Professional Ethics in Addiction & Its IMPACT ON RECOVERY

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Character is how you treat those who can do nothing for you.

Presented by Carolyn Heyman, JD & Cynthia Moreno Tuohy, BSW, NCAC II, CDC III, SAP
Substance use, addictive behavior, and co-occurring disorders are complex phenomena characterized by dysregulated neurobiology and compulsive, habitual behavior along a continuum from mild to moderate to severe in nature.

- There is no single, specific root cause that leads an individual down the neurobiological pathway towards dependence.
- There is no single, standardized treatment modality that addresses substance misuse and dependence.
- A variety of approaches are effective, including prevention, interventions, counseling/psychotherapy, medication assists, recovery supports, and mutual help/peer-led groups.
- Providers must continually assess all interactions and communications using risk management, ethical, and legal lenses.

**NAADAC Code of Ethics**

- NAADAC Ethics Committee
- NCC AP: Certification Board
- Code of Ethics 10.09.16
- Purpose of Code of Ethics
Basic Principle's of Ethics

- Client-centered
- Collaborative, timely, integrative, holistic
- Culturally-sensitive
- Appropriate care
- Trauma-informed
- Do no harm to client
- Relinquish hidden agendas
- Practice not focused on counselor agenda
- Empathetic and empowering versus enabling & rescuing
- Relinquish hidden agendas
- Remove coercion
- Practice not focused on counselor agenda
- Empathetic and empowering versus enabling & rescuing

Don’t Forget Licensure Obligations!

- **Professional Counselors** – 12 AAC 62.900 – American Mental Health Counselors Association’s Code of Ethics
- **Psychologists** – 12 AAC 60.185 – American Psychological Association Ethical Principles of Psychologists and Code of Conduct
- **Social Workers** – 12 AAC 18.150 – Code of Ethics of the National Association of Social Workers
- **Marital & Family Therapy** – 12 AAC 19.900 – American Association for Marriage and Family Therapy Code of Ethics
- **Physicians** – 12 AAC 40.955 - American Medical Association Code of Medical Ethics, Code of Ethics of the American Osteopathic Association
- **Physician Assistants** – 12 AAC 40.955 - Guidelines for Ethical Conduct for the Physician Assistant Profession of the American Academy of Physician Assistants
- **Nurse Practitioners** – American Nurses Association Code of Ethics

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- Principle I: The Counseling Relationship
- Principle II: Confidentiality & Privileged Communication
- Principle III: Professional Responsibilities & Workplace Standards
- Principle IV: Working in A Culturally-Diverse World
- Principle V: Assessment, Evaluation & Interpretation
- Principle VI: E-Therapy, E-Supervision & Social Media
- Principle VII: Supervision & Consultation
- Principle VIII: Resolving Ethical Concerns
- Principle IX: Publication & Communications

NAADAC Code of Ethics: Guiding Values

- Beneficence
- Autonomy
- Obedience
- Conscientious Refusal
- Gratitude
- Competence
- Justice
- Stewardship
- Honesty and Candor
NAADAC Code of Ethics: Guiding Values

- Fidelity
- Loyalty
- Diligence
- Discretion
- Self-improvement
- Non-malfeasance
- Restitution
- Self-interest

Working Definitions

What is “standard of practice”?
What is “scope of practice”?
I: The Counseling Relationship

- accepts responsibility to ensure safety and welfare of client(s)
- acts for good of client(s) while exercising respect, sensitivity, compassion
- treats client(s) with dignity, honor - acts in best interest of the client(s)
- understands rights of each client to be fully informed about treatment
- provides client(s) with information in clear and understandable language regarding the purposes, risks, limitations and costs of treatment services, reasonable alternatives, their right to refuse services, and their right to withdraw consent within time frames delineated
- reviews with client(s) - in writing and verbally - the rights and responsibilities of both providers and clients

I: The Counseling Relationship: Expectations

- disclosing limits of confidentiality
- accepting diversity of values
- checking at the door: discrimination, bias, stigma, prejudice
- legal incompetency or mandated clients – look at the documents!
- multiple therapists - multiple/dual relationships with clients current or previously
- levels of care – referral – termination – documentation
- Maintaining ethical, professional, legal boundaries
Informed Consent: Key Points

- Name of agency, name(s) of providers rendering services
- Role of providers
- Provider’s scope of competence: education, training, qualifications, state and national credentials, specialty areas
- Type of treatment services available at the practice/agency
- The nature of the proposed services
- Where the services will take place
- Length of time treatment will be rendered: session length and frequency
- What is privileged information, confidential, exceptions to confidentiality
- Mandatory duty to warn rules
- List of potential conflicts of interest regarding delivery of service
- Access to relevant ethics codes
- Documentation, document storage, length of time required to maintain records, disposal policies

Informed Consent: Key Points

- Expectations the facility has for clients and consequences of not meeting those expectations
- Boundaries of use regarding social media, electronic media, cloud storage
- Cancellation policy and consequences, if any, for missed appointments
- Costs of receiving services – session fees, copays, assessment costs, other agency costs, drug monitoring
- Good faith estimates
- Nonpayment policies and procedures
- Collection protocol for delinquent accounts
- Information for filing grievances with provider, agency, state boards, NAADAC/NCC AP

- Other information provider or state may require – check your licensure requirements for disclosures statements or other info to be included
Working Definitions

How do we define “boundaries”?  
What is a “dual” relationship?

Multiple & Dual Relationships

I-11: Addiction Professionals shall make every effort to avoid multiple relationships with a client. When a dual relationship is unavoidable, the professional shall take extra care so that professional judgment is not impaired and there is no risk of client exploitation. Such relationships include, but are not limited to, members of the Provider’s immediate or extended family, business associates of the professional, or individuals who have a close personal relationship with the professional or the professional’s family. When extending these boundaries, Providers take appropriate professional precautions such as informed consent, consultation, supervision, and documentation to ensure that their judgment is not impaired and no harm occurs. Consultation and supervision shall be documented.
Multiple & Dual Relationships

Whenever a new party is introduced, think about how that may change the relationship:

- **Spouses, significant others – what is their role? Have they been informed?**
- **Minors and parents – what is the confidentiality agreement?**
- **Additional providers or treatment team members**

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**Case:** It has come to your attention that a therapist you supervise is involved in an intimate relationship with a family member of a client being served by your treatment agency. The relationship was initiated by the therapist following the family member’s participation in a “family night” educational meeting at the facility. While the agency personnel policies explicitly prohibit intimate/sexual relationships with clients, the issue of whether the client’s family members are included in this prohibition has not come up before.

What are the key concerns in this case?
working definitions

What do we mean by “confidentiality”? What do we mean by “privacy”?:

- confidentiality – privilege – rights to privacy - limits
- documentation – access to records
- sharing information to collaborative care team – essential info only
- deceased

II: Confidentiality and Privileged Communication

- II-16: Addiction professionals who provide group, family or couples therapy shall describe their roles and responsibilities to all parties, limits of confidentiality, and the inability to guarantee that confidentiality will be maintained by all parties.
Principle II: Confidentiality & Privileged Communication - Key Topics

- Addiction Professionals understand that confidentiality and anonymity are foundational to addiction treatment and embrace the duty of protecting the identity and privacy of each client as a primary obligation. Counselors communicate the parameters of confidentiality in a culturally-sensitive manner.

- Disclosure, Limits of Confidentiality, Imminent Danger, Infectious Diseases
- Multidisciplinary Care, “Essential Only” Disclosures
- Payors, Deceased Clients, Minors and Protected Others
- Release of Information, Records, Transfer of Records
- Termination, Storage and Disposal, Consultation, Supervision
- e-Therapy, Video Sessions, Recordings

Privileged Communication

- Privileged communication is the legal recognition of a private, protected relationship where information disclosed between the two parties (Providers and clients) – with a few exceptions – remains confidential and cannot be forcibly disclosed by or to the legal system.

- The rationale for privileged communication
- Past crimes versus active or imminent crimes
- Infectious diseases: HIV, Hepatitis B and C, Herpes, Human Papilloma Virus

- Clinician responsibilities, even with a signed Release of Information (ROI)
HIPAA and 42 CFR Part 2: Degrees of Confidentiality

HIPAA is usually the minimum for confidentiality, and 42 CFR Part 2 is usually the maximum.

HIPAA State Law 42 CFR Part 2

Least Strict Most Strict

42 CFR Part 2 Allowable Disclosures

- Written authorization
- Internal communication ("need to know")
- Medical emergency
- Qualified Service Organization
- Audit and evaluation
- Crimes (or threats of) on program premises or against program personnel
- Initial reports of suspected child abuse or neglect
- Court order meeting specifications of 42
- Research
Protected Communication

- Confidentiality of SUD patient treatment records
- Subpoena: summons to appear in court or produce documentation
- Group Therapy: multiple members; before-during-after sessions; ongoing reminders about confidentiality

Authorization vs. Consent

<table>
<thead>
<tr>
<th>Required Element</th>
<th>HIPAA Authorization</th>
<th>42 CFR Part 2 Consent</th>
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<tbody>
<tr>
<td>Name of Patient</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Name or general designation of person permitted to make disclosure</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Name of person to whom disclosure is to be made</td>
<td>X (requires less specificity – can be a class of persons)</td>
<td>X</td>
</tr>
<tr>
<td>Purpose of disclosure</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Description of information to be disclosed</td>
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<td>X</td>
</tr>
<tr>
<td>Signature of patient</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Date</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Statement that consent is subject to revocation except if the program already relied on</td>
<td>X</td>
<td>X (can be revoked orally)</td>
</tr>
<tr>
<td>Expiration date or event</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Statement regarding conditioning treatment upon signature</td>
<td>X</td>
<td></td>
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</tbody>
</table>
Case: You are a person in recovery from alcohol dependence, working as a counselor in a treatment agency for CODs. While you are at an AA meeting, a client involved with your agency comments on her difficulty maintaining sobriety and refers to several recent relapses and her lack of honesty with the treatment staff. The client has not disclosed this information to her therapist, at the agency, and the therapist is under the assumption that the client has maintained ongoing sobriety since the counseling was initiated.

What would you or can you do with this information?

Working Definitions

How do you “represent” yourself?
III: Professional Responsibilities and Workplace Standards

- integrity – non-discrimination – advocacy – supervision/consultation
- accuracy of representation - scope of practice - standards of practice

III-4: Boundaries of competence: Addiction professionals shall practice within the boundaries of their competence. Competence shall be established through education, training, skills and supervised experience, state and national professional credentials and certifications, and relevant professional experience.

III-18: A/P are continually self-monitoring in order to meet their professional obligations. Providers shall engage in self-care activities that promote and maintain their physical, psychological, emotional and spiritual well-being.

Principle III: Professional Responsibilities & Workplace Standards - Key Topics

- Nondiscrimination; Fraud; Criminal Activity; Other Violations
- Harassment
- Credentials; Accuracy of Representation; Misrepresentation
- Scope of Practice; Boundaries of Competence; Self-Monitoring
- Multidisciplinary Care; Collaborative Care; Collegial Cooperation
- Advocacy; Policy & Procedures
- Proficiency; Ongoing Professional Development/Education
- Disparaging Comments about other organizations that are unfounded
- Public Comments; Private Comments
- Personal vs. professional: Relapse/Recidivism; Illness; Bereavement; Divorce
- Referrals, Termination
- Reporting others
Professional Responsibilities

- Transference and Counter-Transference
- Professional Impairment
- Clinical Supervision as Risk Management
- Consultation as Risk Management
- Professional Wellness, Self-Care, Self-Monitoring
- Clinicians who are in recovery – stress management, boundaries

Working Definitions

How do we define “culture”?  
What is the “culture of treatment”?
IV: Working in a Culturally-Diverse World

- knowledgeable and aware of self and others – cultural meanings
- linguistically-diverse population – needs for advocacy
- cultural humility – cultural sensitivity – culturally informed care
- needs-driven services
- legal obligations to provide translation

IV-7: A/P shall respect the roles of family members, social supports, and community structures, hierarchies, values and beliefs within the client’s culture. Providers shall consider the impact of adverse social, environmental, and political factors in assessing concerns and designing interventions.

Principle IV: Working in Culturally-Diverse World

- Cultural sensitivity vs. cultural competency
- Cultural humility
- Personal beliefs vs. credibility vs. advocacy
- Needs-driven services
- Legal obligations and family boundaries
V: Assessment, Evaluation and Interpretation/Diagnosis

- needs for assessment
- choice of tools, administration, evaluation/scoring, interpreting results, diagnosing, reporting results
- CFI: Cultural Formulation Interview available at [www.dsm5.org](http://www.dsm5.org) under Online Assessment Measures

Principle V: Assessment, Evaluation & Interpretation

- Assessment, Validity, Reliability
- Cultural Influences
- Diagnosing, Results, Security
- Forensic Evaluations
Social Media & EHRs

- Social networks: Facebook, Instagram, Reddit, Tumblr, Google+, Meetup, YouTube, Twitter, Vine, Pinterest, Flickr, LinkedIn, ClassMates, etc.
- Mandatory disclosure and informed consent process
- Professional pages versus personal pages; friending
- Benefits, limitations, boundaries; policies and procedures
- Disclosures to patients and policy on social media
- Electronic health records (EHRs): benefits and concerns
- Access, data collection, clouds, laptop security, password protection

Ethics – What is Right?

Ethics is knowing the difference between what you have a right to do and what is right to do.

Potter Stewart
Working Definitions

How do you “problem solve”?  
What is “critical thinking”?  

VIII: Resolving Ethical Concerns:  
Ethical Decision Making Model

1. Identify the ethical dilemma and/or legal issues. Examine the nature and dimensions of the dilemma. Apply the NAADAC Code of Ethics and applicable laws.

2. Consult with a clinical supervisor, consultant-expert, or experienced colleague. Determine if there are any potential legal concerns, and if consultation with an attorney is warranted.

3. Generate a list of all potential courses of action and solutions. Evaluate each option to identify potential consequences (beneficial and detrimental) of acting on the action/solution generated.

4. Implement the chosen course(s) of action. Document the entire situation, including this ethical decision making activity, appropriately.

5. Analyze the implementation of the chosen course(s) of action. Reflect on the outcome(s) of the course of action. Make adjustments if needed.

6. Re-assess if implementation was not successful, and begin decision-making process again.
• IX-7: Researchers who conduct research are responsible for their participants’ welfare. Researchers will exercise reasonable precautions throughout the study to avoid causing physical, intellectual, emotional or social harm to participants. Researchers take reasonable precautions to honor all commitments made to research participants.

• confidentiality – informed consent – dual relationships

• e-publishing, advertising, giving credit,
Self-Reflection

Why did you want to be a counselor?
What brought you to addictions?

Trouble Spots

- Enabling – shielding, excuse making
  - Rationalizing, repressing, projecting, taking on responsibility, deluded, apathy, tired, inadequacy, fear, guilt
  - Controlling, martyr (reaction to positive feedback)
  - Working on client issues keeps you from looking at your own issues – try to keep own issues hidden

- Degree of differentiation (on a scale of 1 to 10) – increased separation from family and decreased fusion to family
Common Ethical Concerns

- **Professional Boundaries**: rigid, flexible, non-existent
- **Communication Styles**: passive, aggressive, passive-aggressive, assertive; control issues
- **Conflict Resolution Style**: balanced, imbalanced; respectful or disrespectful
- **Taking sides**: overt and/or covert bias
- **Premature focus**: who/what is defining the problem

Final Thoughts: Risk Management

- It is not possible for any Code of Ethics to cover every situation a Provider will encounter.
- Many situations are not black & white events – there is a great deal of gray area.
- We can never blame the client or others for harm we have caused.
- We must proactively be engaged in ongoing self-supervision/self-monitoring and harm reduction/risk management.
Risk Management

- Know all applicable Code of Ethics related to your practice and scope of competency.
- Maintain appropriate clinical supervision – while seeking licensure/certification and afterwards.
- Seek expert consultation as needed.
- Participate in professional development opportunities as frequently as possible.
- Know your biases & limitations and keep them in check.
- Seek personal counseling to address impairment and areas of transference.

Legal Compliance

- Know your Scope of License
- Know the privacy rules that apply
  - HIPAA
  - 42 CFR Part 2
- Maintain appropriate documentation
  - Informed consent
  - Disclosure statement
  - Client acknowledgements
  - ROI
- Maintain appropriate policies
  - Conflict of interest
  - HIPAA
  - 42 CFR Part 2
- Seek legal counsel for potential issues
Thank you!!!