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Article 31

Teach Ethical and Legal Issues in Counseling: A Model to Enhance Students' Learning

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Introduction

Ethical and legal issues classes are a common curriculum in diverse disciplines, such as advertising, computer science, health care, and medicine (Odom & González, 2008; Stuhlfaut & Farrell, 2009; Tavani, 2002; Wlasienko, 2005). Students trained in disciplines of human services inevitably encounter such a class that teaches them professional ethics and legal aspects for their future practices. Since students in human services are trained to engage other people and deliver necessary services to them, students need to learn ethical standards that govern professional conducts (Enochs & Etbach, 2004) and legal concerns relating to professional practices (Wheeler & Bertram, 2008).

The study of ethical and legal issues is mandated in the counseling profession. An ethical and legal issues class in counseling is a required criterion to meet the Council for Accreditation of Counseling and Related Education Programs [CACREP] standards (CACREP, 2009). State licensure boards also require this class to fulfill licensure requirements. A certain number of continuous education units (CEUs) on ethical and legal issues are mandated for license renewal in some states.

Although the emphasis of ethical and legal training in counseling is essential (Colby, 1994), there are certainly difficulties for counselor educators to teach ethical and legal issues classes. Ethics as a study in philosophy pertains to the knowledge of understanding right and wrong (Pojman, 1995). Different philosophical theories of ethics provide various aspects to explain moral conducts and human existence (Houser,

Wilczenski, & Ham, 2006; Urofsky & Engels, 2003). Like the philosophy of ethics, the legal system is often equally foreign and complex to most counselor educators and counseling students (Wheeler & Bertram, 2008). It is arguable that ethics and law should be taught by their own professionals, such as philosophers and attorneys (Tavani, 2002). Without professional training in philosophy or law, teaching and learning ethics and law could bring apprehension to both faculty and students (Odom & González, 2008).

Within a semester-long class, there is little room for in-depth learning on philosophy and the history of legal systems. The teaching of ethical and legal issues in counseling programs definitely focuses more on the ethical and legal concerns that may impact students' future counseling practice, similar to conditions in other disciplines (Wlasienko, 2005). Counselor educators want to make sure that this class will instill an adequate decision making process lasting lifelong in students' careers (Colby, 1994). However, the ever changing work environment and society place more pressures on counseling practice. Counseling students need an understanding beyond the case examples of ethical and legal issues.

Curriculum Designs of Ethical and Legal Issues Class

One of many methods to assess current curriculum designs of ethical and legal issues comes from a review of ACA-ACES Syllabus Clearinghouse (<http://www.counseling.org/Resources/TP/SyllabusClearinghouseHome/CT2.aspx>). We were able to retrieve 10 syllabi submitted by counselor educators from several different counseling programs. These were mostly fresh and current syllabi composed for an ethical and legal issues class. One of the 10 syllabi was a previous version of a syllabus. Thus, 9 syllabi were used for the purposes of this article.

Among the 9 syllabi, there was one written for teaching marriage and family therapy students; another one for pastoral counseling students. The textbooks chosen by these two syllabi pertained to the specialty areas:

1. *Ethical, Legal, and Professional Issues in the Practice of Marriage and Family Therapy* (Wilcoxon, Remley, Gladding, & Huber, 2007)
2. *In the Name of Jesus: Reflections on Christian Leadership* (Nouwen, 1989)
3. *Christian Counseling Ethics: A Handbook for Therapists, Pastors and Counselors* (Sanders, 1997)

We calculated the generic textbooks of ethical and legal issues adopted by the 9 syllabi. A list of the current edition of these selected textbooks is:

# of Classes	Textbook title / Author(s) and Publication Year
2 Classes	<i>Issues and Ethics in the Helping Professions.</i> (Corey, Corey, & Callanan, 2010)
2 Classes	<i>Ethics in Counseling & Psychotherapy: Standards Research, and Emerging Issues.</i> (Welfel, 2010)
2 Classes	No assigned textbooks or rely on journal article reading
1 Class	<i>The Virtuous Therapist: Ethical Practice of Counseling & Psychotherapy.</i> (Cohen & Cohen, 1999)
1 Class	<i>A Guide to Ethical Conduct for the Helping Professions.</i> (Merrill Education, 2007)

- 1 Class *Ethical, Legal, and Professional Issues in Counseling.*
(Remley & Herlihy, 2010)
- 1 Class *Culturally Relevant Ethical Decision-Making in Counseling.* (Houser, Wilczenski, & Ham, 2006)

Three class syllabi assigned more than one textbook. The ACA code of ethics, state regulations, and professional codes were commonly listed in all syllabi as additional reading materials.

Besides textbooks, another component of ethical and legal issues curriculum was the use of assessment methods to evaluate students' grades. Diverse evaluation methods emerged after reviewing the 9 syllabi. These evaluation methods also reflect the structures of the ethical and legal issues classes adopting them; for example, the use of discussion and presentation certainly indicates a curriculum design involving classroom discussion and student presentation. The following list presents the review results:

<i>Evaluation Method</i>	<i># adopted by syllabi</i>
Quiz & Exam	7
Ethical Position Paper	3
Professional involvement	3
Case Study Paper	2
Reflection Paper	2
Research Paper	2
Video Viewing & Analysis	2
Counseling Practice Exercise Report	1
Disclosure Statement	1
Discussion	1
Employment Paper	1
Presentation	1
Service Learning	1

This list reflects the diverse approaches that counselor educators apply to their teaching in the ethical and legal issues classes. These curriculum activities target educational goals that train counseling students to understand ethical and legal issues in counseling and develop adequate decision making skills to guide them through potential ethical and legal dilemmas faced in their professional career.

The Content of Ethical and Legal Issues Classes

Discussion, presentation, paper composition, and exam were common practices in teaching of ethical and legal issues classes. Experiential components, such as professional involvement and service learning, were included in some classes. In addition to these instructional methods, one method that most educators used to achieve educational goals was to assign textbook readings. We reviewed the 5 textbooks (except the Merrill Education book) listed in these syllabi to examine the contents that counselor educators require their students to read.

The introduction of philosophical aspects of ethics was common across most textbooks (Cohen & Cohen, 1999; Houser et al., 2006; Remley & Herlihy, 2010; Welfel,

2010). Discussions of ethical issues relating to specific practices or modalities and targeted population (such as family, group, or school counseling, or supervision) were written in individual chapters (Corey et al., 2010; Houser et al., 2006; Remley & Herlihy, 2010; Welfel, 2010). There was also an issue-driven writing style that focused on specific ethical and legal issues, such as abuse, multiculturalism, and confidentiality (Cohen & Cohen, 1999).

Among these textbooks, there was a disagreement on discussions of the legal system in counseling. Certain textbooks did not include clear segments explaining the history of, or relevance of, the legal system to the counseling profession (Cohen & Cohen, 1999; Corey et al., 2010; Houser et al., 2006; Welfel, 2010). These books likely merge legal issues within chapters that discuss specific topics (such as boundary issues, counselor competence and training, etc.). Overall, these textbooks spent the majority of printed pages discussing ethical standards and dilemmas, but there was a lack of clarification of the legal system in counseling within most of these textbooks. Considering the fast-paced society and increasing demands on the counseling profession, we wanted to develop a model that has the ability to simplify the complicated ethical and legal issues and their corresponding positions in counseling practice for different counseling specialties and our teaching of ethical and legal issues class.

Charting a Comprehensive Model

Guiding counseling students to maneuver through fuzzy and dangerous territories of ethical and legal issues (Davis & Mickelson, 1994; Moyer & Sullivan, 2008) is the prominent task of an ethical and legal issues class. In this class, students learn and understand the imperative ethical codes (Corey, Corey, & Callanan, 2005) and legal cases in counseling practice. They discuss state and federal regulations that relate to the counseling profession and practice mock ethics committees or legal panels to experience the decision-making process (Colby, 1994). These are common formats used in ethical and legal issues classes to achieve educational goals that instill appropriate decision-making processes in students' professional careers and a comprehensive understanding of ethical and legal issues in counseling (Lambie, Hagedorn, & Ieva, 2010).

Some graphical models are presented in textbooks to illustrate the ethical/legal issues in counseling and decision making processes (Houser et al., 2006, p. 104; Remley & Herlihy, 2010, p. 6). The Houser et al. (2006) model describes the hermeneutic model of decision making to resolve ethical dilemmas but not legal concerns. The professional practice diagram in the book of Remley and Herlihy attempts to present a comprehensive picture of counseling practice and factors from ethical, legal, and professional aspects. However, we believe these two diagrams may not fully illustrate the complicated relationships between the ethical and legal aspects in counseling and the reality of counseling practice. A crucial point for charting such a model is to assist students in placing ethics and law into proper positions within counseling practice. Students who are introduced to this comprehensive model might have a more comprehensive look at the road map depicting the varieties of ethical and legal issues and their relevance to counseling practice.

Today, counselors find themselves in many different work settings serving diverse populations and dealing with increasingly diverse situations (Neukrug, 2006).

Their knowledge of ethical and legal issues must suit where they are working and who they are working with. Counselors need to know legal issues governing their practices and how to make proper decisions in order to resolve ethical dilemmas. Further, they must know how these aspects relate to their counseling practices. We propose a model with the intention of enhancing an overall comprehension of ethical and legal issues in counseling. The goal of this model (see Figure 1) is to show a systemized road map that connects complex ethical and legal aspects to counseling practice.

When we teach ethical and legal issues classes, we cannot find a simple and clear diagram that can easily demonstrate to students where they are in relation to ethics and law in general. We propose this model to show students where influences are coming from and how they might place ethics and law in the framework of counseling practice. We also want this model to fit the needs of different counseling specialties and modalities.

Figure 1: A Comprehensive Model for Teaching Ethical & Legal Issues Class



Interpretation of the Comprehensive Model

The comprehensive model presented above (see Figure 1) intends to view ethics as a supportive foundation or a baseline to guide counseling practice. Ethics is placed at the base of this model to indicate its position that should always be the foundation of justification for counselors' behaviors and practices. Unethical conduct is not tolerated by professional standards. Legal regulations are placed on the top of this model as the governing power or top limit for counseling practice. Legal violation certainly is not a popular choice of actions. Once counseling practice violates the legal regulations, such practices are in danger of punitive actions by the legal system. Counseling practice exists between ethics and law, and they need to follow both guidelines and cope with the conflicts and ambiguity of the two systems.

The counseling practice involves both counselor and client/clients (center circle). Such practice consists of five major components: Diagnosis, Treatment, Record, Referral and Termination, and Crisis Intervention. Diagnosis refers to the process of assessment and formation of diagnosis or diagnostic impression. Treatment represents the counseling process of assisting clients to cope with their difficulties. Record describes the documentation and record keeping of counseling practice. Referral and termination indicates the component of counseling practice to either transfer clients to other services or conclude the counseling process. Crisis intervention denotes the crisis situations occurring within the counseling practice and how counselors should respond to the crisis. Counseling practice is encapsulated within these major components and also receives ethical and legal influences from four external sources.

Four prominent sources that can influence the ethical and legal aspects of counseling practice are Governing Entities, Clinical Practices, Professionalism, and Decision Making. Governing entities are defined as third parties that have strong legal implications in counseling practice. The court system, federal and state agencies, insurance company, and custodial rights holders are capable of imposing legal inquiries and impacting a counselor and his or her counseling practice. Counselors have direct or indirect contacts with these entities since their clients are either coming from these entities or under a contractual relationship with those entities. Clinical practice describes the demographic factors of counseling practice. Where, who, and how counselors practice professional counseling raises specific ethical and legal concerns (such as concerns in nursing home or VA hospital, and with psychotic or underage clients, etc.). The collaborative relationships with other professionals and the current push for accountability certainly bring complicated ethical and legal dilemmas into counseling practice.

Professionalism represents the entities that govern counselors' professional conducts and identity via ethical codes and legal regulations as well as professional behaviors that suit collegial, social, and cultural norms. Decision making denotes the guidelines and professional resources that counselors can rely on to resolve ethical and legal issues. These decision making resources may lead counselors to potential resolutions but subsequently influence the counseling practice after implementation of resolutions. These four external sources could potentially emphasize unequally on either ethical or legal issues in any given scenario. However, it is not practical to interpret decisions separately, one leaning towards ethics and one towards law. These four external factors contain both ethical and legal concerns that must be given equal consideration.

The design of the comprehensive model aims at grouping different factors and clinical components relating to ethical and legal issues. The major components in counseling practice, the diagnosis, treatment, record, referral and termination, and crisis intervention, need to function under legal regulations and ethical standards. The implications of these counseling components determine the counseling process in the counselor-client dyadic relationship. The external factors, the four sources, will bring in ethical and legal issues that influence the implications of any or all of these counseling components. This comprehensive model presents a simplified road map for understanding what factors, within and outside of counseling practice, are crucial to both the ethical and legal aspects of counseling.

Conclusion

In a mandatory ethical and legal issues class, the main focus of teaching should be on the study of ethical standards and legal case examples. There is lack of a comprehensive model to enhance counseling students' general understanding on how ethical and legal aspects will play a role in their counseling practice. We designed a comprehensive model aiming to assist students in perceiving an overall picture of ethical and legal issues relating to counseling practice, as well as to further the classroom discussion on concerns relating to the diverse factors of this model. In this comprehensive road map for ethical and legal issues classes, we are attempting to guide students through complicated and sticky situations in the learning process of this class.

We ask readers to cautiously interpret this model. It is not an ultimate guide to fully understanding all ethical and legal issues in counseling. Rather, we prefer this model to be used as a quick review of ethical and legal dispositions in professional counseling, as well as a tool to elicit further discussions in the classroom. Further refinement of this model is necessary to continue updating students on current conditions of the ever changing, yet exciting, field of professional counseling.

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