

2014-15 American Counseling Association Ethics Competition Response

The University of Tennessee – Knoxville Doctoral Team

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As unique individuals with backgrounds often defined by personal challenges and opportunities for growth (Corey, 2009), many of us enter the counseling profession with purposeful intentions to help clients navigate their own set of challenges. However, this task often presents ambiguity and uncertainty, especially as we encounter dilemmas with clients facing similar challenges as our own.

The American Counseling Association's (ACA) Code of Ethics (2014), in addition to best practice recommendations, indicate the need for a deliberate decision making process to aid in the resolution of difficult dilemmas. Section I.1.b. *Ethical Decision Making* states, "when counselors are faced with an ethical dilemma, they use and document, as appropriate, an ethical decision making model". Such a process is critical as the code is intended to serve as general guidance, not a blueprint. Additionally, this helps to minimize the role that emotions and other factors play in compromising our ability to think rationally (Welfel, 2013). Decision making regarding specific incidents requires a logical and nuanced approach allowing for the unique application of guidelines.

### **Decision Making Model**

We selected Welfel's (2013) ethical decision making model to approach the current scenario. The model instructs us to: 1) develop ethical sensitivity, 2) define the dilemma and options, 3) refer to professional standards, 4) search out ethical scholarship, 5) apply ethical principles to the situation, 6) consult with supervisors and peers, 7) deliberate and decide, 8) inform supervisor and take action, and 9) reflect on the experience. This model is appropriate for several reasons. First, it is comprehensive, thus useful for examining complicated cases. Second, it is established and credible. Third, it emphasizes the role of supervision and peer support, a

practice that should be lifelong but is often neglected. Finally, it includes the essential steps of post evaluation and reflection, which are excluded from several models.

### **Ethical Dilemma Context and Foundation**

Ethical decision making does not occur in a vacuum, nor is it a value-free proposition. We must evaluate the context in which the dilemma occurs. Welfel's (2013) first step calls us to consider the moral dimensions of a situation. In doing so we must examine our own experience, values, and worldview. Applying this principle, we reflected on Jordan's dilemma and considered how issues related to race, sexual orientation, religion, and personal mental health might impact our decisions. It became apparent that Jordan's own lack of ethical sensitivity along with her experience of injustice relative to core elements of her identity and lack of effective supervision, placed her in a compromised position.

### **Self-Awareness and Professional Identity Development**

Being an effective counselor requires a high degree of self-awareness and understanding. Failure to maintain a disposition oriented toward self-awareness results in blind spots and difficulty when entering into the world of the client (Corey, 2013). Furthermore, Pompeo & Levitt (2014) proposed self-awareness as an ethical obligation as counselors have "a responsibility to themselves, their clients, and the profession to engage in these practices" (p. 80).

Jordan experienced rejection relative to her religious faith and sexual orientation. While discrimination based on sexual orientation is the only explicit instance of injustice listed in the case, living as a African-American female in the southeast also leaves Jordan vulnerable to additional prejudice and discrimination. This vulnerability is likely intensified by working in a

faith based counseling center. While these contexts may promote Jordan's desires to withhold information regarding her sexual orientation, her personal challenges do not excuse her responsibility to behave ethically. Our concern is not that Jordan has personal difficulties. As Corey, Corey, Corey, & Callanan (2014) discussed, if therapists were required to fully resolve all personal matters before counseling others, many of us would be eliminated from the field. Our concern lies in how Jordan is dealing with her personal issues, her ethical choices, and how they are impeding her work and ability to ensure the welfare of a client.

This concern is further highlighted by our gatekeeping and development roles. Jordan is completing her internship, so is likely in her second year. CACREP (2009) mandates that programs evaluate students' personal and professional development. The use of personal dispositions is one such way to monitor personal development (Spurgeon, Gibbons, & Cochran, 2011) and may allow for intervention before choices and behaviors become ethical concerns.

### **Supervision as a Contributing Factor**

Section F.5.a. *Ethical Responsibilities* states, "students and supervisees have a responsibility to understand and follow the *ACA Code of Ethics*." Therefore, students should use the code to guide their practice as supervisees. Section C.2.g. *Impairment* explains supervisees must inform their supervisors of impairment and section A.6.b. requires supervision for extending the counseling relationship. As Jordan's site supervisory relationship was damaged, she did not disclose her personal concerns or consult prior to contacting Toni. Section C.2.e. *Consultations and Ethical Obligations* states, "counselors take reasonable steps to consult with other counselors, the ACA Ethics and Professional Standards Department, or related professionals when they have questions regarding their ethical obligations or professional

practice” and section I.1.b. insists counselors utilize an ethical decision making model when concerns arise regarding their ethical obligations. According to Welfel’s (2013) model, counselors should do the following when presented with an ethical dilemma: consult with supervisors and peers, deliberate and decide, and inform supervisor and take action. The lack of trust within the supervisory relationship, the supervisor’s damaging remarks, and Jordan’s previous experiences of discrimination contributed to her failure to behave ethically by seeking supervision from her faculty and site supervisors and ensure Toni’s welfare.

### **Supervisory Relationship**

The supervisory relationship is at the core of supervision. Harmful contexts within supervisory relationships increase ruptures in the supervisory working alliance and negatively affect the outcomes of supervision (Gray, Ladany, Walker, & Ancis, 2001). Counterproductive events, which are unhelpful, hindering, or harmful to the trainee's growth as a therapist, not only affect the supervisory relationship, but may ultimately negatively affect the supervisees' clients (Gray et al., 2001). Trainees typically do not disclose counterproductive events with supervisors. Such events weaken the supervisory relationship and change the way supervisees approach their supervisors, further affecting the supervisory relationship in a negative way.

In this case, Jordan overhearing her supervisor make prejudicial comments about Toni was detrimental to the supervisory working alliance. Although this counterproductive event may not be considered personally harmful to Jordan, it clearly affected the outcome of supervision by inhibiting her willingness to disclose her concerns to the supervisor. This may also be attributed to the notion that professional status, gender, and race may inherently create privilege that produces fear of self advocating for individuals in positions of less power (Markham & Chiu,

2013). Addressing discourses of power, including Jordan's race, age, religious and sexual orientations may have lessened the potential for harmful influence on the supervisory relationship. Furthermore, illuminating oppression may have empowered Jordan. Jordan inadvertently failed to do this with Toni, as evidenced by approaching her secretly, rather than being clear with her supervisor or encouraging an open conversation between the supervisor and Toni (Markham & Chiu, 2013).

### **Supervisor Behavior**

Due to the hierarchical nature of supervisory relationships, supervisors' lack of multicultural competence, including stereotyping, discrimination, and racism, have profound impacts on supervisees and the outcomes of supervision (Wong, Wong, & Ishiyama, 2013). Beyond the supervisory relationship, the supervisor's prejudicial comments negatively affected Jordan's training and lead to potential harm for Toni. Supervisees who are devalued by their supervisors are highly unlikely to protest (Jacobs, 1991). Additionally, students early in their training risk interaction replication within their other supervisory relationships, which may have furthered Jordan's resistance to speaking with her faculty supervisor. Jacobs (1991) explained this cycle continues into supervisees' relationships with clients. Although Jordan's intentions were to offer support to Toni, demonstrating beneficence, she failed to value Toni's rights by invading her privacy and not offering informed consent. Jordan failed to demonstrate nonmaleficence by placing Toni in harm's way by failing to consult, despite knowing Toni experienced suicidal ideation. The supervisor's behavior, although not directed at Jordan, but openly expressed within the agency, failed to uphold the ethical standards established to regulate

the actions of supervisors, specifically calling supervisors to protect supervisees and ensure client welfare (ACA, 2014).

### **Supervisees Contributions to Supervision**

Supervisees' backgrounds, patterns for coping with emotional stress, and previous interpersonal experiences are often related to difficulties in collaborating with supervisors and with their relationships with clients (Rosenfeld, 2010). Additionally, beginning supervisees often lack preparedness for addressing conflicts with supervisors and fail to advocate for appropriate supervision as they are unaware of their rights and to whom they should report such concerns, particularly in site supervision. Instances of abuse of power are related to fears of judgment by supervisors if supervisees disclose their personal concerns or issues. Therefore, Jordan's personal characteristics, including her personal background, experiences of discrimination, and lack of preparedness to confront her supervisor, combined with her supervisor's prejudicial comments from a position of power created a harmful context within the supervisory relationship, which ultimately lead to the failure to ensure client welfare, a clear ethical violation.

### **Advocacy and Social Justice**

Jordan's previous experiences of prejudice impact her professional identity development. She misses opportunities for growth by failing to disclose her sexual orientation during her training. She also operates from a place of prescribing advocacy, rather than seeking consultation and supervision about how to empower Toni, encourage autonomy, and build a collaborative dialogue regarding the advocacy efforts she wishes to pursue (Toporek, Lewis, & Crethar, 2009).

Although Jordan has worked through some challenges in her personal identity development and sought a voice through social justice and advocacy, she does not demonstrate

enough distance from her developmental progression to recognize the necessity for each individual to develop their own understanding and voice within such contexts, as is recommended for using the ACA advocacy competencies at the client/student intervention level (Toporek et al., 2009). We surmise Jordan's experiences with injustice influence the way she chooses to interject herself into Toni's life in a manner that appears to meet her unfulfilled needs.

Social justice and advocacy are foundational aspects of our profession, however our pursuit of those aspirations do not give us carte blanche to intervene with others (Toporek et al., 2009). Whatever truths we think we may know, desires to help fellow human beings, or even consideration of our most noble intentions; we cannot disregard standards of the profession when establishing a therapeutic relationship or the values we ascribe to throughout the progression of treatment. Jordan's experience with injustice relative to her identity and self-awareness, combined with a lack of ethical sensitivity and ineffective supervision, blinded her and set the stage for the following ethical breaches.

### **Dimensions of the Ethical Dilemma**

Welfel (2013) calls for us to define the ethical dilemma, refer to professional standards, and search out ethical scholarship. We define the dilemma by identifying breaches and dimensions of the ethical situation, and subsequently apply the guidance provided by professional standards and ethical scholarship to each of those breaches. As previously mentioned, section F.5.a. *Ethical Responsibilities* states, "students and supervisees have a responsibility to understand and follow the *ACA Code of Ethics*." It is evident that Jordan failed to familiarize herself with the code and make informed ethical decisions.

### **Privacy**



Privacy is a basic right of all clients seeking therapy. This right creates a foundation for trusting and meaningful therapeutic relationships. Section B.1.b. *Respect for Privacy* states, “counselors respect the privacy of prospective and current clients.” Not only is privacy essential for promoting effective therapeutic relationships, it is the counselor’s responsibility to respect the privacy of individuals being treated within a group practice and to avoid accessing information that is considered private and confidential.

When information may be shared among a team of counselors, section B.3.b. *Interdisciplinary Teams* states, “the client will be informed of the team’s existence and composition, information being shared and the purposes of sharing information.” While Jordan may have been in a position that granted access to Toni’s personal information, secretly accessing the record denied Toni the right to be informed or to consent to sharing that information.

### **Informed Consent**

Informed Consent “involves the right of clients to be informed about their therapy and to make autonomous decisions pertaining to it” (Corey et al., 2014, p. 154). Section A.2.a. *Informed Consent* states, “clients have the freedom to choose whether to enter into or remain in a counseling relationship and need adequate information about the counseling process and the counselor.” Providing informed consent allows clients to “make meaningful decisions about their treatment” and demonstrates that counselors “are fulfilling their collaborative duties ” (Luepker, 2012, p.8). By engaging in a therapeutic context without ensuring that Toni was fully informed about the nature, risks, and benefits of that relationship, Jordan failed to build a mutually agreed upon, collaborative relationship.

Welfel (2013) emphasized the sense of betrayal that clients may experience when a counselor needs to disclose confidential information. She suggested that many clients assume information disclosed within therapy will remain confidential unless informed otherwise during the informed consent process. Jordan fails to inform Toni that she may breach confidentiality in cases of potential self harm despite her knowledge of Toni's reported suicidal ideation. By failing to explain the limits of confidentiality, Jordan created a potential for violating Toni's trust and promoting feelings of betrayal if breaking confidentiality is warranted. Not only did Jordan fail to obtain informed consent from Toni, she also failed to provide appropriate professional disclosure. Section F.5.c. *Professional Disclosure* stipulates, "students and supervisees disclose their status as supervisees and explain how this status affects the limits of confidentiality." Toni may not be aware that information she discloses may be shared with Jordan's supervisors, eliminating her opportunity to consent to the potential disclosure of confidential information. This issue is particularly complex as Jordan's site supervisor is also Toni's counselor.

### **Boundary Maintenance**

While Jordan did not formally initiate a counseling relationship with Toni, accessing her mental health record and approaching her within the role of a counseling intern established expectation of a professional interaction. Toni's actions later suggest she perceived the nature of their relationship to extend beyond a personal one. Jordan established this relationship without informed consent to "define boundaries and clarify the basic counseling relationship" (Corey et al., 2014, p. 155). Due, in part, to a lack of boundary definition during informed consent, Jordan continues to violate the code by extending the boundaries of her professional relationship with Toni, by contacting her via Facebook, providing her personal number, etc., without due process.

Boundaries serve to protect clients, guide and protect counselors, and “maintain and enhance credibility” (Hermansson, 1997, p.133). Section A.6.b. *Extending Counseling Boundaries* states, “counselors consider the risks and benefits of extending current counseling relationships beyond conventional parameters” and “take appropriate professional precautions such as informed consent, consultation, supervision and documentation to ensure that judgment is not impaired and no harm occurs.” Within counseling, boundaries provide a way of distinguishing the difference between professional and nonprofessional relationships with clients. Counselors regularly make decisions regarding how and when to extend relationships with clients. Jordan entered into a nonprofessional relationship without recognizing the potential harm to Toni and without seeking supervision regarding her rationale and judgement in extending the counseling relationship. As previously stated, several factors within the supervisory relationship likely contributed to Jordan’s choice not to seek supervision.

When making decisions about boundaries “it is important to avoid mistaking the way we understand something for the way a client understands it” (Pope & Keith-Spiegel, 2008, p.645). In this situation, Jordan invites Toni to contact her anytime for help without clarifying the parameters of such contact. Jordan erroneously assumes Toni understands the contexts of the offer and, therefore, fails to protect Toni from potential harm. By failing to establish boundaries for their interactions, Jordan inadvertently assumed the responsibility for ensuring Toni’s welfare in the event of a crisis, such as the call to her personal phone, without clarifying the legal limits of confidentiality.

### **Technology Use**

Jordan established this relationship using social media. While the use of Facebook to contact the client may be considered an ethical violation, it is secondary to the aforementioned concerns. Its use became a vehicle contributing to the ease of carrying out breaches relative to informed consent, confidentiality, and boundaries. However, it does highlight the need to remain mindful of the role new technologies may play within the therapeutic relationship.

It is common for the speed of progress to outpace our understanding or recognition of it. This is particularly true of technology. In fact, our most current code of ethics is the first to explicitly provide for consideration of social media use (ACA, 2014). In this case, Jordan's use of technology to contact Toni in the manner she did, at best facilitates a nonprofessional interaction as addressed in section A.6.e. Zur and Zur (2011) recognized the difficulty and confusion that surrounds the blurring of lines between professional and personal when social media is involved. It is incumbent on us to develop an awareness of technology, not only to maintain credibility as culturally relevant helpers, but also to avoid potential ethical pitfalls, as in this case.

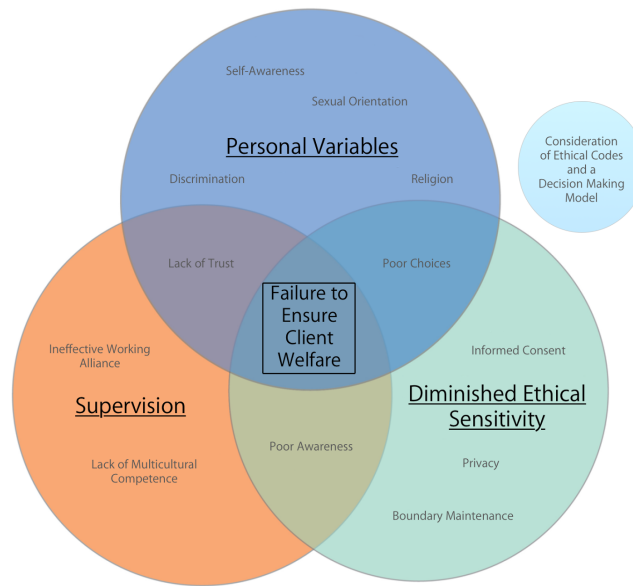
### **Client Welfare**

The previously discussed events and behaviors ultimately culminated in a failure to ensure client welfare. The ACA Code of Ethics (2014) identifies ensuring client welfare as the chief responsibility of counselors in section A.1.a. *Primary Responsibility* which states, "the primary responsibility of counselors is to respect the dignity and promote the welfare of clients." By virtue of receiving information that Toni plans to harm herself, even beyond her previous knowledge of Toni's suicidal ideation, Jordan now has both a legal and ethical duty to protect Toni's well-being.

By calling, texting, and leaving messages with Toni after receiving the text message suggesting suicide, Jordan acknowledges she received the information. This documented acknowledgment, combined with previously entering into a professional relationship with Toni, creates a duty to protect. When counselors fail to follow-up with suicidal clients, Barnett and Porter (1998) explain courts consistently hold counselors liable for a client's death "if a reasonable standard of care would have prevented the suicide from occurring." While the outcome of the current dilemma is unknown, should it end with harm to self, a strong argument for Jordan's liability and negligent behavior may be formulated. Further implications for the failure to ensure client welfare, specifically within the context of supervision, immediately follow.

### **Selected Courses of Action**

In this case, personal variables of the counselor, diminished ethical sensitivity, and supervision issues converge in a way that result in substantial failure relative to client welfare. This is combined with a failure to consider relevant ethical codes and a decision making model for guidance (Figure 1). In deliberating and deciding on a course of action (Welfel, 2013), we further utilized three tests suggested by Bond (2002) including: 1) universality – would we recommend the same course of action to another? Or would we condone this action if taken by someone else?, 2) publicity – would we be content to have this action reported to the public?, and 3) justice – would we treat other students the same in a similar situation? Based on this process, we suggest implementation of the following:



*Figure 1.* The relationship of factors leading to the failure of client welfare in this case.

- Welfel (2013) asserted, we situate “...the welfare of the client(s) as the professional’s highest priority” (p. 3). Jordan needs guidance in examining how her issues and decisions contributed to a failure to protect client welfare.
- The discussion of client welfare should be part of a larger one where we consider the characteristics, values and behaviors consistent with professional standards. Such an ongoing practice will “...highlight the personal qualities needed for effective counseling” (Spurgeon et al., 2011, p. 107).
- Jordan appears to lack an understanding of the potential risks of failing to obtain informed consent and engaging clients in multiple relationships. Additional education regarding the importance of establishing a therapeutic relationship and seeking consultation when extending boundaries would assist Jordan in ethical decision making regarding multiple relationships.
- Depending on the nature of Jordan’s unresolved issues, we suggest she consider entering into a therapeutic relationship of her own. We know Jordan has struggled with depression, anxiety,

and suicidal ideation in the past. Such an experience would help her work through unresolved issues while increasing her level of self-awareness to help prevent any potentially harmful countertransference (Corey, 2013, p. 21).

- Develop ethical sensitivity. Jordan needs further education regarding our code of ethics and the consequences for not adhering to that code, for both herself and her clients. Educating her about the position of ethics in our profession, in addition to the necessity of incorporating a decision making model (ACA, 2014), will help her make choices in the future that are reasoned while managing the influence of emotions and other compromising factors (Welfel, 2013).
- Address ineffective supervision:
  - Supervisors should determine how supervisees' personal issues affect their professional development. Specifically, supervisors should build supervisory relationships based on understanding, validation, acceptance, respect, safety, and trust. Supervisors should encourage open communication with supervisees, elicit feedback, and adapt their methods to bolster supervisory working alliances and promote positive outcomes in supervision (Rosenfeld, 2010). Speaking openly with her faculty and site supervisors may help Jordan recognize her background's influence on her professional development.
  - A supervisor must be aware of each supervisees' level of shame to determine if the supervisee is shifting the focus of discussions to avoid certain sensitive topics. The faculty supervisor could encourage an open discussion regarding potential shame and discuss the importance of disclosure to ensure client welfare.

- Weatherford and colleagues (2008) insisted educators must train supervisees to approach conflictual situations. Educators should empower beginning supervisees to voice their opinions and define clear expectations of roles. Addressing the site supervisor's detrimental comments may illuminate his harmful actions and serve as a model for Jordan to promote client's autonomy for seeking social justice.
- We recognize Jordan's experience of discrimination and appreciate her desire to help others in a similar position. However, advocacy and social justice require professional competence as well (Toporek et al., 2009). Jordan needs direction in determining how to appropriately position herself in a response to societal injustice.
- Just and fair remediation. Remediation must be relevant, comparable with the severity of deficiency, and corrective rather than punitive (McAdams & Foster, 2007). A potential remediation plan might include additional supervision, a change in supervisor, removal from current internship site, and completion of relevant ethics education.

### **Post Evaluation and Reflection**

A critical aspect of working through an ethical dilemma is a complete consideration of the process. Welfel (2013) emphasized, "experience without reflection is wasted" (p. 54). We must examine the process we used in order to determine appropriateness, effectiveness and potential limitations. We ask ourselves: Did we consider how our values impact our decisions? What are our biases and how did they come into play? How might the scenario be viewed if we had additional information? How comprehensive is our understanding of relevant ethical codes? What things could we have done differently? Such a deliberate process provides for a measured response, meaning making and a deepening of ethical sensitivity. It also helps us avoid situations



as described in this dilemma while strengthening our learning (Ethics and Ethical Dilemmas, 2011, p.6). It is incumbent on us as counselors to continually reflect upon the values and virtues that form the foundation of our profession, enable our growth, and protect the dignity and welfare of our clients.

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