

First Do No Harm: Ethical Considerations in Balancing Counselor Values and Client Wellness

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Abstract

This project examines an ethical dilemma regarding a professional counselor and his consideration to terminate services to a client whose life-style and sexual orientation conflict with his deeply held beliefs. The client's disclosure of her desire to explore her sexual identity comes after a therapeutic bond has been established. This dilemma will be weighed in the context of the American Counseling Association (2014) Code of Ethics. Additionally, the Practitioner's Guide to Ethical Decision Making will be employed as a framework for a thorough evaluation of this ethical dilemma. This model suggests using the five foundational principles of autonomy, justice, beneficence, nonmaleficence, and fidelity to clarify the issues. Various potential courses of action will be considered and by applying the tests of justice, publicity, and universality the most appropriate resolution will be implemented.

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Professional ethical codes of conduct emphasize guiding principles, values, and standards of conduct to support counselors and other professionals as they endeavor to support individuals who request services. Historically, the principles and codes that guide professional conduct are established for counselors, social workers, psychologist, and other helping professions. Generally, the ethical codes provide a framework to support professional practices, service delivery, professional growth, and development of agency policies and procedures. Despite the vast consideration given to developing codes of conduct for the helping professions, the possibility exists that ethical dilemmas occur and may not always be readily resolved using codes of ethics.

Therefore, it is useful to have a model to analyze information, make sound ethical decisions, and to answer ethical questions. We chose to utilize Foster-Miller & Davis', The Practitioner's Guide to Ethical Decision Making (2016), which provides the framework and steps to guide the decision making process when ethical dilemmas occur. Additionally, counselors will find it practical and within the ethical guidelines to identify and use decision making models that adequately and effectively identify cultural disparities and biases while practicing ethical decision making.

The Problem Statement

In this scenario, Tony, a licensed professional counselor in a rural area, considers terminating his client, Lisa, after she reveals her desire to explore her sexual identity during their fourth counseling session. Tony is the only professional counselor in a 100-mile radius. Tony tells Lisa that he may not be able to continue counseling her due to his deeply held beliefs, strong

faith orientation, and values. The case study presents an ethical issue related to client care and a clinical issue relative to professional multicultural competence.

ACA Code of Ethics

Case law has been instrumental in supporting the American Counseling Association “ACA” Code of Ethics as evidenced in two legal cases *Ward v. Wilbanks* and *Keeton v. Anderson-Wiley* reported in *Counseling Today* (Shallcross, 2010). The rulings made it clear all counselors or counselors-in-training have a responsibility to clients and may not discriminate against clients based on sexual orientation (Shallcross, 2010). The plaintiff in the case, an Eastern Michigan University counseling student, declined to counsel a client who sought counseling assistance for issues relating to a same sex relationship, wanted to refer the individual to another counselor-in-training based on her religious beliefs that same-sex relationships were immoral (Shallcross, 2010). Per Shallcross (2010) the counseling student was offered a remediation program to support professional development in the counseling field; however she refused and requested a formal hearing before a review board and was dismissed from EMU’s program for violating the ACA Code of Ethics (c.5) (ACA, 2014). After dismissal, the plaintiff alleged infringement of her religious freedom and filed a lawsuit against the university. (Shallcross, 2010).

Keeton v. Anderson-Wiley resembled the previously mentioned case. The plaintiff, a counseling student at Augusta State University in Georgia, announced opposition to counseling members of the lesbian, gay, bisexual, and transgender community and identified herself as proponent of reparative therapy that proposes to help clients change sexual identity and preference. She declined to accept remediation, was removed from the university’s counseling program, and eventually filed a lawsuit against the Augusta State University (Hancock, 2014).

Subsequently, the review and rulings of both cases favorably supported and upheld the ACA C.5 nondiscrimination code, which requires that counselors do not allow their own values to interfere with their treatment of clients (2014). In the presented case of Tony and Lisa, the counselor violated the following codes per the ACA Code of Ethics:

Section A.4. Avoiding Harm and Imposing Values

A.4.a and A.4.b. Counselors must avoid harm and imposing personal attitudes, values, and beliefs on clients, and minimize or remedy unavoidable or anticipated harm. Additionally, counselors must respect the diversity of clients and should seek training in applicable areas that risk imposing values on clients. The counselor's actions have the propensity to harm the client's ability to seek professional counseling, develop therapeutic relationships within the helping profession and with other counselors, devalue the client, and interfere with their right to choose and voice challenges and concerns about sexual identity.

Section A.11. Termination and Referral

A.11.a, b, and c. Competence within termination and referral. Counselor should be knowledgeable about culturally and clinically appropriate referral sources, should refrain from referring clients based solely on their personally held values and cannot terminate clients based on personal values.

A.12. Abandonment and Client Neglect

Counselors must assist in coordinating continuation of services when services are terminated or interrupted. In this case, the counselor provides services in a rural community and is the only service provider located within a 100-mile radius. Inexorably, termination of counseling services with Lisa would cause harm to client and to the counseling profession.

C.2. Professional Competence

C.2.a. Counselors have responsibility to acquire and maintain multicultural competence while working with diverse client populations in the community. The counselor failed to secure adequate training, consultation, and supervision for professional development and improved abilities to serve all clients.

C.2.e. Counselors are accountable and must take reasonable steps to consult with other professionals when questions surface pertaining to ethical obligations or professional practice.

C.5. Nondiscrimination.

Counselors are prohibited from participating in discrimination against clients and do not condone such actions. The counselor's decision to terminate indicated discriminative practices based on client's concerns regarding gender identity.

The Nature and Dimensions of the Dilemma

The next step in the ethical decision making model is to consider and examine the dilemma's implications for each of the foundational principles specified in the preamble to the ACA Code of Ethics. The first principle is autonomy, or "fostering the right to control the direction of one's life" (ACA, 2014). This principle is applicable in the dilemma in question, as the client discloses to the counselor that "she has been struggling with her sexual identity since she was a teen and wants to explore her sexuality and the process of coming out." These foundational principles are designed to lay the groundwork for ethical behavior and decision making, and the counselor in this dilemma makes a tacit refusal to support the client's autonomy by implying his disapproval of the lifestyle she wishes to explore.

The model points to the "responsibility of the counselor to encourage clients, when appropriate, to make their own decisions and to act on their own values" (Forester-Miller & Davis, 2016). The counselor in this case shirks this responsibility to encourage his client to

explore the truth of her sexuality and to act in accordance with her genuine feelings about her authentic humanness. Forester-Miller and Davis (2016) stress the importance of “helping clients to understand how their decisions and their values may be received within the context of the society in which they live, and how they may impinge on the rights of others.” The counselor misses an important opportunity here to help the client be truthful about her shifting sexual orientation and to be mindful of how her new identity could be received, working on possible coping skills for interacting effectively with those who may not treat her with understanding and empathy. The spirit of the principle of autonomy is to support the client’s freedom of choice and action (Forester-Miller & Davis, 2016). The counselor, by his unwillingness to support the client’s freedom of choice and action, risks significantly undermining the client’s autonomy, and ultimately her emotional and mental health.

The second principle is nonmaleficence, or avoiding actions that cause harm (ACA, 2014). Many consider this principle to be the most fundamental of all the principles as it focuses on the counselor’s responsibility to take every step and precaution possible not to inflict harm on the client (Forester-Miller & Davis, 2016). In this commitment to keep the client from harm, counselors must make a pledge to seek education, training, and supervision that will foster the cultural competence necessary to effectively treat clients from diverse populations. This is an ongoing and fluid process, and can happen simultaneous with treatment. It is neither unethical nor incompetent for a counselor to take on a client with who’s culture he or she is not familiar and immediately seek training and educations about this culture, as long as the client is aware of the counselor’s current level of competence along with his or her willingness and intention to gain the education necessary for a fuller understanding of the client’s needs. One of the potentially harmful consequences to the client in this dilemma is that if the counselor terminates

the relationship and the client is forced to travel over 100 miles to meet with a willing counselor, she might lose her motivation to seek treatment and never again pursue the help that she needs, potentially resulting in harm and damage to her holistic health.

The third foundational principle is beneficence, or “working for the good of the individual and society by promoting mental health and well-being” (ACA, 2014). This idea pertains to the counselor’s responsibility to prioritize the client’s welfare and fortifies the primary responsibility of counselors, which is to “respect the dignity and promote the welfare of clients” (ACA, 2014). The counselor in this case blatantly breeches the principle of beneficence by suggesting the idea of terminating treatment based on his beliefs. A counselor sends a negative and possibly highly detrimental message to a client when he says he will not work with them based on who they are fundamentally as a person, refusing services to and giving the perception of negatively judging a person in an already vulnerable emotional and mental state.

The fourth principle is justice, or “treating individuals equitably and fostering fairness and equality” (ACA, 2014). Justice in this regard speaks to the importance of treating all clients fairly and equally. In this case one need look no further than the manner in which the counselor treated the client prior to her disclosure about her sexual orientation, compared to his immediate “inability” to counsel her after her disclosure to see an ethical injustice unfolding. The concept of justice demands that counselors treat all clients with the same level of dignity, respect, and understanding, regardless of how they may view the client’s beliefs or cultural norms. Justice does not require a counselor to change his or her beliefs, but it does dictate that he or she not impose those beliefs on clients. Perry Francis, chair of the Ethics Revision Task Force for the 2014 ACA Code of Ethics says “in order for me to connect to a client, I need to know who I am and what my personal values are so that I can be genuine in the room. At the same time, the

profession is saying to counselors that you also enter the room with the values of the counseling profession, which are clearly delineated in the code of ethics” (Myers, 2016).

The fifth principle is fidelity, or “honoring commitments and keeping promises, including fulfilling one’s responsibilities of trust in professional relationships” (ACA, 2014).

Forester-Miller and Davis (2016) emphasize that “clients must be able to trust the counselor and have faith in the therapeutic relationship if growth is to occur. Therefore, the counselor must take care not to threaten the therapeutic relationship or to leave obligations unfulfilled.” The counselor in this dilemma is willing to walk away from his obligation and responsibility to the client because of his deeply held beliefs and his desire to be transparent about those beliefs. The counselor established a relationship with the client over the course of three sessions, allowing the client to hold faith in the hope and trust that he would help her do the work and learn the coping skills required to ease her suffering and regain a life worth living. To terminate this relationship would not only constitute a breach of numerous standards set forth in the ACA Code of Ethics, it would also amount to an irresponsible disregard for fidelity as it is defined within the culture of the counseling profession.

Course of Action

Upon careful consideration of all possible courses of action and the many possible variables and consequences that could factor into both the decision and the outcome, two possibilities became clear. The first would be to allow the counselor to discontinue treating the client based on the conflict he feels between his beliefs and the client’s sexual orientation and potential lifestyle choices. The second possibility would be to insist that the counselor abide by the clearly delineated articles of the ACA Code of Ethics, and encourage him to continue the

therapeutic relationship while assisting him to gain the training, education, and supervision he may require to best serve the client.

It is important to examine the first possibility because the counselor in question is a human being whose point of view must also be considered. However, after examining this possibility considering the pertinent professional responsibilities and obligations clearly delineated in the ACA Code of Ethics, this choice must be disregarded and dismissed because the implications for harmful short-term and long-term consequences far outweigh the counselor's desire to be transparent about his beliefs.

As has been noted in the discussion of the foundational principles, the potential and probable detriment to the client is not simply that she would become frustrated at the lack of available counselors in the area and abandon seeking further treatment; the deeper danger is in beginning the treatment process and building a therapeutic relationship only to terminate suddenly in such a way as to completely invalidate the client's burgeoning sense of self while in a highly vulnerable state. If we seek to earnestly uphold that "the primary responsibility of counselors is to respect the dignity and promote the welfare of clients," then the decision is straightforward (ACA, 2014). The precedent at stake here is also of utmost importance. Attempts to deny treatment to, or otherwise discriminate against any non-dominant cultural group must be met with strong conviction and even stronger protest. This type of discrimination is an unfortunate reality, as evidenced by recently enacted legislation in Tennessee, North Carolina, and Indiana, to name only a few. It is imperative to consider Tennessee's House Bill 1840/Senate Bill 1556 and its far reaching consequences. This law addresses "conscientious objections to the provision of counseling and therapy," and protects from prosecution or civil action any therapist who chooses to refuse service to a client based on a perceived conflict of values or beliefs

(Tennessee HB 1840). Richard Yep, CEO of the American Counseling Association, warns regarding the Tennessee legislation that “for someone seeking the services of a mental health provider to be told that because of who they are, a service provider will not work with them sends an incredibly negative message of exclusion, bigotry, and discrimination” (Myers, 2016).

The second possibility shall then emerge as the selected course of action in resolving this ethical dilemma. After careful and thorough examination, it has been determined that this course of action will not present any new ethical considerations, and will result in an outcome which will most effectively benefit the client and the counseling profession. As suggested by the model designed by Forester-Miller and Davis (2016), three tests will be applied to the selected course of action to determine its overall appropriateness and merit.

First is the test of justice, in which we affirm that we would treat others the same in this situation. The core of this test is contained within the Code of Ethics itself, and a reasonable and compassionate interpretation of this dilemma considering the previously cited articles from the Code of Ethics points to a high level of justice in the chosen course of action. Justice will be served to the client by providing her with an uninterrupted continuation of treatment and a validation of her dignity and welfare. Justice will also be served to the counseling profession by upholding the thoughtfully constructed ethical principles that constitute a commitment to the professional values of the American Counseling Association.

Second is the test of publicity, in which we ask whether we would want our behavior reported in the press. There is a powerful sense of pride that arises from valuing and protecting the health and well-being of a person who is vulnerable and makes the effort to seek professional help. By virtue of the indisputable benefit to the client, as well as the counseling profession, it is

apparent that this course of action easily passes the publicity test, and we would be proud to have our decision and rationale reported in the press.

Third is the test of universality, in which we ask whether we would recommend the same course of action to another counselor in a similar situation. This test is vitally important, as the possibilities for conflicting values and beliefs between counselors and clients are innumerable. The dilemma studied in this project is one that has been debated at length in recent years. If we are to pass the test of universality, then we would determine that the counselor must hang his biases at the door and try to understand the client's culture and point of view to best serve him holistically. We would feel comfortable applying this course of action to any counselor whose beliefs conflicted with those of the client.

Conclusion

In recent decades, legal victories have allowed individuals who identify as lesbian, gay, bisexual, transgender, intersexual, queer and questioning "LGBTIQ" to live their lives with greater dignity, safety, and equality. In keeping with the law, societal changes and the multifaceted and cultural differences within our society, the American Counseling Association's mission statement maintains commitment to enhance the quality of life for all individuals through the counseling profession and using professional practices to promote respect for human dignity and diversity (ACA, 2014).

Despite the massive movement to ensure the rights and dignity and safety of all individuals, conflicts arise in the counseling profession when personally held values and beliefs collide or when there is a propensity to promote discrimination, and perpetuate biases and unethical practices in counseling services. Counselors have a professional responsibility to

improve human conditions for those who are marginalized, and advocate for all individuals and groups regardless of their race, ethnicity, sexual orientation, gender, gender identity, or religious affiliation to safeguard equal access and opportunity (Romero & Chan, 2005).

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Tennessee House Bill 1840 by Howell amendment to Tennessee Code Annotated, Title 4; Title
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