Ethical Issues for Counselors: Current Guidelines for Practice in Texas

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Overview

• General info
• Duty to warn
• Boundaries
• Records
• Minors
• Supervision
• Proposed changes

LPC Board

• Texas Rules: Frequent updates
• LPC Board recommends to read rules 2xs/year
• Rules revisions posted for comment from licensees
• Can sign up online for automatic emails
• http://www.dshs.state.tx.us/counselor/
• ACA Code of Ethics (2005) – currently being revised
Duty to Warn Legal Precedent

- National norm for Duty to Warn
- *Tarasoff v. Regents of the University of California* (1976, California Supreme Court)
  - Established precedent that mental health professionals have a **duty** to warn potential third party victims about client's intent to harm them
  - Has been adopted by many other states as a standard or mandate

Duty to Warn in Texas

- Different in Texas than elsewhere in the country
  - We do **not** have Duty to Warn!
- Court case: *Thapar v. Zezulka*, 994 S.W.2d 635 (Texas Supreme Court, 1999)
  - Justice Enoch delivered opinion, unanimous court
  - Opinion based on Texas State Law, to impose mandatory duty to warn would conflict with current state law

Duty to Warn in Texas

- Texas Health and Safety Code §611.004. “A professional may disclose confidential information only . . . to medical or law enforcement personnel . . .”
- State law does not offer **good faith immunity** for duty to warn (as it does for reporting suspected abuse)
Duty to Warn Resources

• Great article:

• If interested:
  – Thapar v. Zezuika court case:
    http://scholar.google.com/scholar_case?case=92290722129200039166&hl=en&as_vis=1&oi=scholarr
  – LPC Board website, link to laws:
    http://www.dshs.state.tx.us/plc/plc_mhresources.shtm
  – Texas Health and Safety Code, Sec. 611, Mental Health Records:
    http://www.statutes.legis.state.tx.us/Docs/HS/htm/HS.611.htm

Research Study

• Research Questions
  1. What are Texan LPCs’ knowledge of state law lacking the duty to warn third parties of harm?
  2. What are Texan LPCs’ perceptions of state law lacking the duty to warn third parties of harm?

• Methodology and Data Collection
• Study Participants
• Results
• Supported by a 2012 UTSA COEHD Faculty Research Award

Boundaries

• Cannot counsel:
  – Family members
  – Friends
  – Educational associates
  – Business associates (i.e., colleagues)
  §681.41(l)5
Boundaries

• Language:
• **Dual roles**
  – When counselors have two or multiple roles simultaneously or sequentially with a client
    • Examples: teacher, employer, friend, relative
• **Potentially beneficial interactions** (ACA, 2005, A.5.d)
• **Non-therapeutic relationships** (Texas)...

Boundaries

• Non-therapeutic relationships **prohibited**
  – Defined as “any non-counseling activity initiated by either the licensee or client that results in a relationship unrelated to therapy” § 681.41(l) 1
• **After 2 years**, may engage in non-therapeutic relationship if... §681.41(l)2
• **After 5 years**, may engage in sexual contact if... §681.41(l)3

Case Study - Gifts

• You are a counselor and work primarily with children and adolescents. One day you are presented with a gift from one of your 9-year-old clients. The gift is something he has made for you.
  • Do you keep it or do you refuse it?
  • What are the reasons for your choice?
  • What if the gift was hand lotion or a candle?
Boundaries in Texas

- Accepting or giving gifts
  - Cannot be more than $50
- Bartering
  - No!
- Business/financial relationships with clients
  - Borrow or lend money/items of value – NO!

§681.41(l)6

Records

- Keep records minimum of 5 years after last client contact § 681.41 (q)
- Texas Health and Safety Code, Chapter 611
- If Client requests record, must respond in 15 days
- [http://www.dshs.state.tx.us/plc/plc_mhresour ces.shtm](http://www.dshs.state.tx.us/plc/plc_mhresour ces.shtm)

Minors

- Prior to providing counseling, obtain copy of divorce decree/custody agreement/court order. Maintain in record. §681.41(aa)
- Board receiving complaints against licensees for not obtaining proper consent from appropriate legal guardians
Supervision

• Lots of new rules
• Themes: Document and forms, forms, forms
• Board applying administrate penalties for supervisors
• Supervision Logs, sample
  [http://www.dshs.state.tx.us/counselor/lpc_forms.shtm]

Supervision

• “A board approved supervisor shall maintain and sign a record(s) to document the date of each supervision conference and document the LPC Intern’s total number of hours of supervised experience accumulated up to the date of the conference. The record shall reflect the site where the hours were accrued and the content of the session.” §681.93(c3,d)

LPC Intern

• No more “LPC-I” – must spell out “Intern” to be “LPC Intern”
  – “on all advertisements, billing, and announcements of counseling treatment” § 681.49(9)g
• Informed Consent docs
  – “The intern’s name shall be followed by the name of the supervisor in the same type size and font.” § 681.41(e)6
LPC Intern

- May accrue hours towards 1,500 via "technological means of communication ... for no more than 10% of the total supervised experience hours” §681.92(b)
- Can do live webcam supervision (no more than 50% of total supervision hours) §681.92(g)

Proposed Changes

- 60 hour master’s degree required
- Additional content requirements for curricula (Substance Abuse, Crisis, Ethics, and Psychopathology)
- LPC Supervisors required to take an 8 hour refresher course every 4 years in order to maintain the credential.

Tidbits

- All Licensee addresses available ONLINE (roster)
- LPC Intern license good for 5 years, then expires
- Attend Complaints Committee mtg = CEUs
- Send mail to Board registered w/ return receipt
- Go to meetings if told a problem w/ paperwork
Resources

- TCA members: free legal consultation via LegalCare
  – http://www.txca.org
- ACA members: free ethics case consultation
  – http://www.counseling.org/knowledge-center/ethics

Remember

- If unsure or in doubt, ask the LPC Board
- Consult, consult, consult!
- Use an ethical decision-making model
- Rules for LPCs in Texas change frequently, check the website a minimum of 2 times a year for updates
- Go forth and be Ethical!

References

