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Salting the Slippery Slope: What Licensing Violations Tell Us About Preventing Dangerous Ethical Situations

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Like slippery slopes in winter, the first step taken is most critical in determining whether a counselor will slide into ethical or legal violations. Ethical violations refer to professional conduct in direct violation of the *Code of Ethics* of the American Counseling Association (ACA, 2005) or the National Board for Certified Counselors (NBCC, 2003). Licensing violations refer to those professional acts that violate state licensing laws and regulations. Ethical and legal violations may overlap, and a violation could be reported to licensing or ethics committees simultaneously.

No study was found indicating that violations and data are shared between licensing boards and professional ethics committees. Mascari (2004) studied the data from licensing boards and both the ACA and NBCC ethics committees and found that licensing boards did not report violations to the committees. The purpose of this article is to review what the violations tell us about the profession and offer techniques to salt the slippery slope.

Current Research

Counselor educators and certifying organizations (NBCC and the Council for the Accreditation for Counseling and Related Educational Programs [CACREP]) use scholarly research as a basis for revising ethical guidelines. A review of the literature on violations (Mascari, 2004) found missing, incomplete, or unavailable data. Articles by the ACA Ethics Committee in the *Journal of Counseling & Development (JCD)* 1991–2003 reported the number of complaints to be far below those of the state licensing boards. A number of researchers conducted surveys of state counselor licensing boards over a 17-year period, and found no systematic data collection or central clearinghouse for data (Herlihy, Healy, Cook, & Hudson, 1987; Mascari, 2004; Neukrug, Healy, & Herlihy, 1992; Neukrug, Milliken, & Walden, 2001). These researchers recommended that ACA, the American Association of State Counseling Boards

(AASCB), or both should develop an ongoing method of data collection. Mascari (2004) found that state counselor licensing laws and standards varied to such a great extent that comparing violation rates was nearly impossible.

Gale and Austin (2003) recommended that professional associations and credentialing bodies work together to promote greater unification of the profession and clarify counselor identity. Further, a majority of states allowed individuals with related professional degrees to be licensed and to serve as supervisors for counselors seeking licensing. Gray and Remley (2003) studied supervision in four states and found a correlation between strong counselor identity and supervision by a licensed professional counselor. However, the Approved Clinical Supervisor (ACS) credential from NBCC's Center for Credentialing Education (CCE) originally required a counseling degree, but now uses a more broad definition of related professions.

After reviewing violations in New Jersey for the years 2002–2005, Mascari (2005) found that in nearly half of the violations, the slippery slope begins with problems of professional identity, intertwined with the effects of a graduate degree program other than counseling. Of the violators ($n = 19$), seven had degrees in counseling-related areas (one in student personnel, three in counseling, and three in counseling and human services). Degrees of other violators were three in marriage and family, five in psychology (clinical/counseling/applied), one in urban education, and three with no degree from an accredited institution. Mascari cited additional corroborating data related to weak counselor identity including the small percentage of violators who graduated from a CACREP-accredited program (11%) or completed an ethics course (16%). Additionally, of those violators holding a license, 11 of 14 had between 6 and 20 years of experience. The types of violations also suggest that identity, rather than specific training, may have been influential: six (31%) had either used the title *psychologist* or performed services limited to licensed psychologists; seven were

unlicensed, with five having no professional training; three filed inaccurate reports (two reports included a family member, the father, who was never seen by the counselor); one committed an advertising error; one committed Medicaid fraud; and one committed sexual misconduct.

The authors have used the term *multiple professional identity disorder* to describe those who become licensed professional counselors but whose training and identity are more closely aligned with psychology rather than counseling. The conflict created by having a license as a counselor and significant training in another related field was most evidenced by the lack of familiarity with the codes of ethics of both ACA and NBCC. During formal investigative inquiries (IIs), the majority of those disciplined were unfamiliar with the aforementioned codes of ethics.

Case Study

The following is a fictitious composite case developed from several IIs heard by a state licensing board in response to consumer complaints. This case illustrates how the slippery slope could lead to more serious violations of both licensing laws and ethical codes.

The licensing board conducted an II to determine the validity of a complaint by a client alleging that the counselor engaged in a dual relationship. The counselor was licensed during the grandfathering period, had 60 graduate credits from a non-CACREP accredited program, and had practiced full time for 6 years. During the hearing, the counselor was asked about professional association membership and replied, "I just joined the state counseling association." Further questioning addressed familiarity with and use of codes of ethics. The counselor replied that no specific code of ethics was used and instead the counselor relied on personal judgment and experience. Committee members pursued the ethics issue, asking familiarity with specific codes of ethics. The counselor replied, "No specific code."

The licensing board addressed the client's complaint that the counselor engaged in a dual relationship (frequently meeting the counselor for dinner) that undermined treatment. The counselor was unfamiliar with boundary violations and did not see these actions as an ethical problem. In fact, the counselor attributed the complaint to the client's suffering from a borderline personality disorder. When the board also asked about whether the counselor engaged in ongoing supervision or consultation, the counselor replied, "I contact professional colleagues or meet them for lunch."

The board determined that the counselor had engaged in professional misconduct and, while not

committing the sexual misconduct, had stepped onto the slippery slope that was one slip away from a sexual violation. The counselor was required to practice under board-approved supervision for a minimum of 2 years and submit written reports monthly, attend a graduate course in ethics and professional practice, and retake and pass the National Counselor Examination (NCE) before the practice restriction would be lifted.

This case provides a powerful example of how training, professional association activity, and supervision all contribute to the strength of professional identity and avoidance of the slippery slope. The counselor demonstrated a lack of involvement in counselor professional associations, a lack of knowledge of both the ACA and NBCC codes of ethics, and had coursework that did not resemble CACREP-accredited programs.

Prevention Techniques: Broader Implications for Practitioners

Like all dangerous roads, salting the slippery slope with specific practical recommendations can prevent ethical and licensing violations. Following is a brief set of recommendations that could go a long way toward reducing violations if implemented by regulating bodies, practitioners, educators, and supervisors,

For Counselors

- Practice under regularly scheduled supervision. Another professional, preferably an experienced licensed professional counselor, can help counselors spot potentially dangerous situations and learn to prevent future high-risk situations.
- New counselors should seek supervision from a licensed professional counselor. Emerging research (Gray & Remley, 2003) has suggested the importance of the supervisor's professional identity for ethical practice. If the new counselor wants to become a licensed professional counselor, find a licensed professional counselor as a supervisor to emulate.
- Regularly read and reference both the ACA and NBCC codes of ethics. Codes are such valuable tools that counselors, especially those new to the profession, should keep a copy in their top desk drawer to use as a reference tool. As a regular practice, counselors are encouraged to scan the codes of ethics periodically to insure awareness of behavior that may lead to potential violations.

- Consult with colleagues. Never practice in isolation or in a solo practice without supervision. This is especially important for counselors working in schools where clinical supervision may not be available. Isolation can create blind spots in which there is a growing lack of awareness of the slippery slope.
- Pursue continuing education. Presentations about ethics and discussions of controversial practice issues encourage counselors to self-reflect and make comparisons with their own professional behavior. Continuing education prevents isolation and the belief that everyone is practicing in the same way.
- Maintain active membership in professional associations and attend conferences. Professional identity is more than simply paying dues. By reading journals and participating in conferences and workshops, a counselor begins to view issues, as would a professional counselor. Professional involvement is the core for maintaining professional identity.

For Supervisors

- Regularly review and relate ethical codes to cases. The supervisor can be a critical link in insuring that counselors view the ACA or NBCC *Code of Ethics* as an essential and indispensable guide that they should regularly consult for answers to ethical dilemmas.
- Attend conferences. Staying current is critical to a supervisor's credibility and own professional identity. Supervisors experience the same ethical issues as those of supervisees and should therefore be actively engaged in prevention as well.
- Articulate ethical decision-making models. Research has demonstrated the value of using ethical decision-making models as a tool. Teaching a model or models to counselors will enhance their ethical decision making.

For Licensing Boards, Certifying Bodies, Ethics Committees, and ACA

- The profession should have a single code of ethics and standards of practice. It is confusing and divisive for both ACA and NBCC to maintain separate codes. They

should be merged for the good of the profession.

- Share violations with ethics committees and licensing boards. Counselors will have a more comprehensive picture of violations.
- Maintain a national database of violators that is accessible to boards and certifying bodies. A national database will give counselor educators, ethics committees, and licensing boards access to these data from one source.
- Develop common standards that contribute to, rather than further fragment, counselor identity. Research (Mascari, 2004) has suggested that, with tighter standards and stronger identity of counselors, it is more likely that counselors will adhere to the codes and laws.
- Provide news and information in *Counseling Today*. Currently, little information on ethics beyond the codes appears in counselor publications. More articles that allow counselors to compare their own behavior to those who have been disciplined can help counselors prevent the slip.
- Provide regular newsletters and ethical updates. The more information counselors receive, the better. Ethical issues must remain in the fore of counselors' thinking.
- Publish violations and board disciplinary actions. A profile of the types of conduct that destroy careers would then be available to counselors and counselor educators.

For Counselor Educators

- Reinforce understanding of ethical codes in all graduate courses. Many counselors articulate such caveats as "avoid dual relationships" but have difficulty explaining why or how these types of relationships are, in fact, slippery slopes.
- Teach the use of ethical decision-making models in all courses.
- Provide case studies of ethical dilemmas from a variety of work settings that detail how counselors position themselves on the slippery slope.
- Observe licensing board meetings. The activities of the boards may appear as a mysterious process. Counselor educators can learn about the types of correspondence submitted and discussed as well as board members' concerns about practicing counselors. Sharing this information with graduate students gives them access to a rich

source of information about current violations.

Conclusion: Salting the Slippery Slope

Regulating bodies, educators and supervisors, and counselors can be instrumental in salting the ethical slope by doing more to insure common standards, training, and identity. By strengthening counselor identity, the professional journey will be less treacherous in the future.

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