking confidentiality in order to warn those who are being harmed or may be harmed. We must inform his girlfriend specifically that he is threatening her life. Since we have been informed of his AIDS diagnosis, there are three possible courses of action. First, we receive a release of information from Dominique and the team doctor cooperates with us in confirming the AIDS diagnosis, we then have the opportunity to disclose Dominique’s status to his girlfriend. Secondly, if he doesn’t consent, our only option would be to solely inform Michelle of the physical threat made against her. Another course of action could be to go to the Public Health Department and discuss with them Dominique’s behavior and the doctor’s negligence to comply with the AMA Code of Ethics and Florida Statutes (384.25).

**Evaluate Possible Implications**

Discussing and practicing healthy ways in which Dominique could disclose his AIDS diagnosis could help him feel more comfortable with the idea of disclosure. Since he has tried so long to conceal his diagnosis from everyone, this may be a difficult step for him to take. Dominique may become angry to this approach. Breaking confidentiality would damage the therapeutic relationship with the client. Being mandated to counseling removes the option to terminate, but he may shut down in future therapy sessions. His diagnosis may be exposed to the world because of his social status and it could have an effect on many aspects of his life. It's possible that Dominique could lose his career or it could create problems with his friendships and other relationships. He may feel angry, isolated, or rejected due to the stigma of HIV/AIDS, which can lead to depression, suicidal ideation, and a number of other
emotional and physical issues. This release of information may cause Dominique to become violent and execute his preconceived notion of killing his girlfriend or continuing to harm others. After notifying Michelle, we would proceed in disclosing the information to the Public Health Department, with or without the team doctor’s cooperation.

**Choose the Best Course of Action**

Educate Dominique about HIV/AIDS, the reality of it and how his reckless decisions are negatively impacting others. Inform him of Florida Laws, which state knowingly passing this disease to others is a felony crime, punishable by a 5 year incarceration sentence, and a $5,000 fine per count (Florida Statute, 2013, 384.24 (2)).

We would remind our client of our discussion at the onset of treatment explaining the limits to confidentiality and that we are obligated by law to report his violent threats against his girlfriend to her and the police. Regarding his AIDS diagnosis, we would encourage Dominique to disclose his diagnosis with past and future partners and provide resources of support for him. If we are able to confirm his diagnosis with his doctor, we must tell Michelle that she’s at risk of contracting the disease. Remembering that we must also consider our client’s welfare, we would pursue a path that would disturb his professional career as little as possible, so as not to impart more psychological damage. According to Stanard and Hazler (1995), the choice to benefit the welfare of others outweighs the welfare of the individual. The parties involved have a right to know about their health and the risk of potential harm to their lives.

We have weighed the options and have come to a decision, which ethically complies with the ACA Code of Ethics. In doing so, we believe we’ve reached a reasonable course of action. Although this case posed many ethical dilemmas and discussions amongst our team, we feel confident in our decision of how to handle this case in a professional manner. We are thankful for this opportunity to continue educating ourselves and growing in the field.
References


