Dedication

To counselors everywhere,

No matter where on the arc of your career you stand—from graduate school to veteran practitioner, from private practice, agency, institution, or school employment to counselor educator or supervisor—all counselors share a common aspirational desire to serve the best interests of all clients. It is our fondest desire that this book will serve as a reliable guide to the work you do every day with every client.

and

To Gary and Leilani, our patient and loving spouses, who for more than a decade have supported our efforts as we have written the many drafts and iterations of this book and its previous editions. We could not have done it without you.
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Preface

As we send this eighth edition of *The Counselor and the Law: A Guide to Legal and Ethical Practice* to press, the legal, ethical, and professional issues that affect professional counselors evolve at breakneck speed. However, the imperative to serve our clients’ best interests never changes even though the complexities of modern life continue to create new legal and ethical dilemmas. Underscoring this point, the *ACA Code of Ethics* (American Counseling Association [ACA], 2014) has added an entire new section (Section H) specifically devoted to technology. Even since 2014, the use of digital technology by practicing counselors and their increasingly tech-savvy clients has continued to create new opportunities and challenges. Although it has only been 4 years since the publication of the previous edition of *The Counselor and the Law*, we have found the need to update the book to reflect changes in our society, recent court cases, new legislation, and emerging trends in the interpretation of ethics codes, especially regarding technology.

This book has an interesting collaborative heritage. Originally written by attorneys Thomas Burgum and Scott Anderson and published in 1975, *The Counselor and the Law* reflected the counseling profession before state licensure—and before the proliferation of state and federal laws that have shaped the conduct of the practice of counseling. In 1985, attorneys Bruce Hopkins and Barbara S. Anderson collaborated to update the original book; then in 1990, Hopkins and Anderson released the third edition; and in 1996, Barbara Anderson (without Hopkins) completed the fourth edition. In 2007, we were asked to take over the authorship and were charged with the responsibility of completing a major update of the book.
The fifth, sixth, and seventh editions—published in 2008, 2012, and 2015, respectively—as well as this new eighth edition, reflect the collaborative perspective of an attorney and a practicing counselor. We—Burt and Nancy—met at an ACA conference more than 30 years ago. We have collaborated on numerous written projects, seminars, and webinars over these 3 decades and believe that our blended perspective provides a unique understanding of the law as it relates to the day-to-day practice of counseling. As you read this book, you may discern two distinct voices and perspectives. Nancy Wheeler offers the lawyer’s perspective: She will tell you about the law and how it affects counseling practice based on many years of advising counselors and other mental health professionals. Burt Bertram’s voice reflects an insider’s perspective: He will talk about the gray areas of clinical practice that are a combination of art and science. Both of us will offer perspectives that demonstrate that law and ethics do not always fit neatly in a black-and-white world. Together, we offer advice and suggestions designed to help practicing counselors and students understand and navigate the complexities of real-world practice.

In the eighth edition of The Counselor and the Law, we continue our commitment to connecting the realities of the practice of counseling with state and federal laws and with the ACA Code of Ethics. It is our hope that this book will serve to provide real answers to practicing counselors who are challenged daily to act in the best interests of their clients and, at the same time, to be mindful of the legal and ethical duties and responsibilities that govern the profession of counseling. We also hope that this book will be a window of understanding for students as they attempt to imagine and prepare for professional practice. Of course, we did not—nor could we—address every situation. Laws vary from state to state, and the specifics of any particular situation can influence how state or federal laws or the ACA Code of Ethics will apply. In addition, this book is not intended as a substitute for the considered opinion and advice of your personal lawyer concerning the particular circumstances of a case in the context of local laws and customs.

We are grateful to all of the past authors for providing the solid foundation on which we have built our collaborative effort. We thank the ethics specialists at ACA for their helpful collaboration. Finally, we want to express our heartfelt appreciation to Carolyn Baker, associate publisher, who has been a joy to work with over the past dozen years.

—Anne Marie “Nancy” Wheeler and Burt Bertram
About the Authors

Anne Marie “Nancy” Wheeler, JD, is an attorney licensed in Maryland and the District of Columbia who has extensive experience with counselors and the broader field of mental health. For more than 30 years, she managed the Risk Management Helpline sponsored by the American Counseling Association (ACA) and its sponsored professional liability insurance program. For more than 30 years, Nancy also worked with psychiatrists, facilities, and physician associations. This background provided her a unique window of understanding of the multifaceted issues that often confront practicing counselors. She has also served as an affiliate faculty member of the Graduate Pastoral Counseling Program of Loyola University Maryland and in the Department of Counselor Education at Stetson University in Florida.

Burt Bertram, EdD, is a Florida-based Licensed Mental Health Counselor (LMHC) and Licensed Marriage and Family Therapist (LMFT). He has been in private practice in the Orlando area for more than 35 years. He practices from an interpersonal perspective: His professional counseling is primarily focused on the resolution of sensitive and complex relationship issues in every aspect of life—personal, workplace, and community. In addition to his private practice, Dr. Bertram provides personal development, coaching, and counseling to practicing physicians associated with the Florida Hospital System in Orlando. He is also an adjunct faculty member.
in the Graduate Studies in Counseling Program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) at Rollins College in Winter Park, Florida, where he has taught ethics as well as practicum; internship; and family, couples, and group counseling.

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Besides writing and contributing to numerous publications as individuals, Nancy and Burt have jointly developed and copresented more than 150 seminars and workshops nationwide on risk management and legal and ethical issues. They have also produced several tapes, CDs, podcasts, and webinars.