Ethics: First, Do no harm

Texas Counseling Association
November, 2012
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Why it’s good to be good!

Percent Returns - World’s Most Ethical Companies vs. S&P 500

-50% -40% -30% -20% -10% 0% 10% 20% 30% 40% 50%

2007 2008 2009 2010 2011 (YTD)

WME S&P 500
Introduction

- Housekeeping details:
  - time
  - breaks
  - agenda
  - CEUs
Objectives

- To recognize that values and life experiences affect the counseling process
- To increase skill in ethical decision making
- To gain knowledge of applicable ethical codes
- To increase understanding of rights and responsibilities of client and counselor
- To discuss solutions to common ethical dilemmas
- To practice ethical decision making in hypothetical situations
Disclaimer:

- This session is designed to offer general ethics information in the field of professional school counseling, ethical decision making, and to afford an opportunity to discuss relevant topics. It is not intended to serve as a substitute for legal advice.

- TCA members may call Legal Hotline 1-800-580-8144
Why Ethics?

- Corporate penalties growing stiffer. Roche fined $500 m, Whirlpool fined $580 m, Enron TBD...
- Demand for action against corruption and human rights abuses increases.
- All Fortune 500 companies now have codes of conduct including America Online and New York Stock Exchange.
- Since 1991 the federal govt gives companies with comprehensive ethics programs up to a 95% fine reduction if charged and found liable.
- Since 1996 Delaware holds individual board members liable for ethical lapses unless the company has an ethics code.
Ethics in the News

- Pulitzer prize winning historical Joseph Ellis was suspended from Mount Holyoke College after lying about serving in Vietnam.
- Newly named Notre Dame University football coach George O’Leary resigned after falsifying parts of his resume.
- Renowned author Stephen Ambrose was accused of plagiarism.
- Erin Brockovich’s fight against pollution & cover-up in Calif resulted in $333 m judgment in 1996
- Bernard Madoff, Bank failures, corporate CEOs multi-million dollar bonuses...
and more ethical lapses...

- In 2002 a Kansas HS AP Biology teacher resigned when she failed 28 students who plagiarized their semester projects and was not supported by her school board who wanted her to lighten the penalty.

- University of Oklahoma, Health Sciences Center 2004, workers misidentified children’s blood samples in research for lead exposure.

- Recent headlines: elected officials & scholarships to family members, use/gift of luxury car from lobbyists, BP Gulf oil spill, Roger Clemens’ use of steroids, etc.

- Sherron Watkins, Enron Whistle-Blower, says that even small ethical lapses should be treated harshly in the corporate world.
Salmonella King: Austin “Jack” Decoster

550 Million eggs recalled
Tens of thousands sickened
*Underestimated* by as much as 40 X
Marketing success
ETTA HULME

©2005 FORT WORTH STAR-TELEGRAM

DOES THIS ONE HAVE SIDE EFFECTS?

IT HAS BEEN KNOWN TO CAUSE UNETHICAL MARKETING BEHAVIOR

Etta Hulme is the Star-Telegram’s editorial cartoonist. (817) 390-7665
Do codes of conduct matter?

- Companies resisting ethical codes say that to codify conduct removes individual responsibility.

- It is the nature of ethical dilemmas that apparently “right” actions result in “wrong” consequences.
Boston Herald reported on 10-7-10 that St. George's has canceled its football game against powerhouse Lawrence Academy this Friday.

Some schools of the Independent School League were unhappy with Lawrence Academy after the team ran up the score in most of their games last year. Lawrence scored over 40 points in seven of its nine wins.

The Boston Globe reported that St. George's canceled the game due to health concerns because of the mismatch in size between the teams' players.

"This is strictly a safety issue," St. George's headmaster Eric Peterson told the Globe. "We are trying to keep our kids reasonably safe in a game that can be terribly exciting but has risks."

Five players on the Lawrence Academy roster have already committed to Division I schools. They also have three linemen who weight 300 pounds or more.
ELEANOR ROOSEVELT

No one can make you feel inferior without your consent.
In the long run, we shape our lives, and we shape ourselves. The process never ends until we die. And the choices we make are ultimately our own responsibility.

It is better to light a candle than curse the darkness.

People grow through experience if they meet life honestly and courageously. This is how character is built.

A woman is like a tea bag - you can't tell how strong she is until you put her in hot water.

Great minds discuss ideas; average minds discuss events; small minds discuss people.

You must do the things you think you cannot do.

I once had a rose named after me and I was very flattered. But I was not pleased to read the description in the catalogue: no good in a bed, but fine up against a wall.
Integrity means doing the right thing even when it is not convenient.

- A delay is better than a disaster.
  Capt. Chesley Sullenberger
a. Moral
b. Value
c. Character
d. Integrity
e. Ethics
f. Scruple
g. Reputation

1. A standard that acts as a restraining force
2. honesty, adherence to principle
3. varies according to culture, time, or circumstance and is concerned with right or wrong judgment
4. good name; what others think of one
5. how one actually is; features or traits that form the individual
6. a belief system; code that governs conduct
7. varies from person to person; worth or merit assigned
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“It is not our abilities that show us who we are; it is our choices.”

- A. John F. Kennedy
- B. Socrates
- C. Nelson Mandela
- D. Professor Dumbledore
Experiment

A

B

C
Ethical, moral, scrupulous, or foolish?

- Jeanette Rankin
- Rachel Carson
- Frances Oldham Kelsey
Pick the five values that are most important to you.

- Compassion
- Freedom
- Generosity
- Honesty
- Honor
- Humility
- Justice
- Loyalty
- Moral Courage
- Obedience
- Peace
- Respect
- Responsibility
PEARLS BEFORE SWINE

MY ETHICAL CONDUCT HAS BEGUN TO SINK BELOW EVEN MY STANDARDS. I THINK IT'S TIME FOR ME TO CHANGE.

I'M SURPRISED TO HEAR YOU SAY THAT, RAT. WHAT ARE YOU GOING TO DO?

LOWER MY ETHICAL STANDARDS.

SOME PEOPLE MIGHT CHANGE THEIR CONDUCT.

WHY TAKE THE HARD ROAD?

By Stephan Pastis
True Ethical Dilemmas

- Offer reasonable choices between two or more courses of action
- Each choice presents significant potential consequences
- Each course of action can be supported by ethical principles
- The selection of either course will compromise an ethical principle
Unintended Consequences

OH, C'MON...
WHAT'S THE WORST
THAT CAN HAPPEN
IF WE LOOSEN
UP OUR
IMMIGRATION
POLICY?
Consultation is

Face to Face or
Telephone
consultation with
peer, supervisor,
attorney,
professional
organization
or
Attend Workshop
Read Book
Research or
Journal Article
(document)
Privileged Communication

- Is the *legal right* established by a state statute that information provided by a client to a *specified professional* may not be disclosed in court without the client’s permission *(not a legal right in Texas)*.
Confidentiality

- Is the ethical obligation of the professional to protect information provided in counseling from disclosure.
Of course everything is confidential—except for what I tell my wife and she shares with her gossipy friends.
Confidentiality and Minors

“What I Did on My Summer Vacation, by special arrangement with the New Jersey State Police.”
- **Transference** is the process whereby clients project past feelings and attitudes toward significant people in their lives onto their therapists.

- **Countertransference** is the process whereby the counselor projects past feelings and attitudes onto their clients.
Transference

Zits

By Jerry Scott & Jim Borgman

Hmmm... G.P.A. Excellent...

Attendance Excellent...

Guidance Counselor

Are there any concerns that you would like to discuss with me, Jeremy?

English Composition,
Historical Perspectives,
Economics, Biology,
Algebra, Music...

It looks like a solid schedule with all of the freshman requirements.

I don’t see any real problems here.

You mean like frequent daydreaming and stuff?
Recommendations for Ethical Conduct
Kitchener’s 1984 Model

1. Nonmaleficence: Do no harm
2. Beneficence: Act to benefit others
3. Autonomy: respect and encourage
4. Justice: fair for all (reciprocity, impartiality, equality)
5. Fidelity: honesty & truthfulness
First, do no harm.
Suggestions for Decision-making

- Consult with peers.
- Retain professional membership.
- Maintain professional insurance.
- Be prepared to go into counseling yourself.
- Be knowledgeable of ethical codes and law.
- Know & respect your limitations.
- Be aware of high risk clients.
- Avoid any behaviors or conduct that could lead to or be misconstrued as sexual overtures.
- File documentation where you can locate it.
Decision Making Steps

- Assess situation.
- What facts have bearing?
- Who are the claimants and what does each want?
- List at least 3 options.
- What are best and worst case scenarios?
- Do any laws or principles rule out options?
- Consult. Document.
- Enumerate risks and determine a course of action.
- How would you defend your action?
- Flex your moral courage.
Again-- unforeseen, unintended Consequences

NON SEQUITUR

Would you look at this... no safety rails!!

Man... someone is just begging for a lawsuit

The artist is on vacation. This week’s strips are reprints. By Wi
THOUSANDS OF ABDUCTIONS
AND MEDICAL EXPERIMENTS
WITHOUT A HITCH.
BUT ACCIDENTALLY WHACK OFF
ONE EAR, AND I'M DEOMTED TO
MAKING CROP CIRCLES.
ACA Code of Ethics
TCA Code of Ethics
ASCA Code of Ethics
LPC Code of Ethics
TAC 33.005-007
Texas Family Code
Texas Health & Safety Code
Texas Educator Code of Ethics
Texas Occupations Code 503
A.2. Confidentiality

c. In absence of state legislation expressly forbidding disclosure, considers the ethical responsibility to provide information to an identified third party who, by his/her relationship with the student, is at a high risk of contracting a disease that is commonly known to be communicable and fatal. Disclosure requires satisfaction of all of the following conditions:

- Student identifies partner or the partner is highly identifiable
- Counselor recommends the student notify partner and refrain from further high-risk behavior
- Student refuses
- Counselor informs the student of the intent to notify the partner
- Counselor seeks legal consultation as to the legalities of informing the partner

d. Requests of the court that disclosure not be required when the release of confidential information may potentially harm a student or the counseling relationship.
ASCA A.4. Dual Relationships

- The professional school counselor:
  a. **Avoids** dual relationships that might impair his/her objectivity and increase the risk of harm to the student (e.g., counseling one’s family members, close friends or associates). If a dual relationship is unavoidable, the counselor is responsible for taking action to eliminate or reduce the potential for harm. Such safeguards might include informed consent, consultation, supervision and documentation.
  
  b. **Avoids** dual relationships with school personnel that might infringe on the integrity of the counselor/student relationship
(I) Dual relationships with clients are prohibited. A dual relationship is considered any non-counseling activity initiated by either the licensee or client for the purpose of establishing a non-therapeutic relationship.

(See definition of CLIENT as referenced in §681.2(7) of this title (relating to Definitions).)
LPC Dual relationships 681.41( as of 9-1-10)

- (I) Dual relationships with clients are prohibited. A dual relationship is considered any non-counseling activity initiated by either the licensee or client for the purpose of establishing a non-therapeutic relationship.
- (I) Except as provided by this subchapter, non-therapeutic relationships with clients are prohibited.

1. A nontherapeutic relationship is any non-counseling activity initiated by either the licensee or client that results in a relationship unrelated to therapy.

2. A licensee may engage in a non-therapeutic relationship with a client if the relationship begins more than 2 years after the end of the counseling relationship.
(h) A licensee shall not provide marriage and family therapy services to family members, personal friends, educational associates, business associates, or others whose welfare might be jeopardized by such a dual relationship.

(i) A licensee shall set and maintain professional boundaries. A licensee shall make a reasonable effort to avoid dual relationships. A dual relationship is considered any non-therapeutic activity initiated by either the licensee or the client for the purposes of establishing a non-therapeutic relationship. It is the responsibility of the licensee to ensure the welfare of the client if a dual relationship arises.
§781.204. Relationships with Clients

(c) A social worker shall not enter into a business relationship with a client. This rule does not prohibit a professional social work relationship with a client, as described in this subchapter.

(d) A social worker shall not engage in activities that seek to primarily meet the social worker's personal needs or personal gain instead of the needs of the client.

(e) A social worker shall be responsible for setting and maintaining professional boundaries.

(l) The licensee shall not provide social work services or intervention to previous or current family members; personal friends; educational or business associates; or individuals whose welfare might be jeopardized by a dual or multiple relationship

(m) The licensee shall not accept from or give to a client any gift with a value in excess of $25. If the licensee's employer prohibits giving or receiving gifts, the licensee shall comply with the employer's policy.

(n) The licensee may not borrow or lend money or items of value to clients or relatives of clients.
ASCA A.7. Danger to Self or Others

- The professional school counselor:
  a. Informs parents/guardians or appropriate authorities when the student’s condition indicates a clear and imminent danger to the student or others. This is to be done after careful deliberation and, where possible, after consultation with other counseling professionals.

- b. Will attempt to minimize threat to a student and may choose to 1) inform the student of actions to be taken, 2) involve the student in a three-way communication with parents/guardians when breaching confidentiality or 3) allow the student to have input as to how and to whom the breach will be made.
ASCA A.8. Student Records

- a. Maintains and secures records necessary for rendering professional services to the student as required by laws, regulations, institutional procedures and confidentiality guidelines.
- b. Keeps sole-possession records separate from students’ educational records in keeping with state laws.
- c. Recognizes the limits of sole-possession records and understands these records are a memory aid for the creator and in absence of privilege communication may be subpoenaed and may become educational records when they 1) are shared with others in verbal or written form, 2) include information other than professional opinion or personal observations and/or 3) are made accessible to others.
- d. Establishes a reasonable timeline for purging sole-possession records or case notes. Suggested guidelines include shredding sole possession records when the student transitions to the next level, transfers to another school or graduates. Careful discretion and deliberation should be applied before destroying sole-possession records that may be needed by a court of law such as notes on child abuse, suicide, sexual harassment or violence.
1. The counselor should consult confidentially with a professional colleague to discuss the nature of a complaint to see if the professional colleague views the situation as an ethical violation.

2. When feasible, the counselor should directly approach the colleague whose behavior is in question to discuss the complaint and seek resolution.

3. If resolution is not forthcoming at the personal level, the counselor shall utilize the channels established within the school, school district, the state school counseling association and ASCA’s Ethics Committee.

4. If the matter still remains unresolved, referral for review and appropriate action should be made to the Ethics Committees in the following sequence:
   - state school counselor association
   - American School Counselor Association
g.) A Licensee shall report sexual misconduct as follows:

1. If a licensee has reasonable cause to suspect that a client has been the victim of sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider, or if a client alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider, the licensee shall report the alleged conduct not later than the third business day after the date the licensee became aware of the conduct or the allegations to A) the prosecuting attorney of the county, B) the board if the conduct involves a licensee and any other licensing agency, and C) the appropriate agency…
I). (2) The licensee shall not give or accept a gift from a client or a relative of a client valued at more than $50, or borrow or lend money or items of value to clients or relatives of clients or accept payment in the form of goods or services rendered by a client or relative of a client.

(p) For each client, a licensee shall keep accurate records of the intake assessment, the dates of counseling treatment intervention, principal treatment methods, progress or case notes, treatment plan, and billing information.

(q) Records held by a licensee shall be kept for a minimum of five years from the date of the last contact with the client.

(r) Records created by licensees during the scope of their employment by educational institutions; by federal, state, or local governmental agencies; or their political subdivisions or programs are not required to comply with subsections (p) and (q) of this section.
LPC Changes cont…

3. a licensee may engage in sexual contact with a client if the contact begins more than 5 years after the end of the relationship, and the no-therapeutic relationship is consensual, not the result of exploitation by the licensee and is not detrimental to the client.

4. For purposes of paragraphs 2 & 3, the licensee must be able to demonstrate that there has been no exploitation and that the non-therapeutic relationship is not detrimental to the client in light of ALL relevant factors, including but not limited to factors set forth in 681.42 b, 4, A-G of this title.

(Additional changes impact LPC-I & Supervisors)
YOU MAY WANT TO GET YOUR AFFAIRS IN ORDER. YOU WILL BE LEAVING THIS WORLD SOON, BUT A BIG PART OF YOU WILL CONTINUE ON INSIDE US...

HOW TO PRÉPARE A TURKEY
Counselor Incapacitation or Termination of Practice
Standard C.2.h., ACA Code of Ethics

Informed Consent includes:

In the unlikely event that I am unable to provide ongoing services, Jane Doe, LPC-S, can provide these services and will maintain your records for a period of seven years. Jane Doe, LPC-S may be contacted at ________________.

“Well –informed people know that it is impossible to transmit voices over wires.”

Boston Post, 1865
New Technology poses new problems...

MOTHER GOOSE & GRIMM

AND SOMEONE'S BEEN DOWNLOADING NEW APPS TO MY PHONE TOO!
Good news! I have computerized all my client files. Now I just have to figure out how to get them off Facebook.
Personal profiles on Facebook and other social-networking sites are a trove of inappropriate and embarrassing photographs and discomfitting breaches of confidentiality. You might expect that from your friends and even some colleagues — but what about your doctor?

A new survey of medical-school deans finds that unprofessional conduct on blogs and social-networking sites is common among medical students. Although med students fully understand patient-confidentiality laws and are indoctrinated in the high ethical standards to which their white-coated profession is held, many of them still use Facebook, YouTube, Twitter, Flickr and other sites to depict and discuss lewd behavior and sexual misconduct, make discriminatory statements and discuss patient cases in violation of confidentiality laws, according to the survey, which was published this week in the *Journal of the American Medical Association*. Of the 80 medical-school deans questioned, 60% reported incidents involving unprofessional postings and 13% admitted to incidents that violated patient privacy. Some offenses led to expulsion from school.
Major Points

- Differences in Ethical Codes
- Confidentiality
- Dual Relationships
- Clinical V. Forensic Counseling
- Social Networking, twitter, email
Ethics Quiz

- Is it legal?
- Is it consistent with standards of practice?
- How would it look in the newspapers?
- Do you think it is wrong?
- If you do it, will you feel bad?

What’s my ship?

- 1907, E.J. Smith, Ship Captain wrote in his log, “In forty years at sea, it has been uneventful; never wrecked, never saw a wreck, no problem arose that I couldn’t handle.”
Just as Henry VII said to his wives, “I won’t keep you very long.”

Pledge to renew your commitment to ethical conduct.
Review of Objectives

- To recognize that values and life experiences affect the counseling process
- To increase skill in ethical decision making
- To gain knowledge of applicable ethical codes
- To increase understanding of rights and responsibilities of client and counselor
- To discuss solutions to common ethical dilemmas
- To practice ethical decision making in hypothetical situations
Perception vs. Reality
50 Ways to Lose Your License
Thank you for your time today!

Remember:

*Counselors are visionaries with a poorly developed sense of fear and no concept of the odds against them!*
Ethics: First, Do no harm

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- A. John F. Kennedy
- B. Socrates
- C. Nelson Mandela
- D. Professor Dumbledore
Experiment

A

B

C
Pick the five values that are most important to you.

- Compassion
- Freedom
- Generosity
- Honesty
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- Justice
- Loyalty
- Moral Courage
- Obedience
- Peace
- Respect
- Responsibility
True Ethical Dilemmas

- Offer reasonable choices between two or more courses of action
- Each choice presents significant potential consequences
- Each course of action can be supported by ethical principles
- The selection of either course will compromise an ethical principle
Consultation is

Face to Face or Telephone consultation with peer, supervisor, attorney, professional organization or Attend Workshop Read Book Research or Journal Article (document)
Privileged Communication

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ACA Code of Ethics
TCA Code of Ethics
ASCA Code of Ethics
LPC Code of Ethics
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ASCA  A.2. Confidentiality

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LPC Dual relationships 681.41
former rule...

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3. If resolution is not forthcoming at the personal level, the counselor shall utilize the channels established within the school, school district, the state school counseling association and ASCA’s Ethics Committee.

4. If the matter still remains unresolved, referral for review and appropriate action should be made to the Ethics Committees in the following sequence:
   - state school counselor association
   - American School Counselor Association
LPC Code of Ethics 681.42

Sexual Misconduct

g.) A Licensee shall report sexual misconduct as follows:

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LPC Code 681.41

(2) The licensee shall not give or accept a gift from a client or a relative of a client valued at more than $50, or borrow or lend money or items of value to clients or relatives of clients or accept payment in the form of goods or services rendered by a client or relative of a client.

(p) For each client, a licensee shall keep accurate records of the intake assessment, the dates of counseling treatment intervention, principal treatment methods, progress or case notes, treatment plan, and billing information.

(q) Records held by a licensee shall be kept for a minimum of five years from the date of the last contact with the client.

(r) Records created by licensees during the scope of their employment by educational institutions; by federal, state, or local governmental agencies; or their political subdivisions or programs are not required to comply with subsections (p) and (q) of this section.
LPC Changes cont…

3. A licensee may engage in sexual contact with a client if the contact begins more than 5 years after the end of the relationship, and the no-therapeutic relationship is consensual, not the result of exploitation by the licensee and is not detrimental to the client.

4. For purposes of paragraphs 2 & 3, the licensee must be able to demonstrate that there has been no exploitation and that the non-therapeutic relationship is not detrimental to the client in light of ALL relevant factors, including but not limited to factors set forth in 681.42 b, 4, A-G of this title.

(Additional changes impact LPC-I & Supervisors)
In the unlikely event that I am unable to provide ongoing services, Jane Doe, LPC-S, can provide these services and will maintain your records for a period of seven years. Jane Doe, LPC-S may be contacted at ________________.

Personal profiles on Facebook and other social-networking sites are a trove of inappropriate and embarrassing photographs and discomfiting breaches of confidentiality. You might expect that from your friends and even some colleagues — but what about your doctor?

A new survey of medical-school deans finds that unprofessional conduct on blogs and social-networking sites is common among medical students. Although med students fully understand patient-confidentiality laws and are indoctrinated in the high ethical standards to which their white-coated profession is held, many of them still use Facebook, YouTube, Twitter, Flickr and other sites to depict and discuss lewd behavior and sexual misconduct, make discriminatory statements and discuss patient cases in violation of confidentiality laws, according to the survey, which was published this week in the *Journal of the American Medical Association*. Of the 80 medical-school deans questioned, 60% reported incidents involving unprofessional postings and 13% admitted to incidents that violated patient privacy. Some offenses led to expulsion from school.
Major Points

- Differences in Ethical Codes
- Confidentiality
- Dual Relationships
- Clinical V. Forensic Counseling
- Social Networking
Ethics Quiz

- Is it legal?
- Is it consistent with standards of practice?
- How would it look in the newspapers?
- Do you think it is wrong?
- If you do it, will you feel bad?

Thank you for your time today!

Remember:

Counselors are visionaries with a poorly developed sense of fear and no concept of the odds against them!