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Challenges in Teaching Ethics to Addictions Counselors

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Alan Cavaiola, PhD, LCADC & Edward Reading, PhD, LCADC
Monmouth University      Stockton State College
Present students with an overview of NAADAC Ethical Standards
Discuss these Standards
Describe differences between *ethical standards*, *moral imperatives* and *legal mandates*
Provide examples of how these standards can be applied to clinical practice situations
Provide case examples whereby students are given an opportunity to practice ethical decision-making while being able to cite relevant NAADAC Ethical Standards in guiding these decisions
By taking this approach addiction educators are providing our students with both knowledge and application of ethical standards right????????????

Then why are there so many instances of ethical transgressions that come before addiction counselor licensure boards?

Why the disconnect between ethical theory and practice????

Is it us (addiction educators) or them (students)???? Or Both????
Ethical Standards are developed and maintained by associations (NAADAC) and are enforced by credentialing bodies (e.g. LCADC Board).

Standards are developed in order to

- Protect clients
- Avoid governmental interference in the profession
- Guide ethical practice
- Avoid malpractice lawsuits
- Develop public confidence in the profession

See [www.naadac.org/resources/codeofethics](http://www.naadac.org/resources/codeofethics)
Major Theories of Ethics (Geppert, 2013)

- **Communitarian**: Theory that emphasizes values of the community which aims to balance the rights of the individual with society.
- **Deontology**: A duty based theory that focuses on motivations rather than consequences of conduct as the ground of their ethicality.
- **Principalism**: A theory of ethics based on four moral principles of autonomy, beneficence, nonmaleficence and justice.
- **Virtue Ethics**: Ethical theory that locates the rightness of an action or a decision in qualities of character e.g. compassion, honesty, integrity, faithfulness.
Principles of Ethics

- **Autonomy:** self-determination, the right of the client to make treatment decisions
- **Beneficence:** “To do good” the counselor’s obligation to place the best interest of the client above all other priorities
- **Nonmaleficence:** “To do no harm” the duty of the counselor to prevent, alleviate, and cure pain and suffering & to minimize harm from treatment
- **Justice:** Treatment if provided fairly, equitably, free of discriminatory practices
Ethical Standards

- Main goal is to insure client welfare
- Ethical standards supersede all other considerations
- All counselor actions can be guided by ethical standards
- Keep in mind that there are also moral imperatives and legal dictates e.g.
  - Moral dilemma: Sam was just laid off from his job and can no longer afford his co-pay.
  - Legal dictate: child abuse reporting supersedes confidentiality standards

Question???: Is Tarasoff reporting an ethical standard, a moral imperative or a legal dictate??????
Hierarchy of Ethical Standards

- Protecting human life
- Fostering independence and freedom
- Fostering equality
- Promoting a better quality of life
- Protecting the right to privacy
- Truthfulness
- Abiding by rules and requirements
Are the following included in your teaching ethics to addiction counseling students?
Once a counseling relationship is established it is maintained and it is therefore unethical to engage with the client in any other type of interaction.

What about the following situations:
- A client gives you a hug at the end of a particularly difficult/emotional session?
- A client comes up to you in the mall and says “Hello, how are you? See you on Thursday?”
- A client is laid off from their job as a painter and your apartment needs painting
- You’ve been seeing a particular MD for several yrs. Midway through a session with a new client, you realize that your new client is your MD’s spouse/partner!!!
Alcohol and Drug records are governed under Federal Law 42 CFR Part 2

42 CFR Part 2 preceded HIPPA and parallels HIPPA guidelines

Although Federal confidentiality guidelines supersede state laws, this is not so in the case of child and elder abuse reporting and duty to warn.

Remember the client holds the “privilege” in doctor patient/counselor patient privilege

Subpoena does not necessarily mean you open your records, it means you must show up to court. Consent orders (issued by judge) does mean you have to release records to the court.
9 Exceptions to Confidentiality

1) Crimes or threats committed on program premises or against program staff permit disclosure to law enforcement only and are limited to circumstances of the incident, patient’s status, name address, last known location.

2) Child abuse reporting (in some states elder abuse)

3) Medical emergencies (disclosure to medical personnel) in order to medically treat safely

4) Disclosure to court only on basis of court order which complies with 42 CFR Part 2

5) Disclosure to a qualified service organization e.g. mental health program, hospital, public health department that does not identify client as a substance use patient
6) Disclosures to qualified service organizations that provide administrative services such as accounting
7) Disclosures for purposes of evaluation, audit or research
8) Disclosures between program staff members for purposes of case consultation
9) A special order authorizing disclosure.
If a client signs a standard release form allowing you to release records that does not imply that the receiver of the records can then re-release them.

Therefore you must include the Prohibition of Redisclosure statement

“This information is being released to you in compliance with Federal Law CFR–42–R which strictly prohibits the re–release of this information to any other party without expressed written consent by the client”.

Disclosure and Re–Disclosure
An important ethical standard is that counselors render services within their “scope of practice” or that they operate within areas in which they have received specific training.

Question remains “what constitutes specific training”?? Let’s say someone has taken an Introduction to Addiction Counseling course as part of their graduate degree program. Does that constitute sufficient training to include addictions counseling as one of their services? What about using counseling techniques e.g. relaxation training, guided imagery, hypnosis?
Ethical standards dictate that counselors do not discriminate against clients on the basis of their age, gender, race, ethnicity, religion, physical characteristics, sexual orientation, or physical disability. *Ward v. Wilbanks* raises the point that clients cannot be turned away because the counselor’s values differ from that of their client (e.g., sexual orientation). Yet agencies and counselors specialize right...? Examples?

ADA laws indicate that you must provide *reasonable accommodation* for clients with various physical disabilities. What constitutes reasonable accommodations?
The two most important legal issues in providing addiction treatment to minors are informed consent and confidentiality.

Half the States have laws allowing adolescents to access addictions treatment without parental permission. Also age of consent varies from state-to-state.

42 CFR Part 2 provides adolescents with the same privacy as adults however state laws may not afford the same privacy
Issues in treating mandated clients and clients in CJ system

- Includes PTI clients, Drug Court clients, Probation, Parole, Intoxicated Driver (DUI) clients.
- CJS consent cannot (like other forms of patient consent) be revoked before it expires.
- Duration of CJS consent takes into account the estimated length of treatment and the need for treatment information at time of final judicial disposition and anything else the client, program or CJS agency deems appropriate (e.g. drug screens, attendance).
Addiction professionals may experience a moral imperative to report a client’s past or current criminal activity (e.g. counselor becomes aware that client is dealing drugs to other clients)

Counselors are not required to report past criminal activity.

Counselors can report criminal activity that takes place on the grounds of a program or against program staff (e.g. assault). (This is one of the 9 major disclosure exceptions)
Duty to Warn

- Not all states have passed Tarasoff–type statutes. Also some statutes are permissive while others are “mandatory”.
- Duty to warn and protect is also a moral imperative as well as a professional obligation!
- Duty to warn should be included in Informed Consent form
- Another recourse in anonymous reporting
Informed consent was taken from the medical profession as a means of conveying to clients the *cost–benefit* ratio of various medical procedures and to let patients know exactly what to expect in the way of treatment outcomes.

Informed consent is also a valuable tool for counselors and agencies. Although it does not “bullet proof” them from unethical practice is does help the client by conveying the “rules of counseling” and the counselor.
Informed Consent should include the following:

- Statement of your credentials and training
- Explanation of the treatment you/agency offers
- Estimated length of treatment/length of sessions
- “risks–benefits” of treatment including client’s right to be part of their treatment plan and what happens when progress is not being made
- Fees including co-pays, insurance reimbursement, sliding scale, what happens for non-payment of fees etc.
- How can client reach you in an emergency
- How are missed appts handled
- Statement of confidentiality and limits to confidentiality e.g. duty to warn, child abuse reporting etc. Also that written consent is required for release of information.
Ethical Considerations in Treatment of Women

- Pregnant mothers who use alcohol/drugs place their unborn children at risk for premature births, birth defects, FAS, withdrawal syndromes & neonatal death.
- No where in addiction treatment is the conflict between autonomy & nonmaleficence, beneficence vs respect for persons so great as in the treatment of pregnant women using substances.
- Currently in 15 states substance use during pregnancy is considered a form of child abuse.
In 14 states health care professionals are required to report suspected prenatal abuse of drugs and 4 of those states require testing for illicit drugs (without consent) if the health care professional suspects drug abuse.

Minnesota, Wisconsin & South Dakota consider prenatal drug use ground for civil commitment!!! In South Caroline prenatal drug use is considered a crime!!!

Yet research literature indicates that criminalization of prenatal substance use is not effective as a deterrent and may deter women from seeking addiction treatment.
Societal beliefs come into conflict regarding the mother’s rights (autonomy), the infant’s rights (to be born alive and healthy) and the interest of health care professionals and the public to protect the welfare of infants while respecting women.

Those who place more weight on the rights of women will be opposed to mandatory drug screening/child abuse reporting/criminal sanctions vs those who place more weight on the rights of the fetus/infant.
Ethical Issues Pertaining to Clients Who Continue to Use

- Counselors grounded in Motivational Interviewing may question whether there would ever be a situation where a client would be terminated from (outpt) treatment with a referral to detox or inpatient program.
- Clients who are not making progress can be terminated but not abandoned. THIS IS IMPT
- Do counselors have to continue to treat a client who is abusive or threatening (due to continued use of substances)?
- Counselors need to document concerns regarding lack of progress and to provide verbal and written notification of proposed termination and appropriate referrals for alternative services.
Steps Taken to Resolve Ethical Issues

1) Identify if there is an ethical issue or problem and try to define it and describe it
2) Get the facts about the question of interest
3) Evaluate alternative actions from various ethical perspectives
4) Seek consultation from colleagues
5) Decide on a course of action and apply it.
6) Document your reasoning
7) Reflect on the decision and its results
The following are taken from actual cases that have been come before licensure boards.

As we go through these cases see if you can pick out the most salient NAADAC Ethical Standard violation.

Keep in mind the question we raised earlier. Is there something that we as Addiction Educators can have done differently to prepare this counselor OR is there something about the counselor (personality factors, extenuating circumstances, mental health issue???) that may have contributed to the violation?