April 20, 2011

The Honorable Jan Brewer
Governor
1700 West Washington
Phoenix, AZ 85007

Dear Governor Brewer:

I am writing on behalf of the American Counseling Association (ACA), the nation’s largest non-profit membership organization representing the counseling profession to express our deep concern regarding language included in HB 2565. Although the expressed goal of the legislation is to protect students’ religious liberties, the bill contains dangerous language that will undermine the effective training of professional mental health counselors and other mental health professionals, and will harm the public. We urge you to veto HB 2565.

During consideration of this legislation by the House Committee on Higher Education, Innovation and Reform, a representative of the Center for Arizona Policy stated that HB 2565 was not “novel,” and was based on religious expression protections that have already been adopted by the U.S. Department of Education. While this may be an accurate characterization of much of the legislation, it is not at all true of proposed Section 15-1862(e) within the legislation. In our considerable experience as the leading U.S. membership organization for counselors, this portion of the bill is unprecedented, and is directly counter to the ethical standards of the counseling profession.

Licensed professional counselors (LPCs) are health professionals. There are more than 120,000 licensed professional counselors across the country, including 2,330 in Arizona, authorized to work as mental health service providers in diagnosing and treating mental and emotional disorders. To become licensed in Arizona, counselors must obtain a master’s degree from an accredited graduate program in counseling; complete 3,200 hours of post-master’s degree supervised work experience over two years, including experience in the assessment, diagnosis, and treatment of mental and emotional disorders; and pass either the National Counselor Examination, the National Clinical Mental Health Counselor Examination, or the Certified Rehabilitation Counselor Examination.

Like all other health professionals, counselors are trained to put the needs of their clients ahead of their own. Multicultural competency—the ability to work with a client based on his or her particular beliefs, values, and spirituality—is a core skill required of all counselors. Arizona’s
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Board of Behavioral Health Examiners, which oversees the profession of counseling in the state, requires licensees to abide by the *ACA Code of Ethics*. The *Code of Ethics* states that “[t]he primary responsibility of counselors is to respect the dignity and to promote the welfare of clients” (Section A.1.a.).

More directly, Section A.4.b. of the *Code of Ethics* requires that counselors are aware of their own values, attitudes, beliefs, and behaviors and avoid imposing values that are inconsistent with counseling goals. Counselors respect the diversity of clients, trainees, and research participants.

Section C.5. of the *Code* states that counselors do not condone or engage in discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law. Counselors do not discriminate against clients, students, employees, supervisees, or research participants in a manner that has a negative impact on these persons. The *Code of Ethics* explicitly applies to students. Section F.8. of the *Code*, entitled “Student Responsibilities,” states that “[s]tudents have the same obligation to clients as those required of professional counselors.”

The issue of counseling students’ religious beliefs and counseling of clients with alternative beliefs was the subject of a recent lawsuit in Michigan. In July of 2010, the United States District Court for the Eastern District of Michigan, Southern Division, issued a ruling of summary judgment in favor of Eastern Michigan University (EMU) and against counseling student Julea Ward. Ms. Ward had brought suit against EMU, claiming that her religious expression rights were being infringed as a result of her dismissal from the EMU counseling graduate program due to her refusal to provide counseling to a student she knew to be homosexual, and her refusal to undergo a remediation program to learn ethical counseling practice.

In his ruling, the Honorable George Caram Steeh drew a clear distinction between students’ personal beliefs and the pedagogical requirements of program. As Judge Steeh states in his decision, the *ACA Code of Ethics* requirement that counselors avoid imposing their values is not a prohibition on a counselor making statements about their values and beliefs in a setting other than with a client. This section is quite narrowly drawn to avoid imposing harm on clients. (Case no. 09-CV-11237, pp.17-18)

Judge Steeh’s ruling notes that:

The *ACA Code of Ethics* is the industry standard in the field of counseling. EMU did not write the nondiscrimination policy that it adopted into its counseling student handbook. Rather, the University is using the *ACA Code of Ethics* to govern its counseling students in exactly the same way they will be governed when they are practicing counselors. The court gives universities broad latitude when it comes to matters of pedagogy. In addition, the court should avoid entering into the role of regulating counseling industry standards. (Case No. 09-CV-11237, p.22)
A counselor who cannot keep their personal values out of the interaction has great potential to harm her client. Referrals are taught to be a last resort because the nature of issues and topics confronting individual clients are often unforeseen. A counselor may hold himself out to specialize in a particular issue, like eating disorders, but that disorder may be due to underlying issues including, perhaps, coming to terms with their homosexuality. (Case No. 09-CV-11237, pp.26-27)

Were HB 2565’s Section 15-1862(e) to be enacted, a counseling student who was an atheist would be allowed to unilaterally decide not to counsel a client who, as a devout Christian, was struggling with relationship issues which included staying abstinent until marriage.

Proposed Section 15-1862(e) would place licensed counselors from Arizona counseling graduate programs at public universities at a serious disadvantage in gaining and maintaining full professional licensure in Arizona and in all other states, and would jeopardize the accreditation status of Arizona counseling graduate programs. Ironically, Arizona requires that licensed professional counselors obtain three hours of continuing education in cultural competency and diversity every two years in order to maintain their license. We support this requirement. Many state counselor licensure laws and regulations require ongoing education in cultural competency as part of being a licensed practitioner.

We urge you to veto HB 2565, so that Arizona’s universities can continue to determine the instructional methods and content needed to prepare students to meet the well-developed ethical standards of counseling and other established mental health professions.

Thank you for your consideration.

Sincerely,

Marcheta P. Evans
PhD, LPC-S, NCC
President
American Counseling Association