

Re-Licensure Ethics for Social Work, Alcohol and Drug Counselors, and Other Counselor Professions

Operation Unite-RHOP
2021 Virtual Provider Education
Summit

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Disclaimer

- The information provided in this training is for educational purposes only. Clinical consultation, legal advice, or any other service will not be provided during the training and should be sought from outside resources.

Agenda

- Welcome and Introductions
- What does it mean to be Ethical
- Examples of Unethical Behavior
- 201 KAR 35:030 Code of Ethics for ADCs and 201 KAR 23: 080 for Social Workers
- Counselor Burnout
- Case Examples Along the Way!

Ethics????

- What's the big deal about Ethics??

Ethical Principles

- **Beneficence-It is the action that is done for the benefit of others. Beneficent actions can be taken to help prevent or remove harms or to simply improve the situation of others.**
- **Non-maleficence-To do no harm. Refrain from providing ineffective treatment. Not do anything that would purposely harm a client.**

Most Clinical Professions Have Them

- NASW Ethical Principles:
- Service-Help Those in Need
- Social Justice-Challenges social injustice
- Dignity and Worth of the Person-Respect their inherent integrity
- Importance of Human Relationships-Recognizes this.
- Integrity-Acts in a trustworthy manner.
Competence-Practices within established areas of competence. (NASW, 1999).

Professional Counselors

- A Professional Counselor shall not exploit the trust or dependency of a client:
- Engage in a dual relationship with a client that might:
 - Impair professional judgment
 - Incur a risk of exploitation of the client
 - Otherwise violate a provision of this administrative regulation.

Unethical Behavior

Practitioners who are unaware or misinformed of ethical standards.

Offer treatment outside the scope of their practice.

Display insensitivity to the needs of others or to situational dynamics.

Exploit clients by putting their own needs first.

Act irresponsibly due to stress, laziness, non-awareness, or inattention.

Unethical Behavior

- React with vengeance against clients for perceived harm.
- Experience burn-out or other emotional impairment.
- Reveal interpersonal boundary issues. Are self-serving.
- Generally, are ethical but occasionally blunder resulting from oversight or distraction. (Koocher and Keith-Spiegel, 2008).

Informed Consent

- The essence of informed consent is designed to anticipate questions of reasonable clients thus preventing future misunderstanding and frustration yielding a culture of safety. (Knapp and VanderCreek, 2006). “Clients may be more favorably disposed to therapists who take the time and effort to provide (informed consent) information”. (Sullivan, Martin, and Handelsman, 1993)

Informed Consent

- **A counselor shall obtain informed consent from the client or his legal guardian in writing to provide a counseling service. To obtain informed consent, a counselor shall inform the client of the following:**
- **The client's condition.**
- **The recommended counseling service.**
- **Reasonable expectations of the benefit of the service.**
- **Possible foreseeable risks or negative consequences.**
- **Possible alternative services and right to refuse.**
- **A social worker shall inform the client of the social worker's duties and responsibilities to a third party if a third party has referred the client and has a continuing interest in the client's participation in a service plan**

Potential Legal Concerns

- Providing a guarantee of an outcome.
- Offering a guarantee of privacy without exceptions.
- Failure to include HIPAA elements.
- Agreeing to a fee that is changed later
- Touching a client without implied or actual permission.
- Misrepresenting one's credentials
- Failure to indicate the nature of therapy.
- Failure to warn client about possible stigma
- (Remley and Herlihy, 2007).

Code of Ethical Conduct

201 KAR 23:080

➤ **Responsibility to Clients:**

- A social worker shall promote the well-being of a client and, if required by law, the safety and well-being of an individual whose life might be affected by the client's behavior or circumstances.
- A social worker shall not illegally discriminate against an individual.
- A social worker shall not provide a service outside his/her scope of practice.

Responsibility to Clients

- A social worker shall notify a client of the regulatory authority of the board by displaying a written notice in public view in the social workers office or service area. It should contain:
 - Name
 - Type of License
 - License Number
 - Name, address, phone number of board.

What is a Client??

- **Section 1. Definitions. (1) "Client" means:**
- **(a) An individual, family, or group who directly receives social work services from a social worker;**
- **(b) A corporate entity or other organization if the contract is to provide a social work service of benefit directly to the corporate entity or organization; or**
- **(c) A legal guardian who is responsible for making decisions relative to the provision of services for a minor or legally incompetent adult.**
- **(2) A person identified as a client pursuant to subsection (1) of this definition shall be deemed to continue to be a client for a period of five (5) years following the last date of service rendered to the person.**
- **(3) "Dual relationship" means a social, business, or personal relationship between a social worker and a client that coexists with the professional-client relationship between the social worker and the client.**

Code of Ethical Conduct

201 KAR 35:030

- Section 1. Responsibility to Clients. (1) A credential holder shall:
 - (a) Advance and protect the welfare of the client;
 - (b) Respect the rights of a person seeking assistance; and
 - (c) Make reasonable efforts to ensure that services are used appropriately.
- (2) If an alcohol and drug peer support specialist is employed by a facility or credential holder from whom the peer support specialist received services as a client, the peer support specialist's supervisor shall clearly define the relationship and boundaries of the peer support specialist's employment position.
- (3) Regarding any client, including clients of the facility where the counselor provides alcohol and drug counseling or any other service, or where the peer support specialist provides services, a credential holder shall not:
 - (a) Discriminate against or refuse professional service to anyone on the basis of:
 - 1. Race;
 - 2. Gender;
 - 3. Age;
 - 4. Sexual preference or orientation;
 - 5. Religion; or
 - 6. National origin;

Responsibility to Clients

- (b) Exploit the trust and dependency of a client;
- (c) Engage in a dual relationship with a client, whether social, business, or personal, that may impair professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, unless:
 - 1. A dual relationship:
 - a. Cannot be avoided; and
 - b. Does not impair professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation; and

Responsibility to Clients

- 2. The counselor takes appropriate professional precautions to ensure that judgment is not impaired and exploitation of the client does not occur;
- (d) Engage in:
 - 1. A romantic or sexual relationship with a:
 - a. Current or former client;
 - b. Current or former client of the facility where the counselor provides alcohol and drug counseling; or
 - c. Member of a client's immediate family or client's romantic partner; or
 - 2. Sexual or other harassment, or exploitation, of a:
 - a. Client;
 - b. Student;
 - c. Trainee;
 - d. Supervisee;
 - e. Employee;
 - f. Colleague;
 - g. Research subject; or
 - h. Actual or potential witness or complainant in an investigation or ethical proceeding;

Responsibility to Clients

- (e) Use the professional relationship with a client to further an institutional or personal interest;
- (f) Continue a therapeutic relationship unless it is reasonably clear that the client is benefiting from the relationship;
- (g) Fail to assist a person in obtaining other therapeutic service if the counselor is unable or unwilling, for an appropriate reason, to provide professional help;
- (h) Abandon or neglect a client in treatment without making reasonable arrangements for the continuation of treatment;
- (i) Videotape, record, or permit third-party observation of a therapy session without having first obtained written informed consent from the client; or
- (j) Diagnose, treat, or advise on problems outside the recognized boundaries of competence.

Dual Relationships

- The process of therapy/counseling inherently makes this difficult.
- Separating our needs from the client's needs.
- “Role-blurring ethics charges constitute the majority of ethics complaints to licensing board actions” (Montgomery & Cupit, 1999).

Dual Relationship

- A social worker shall not enter into a dual relationship with a client if the relationship might:
 - -Impair the social worker's professional judgment.
 - -Incur the risk of exploitation of the client: or
 - -Otherwise violate a provision of this administrative regulation

Dual Relationships

- If a dual relationship cannot be avoided, and if it does not impair the social worker's professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, the social worker shall take the appropriate professional precautions to ensure that judgment is not impaired and exploitation does not occur.

Dual Relationships

- (4) A social worker shall not engage in sexual intimacy or contact with a client or former client.
- (5) A social worker shall not engage in a personal relationship or engage in sexual intimacy or contact with a member of a client's immediate family or an individual who is otherwise an intimate of the client.

A Word About Sexual Relationships

- From 1983-1992, thirteen states instituted legislation that made it a crime for mental health professionals to have sexual relationships with their clients (Kane, 1995).
- Sexual attraction to a client is somewhat common as evidenced by research indicating 70% to 95% of mental health professionals have been attracted to at least one client (Pope, 1994)

A Word About Sexual Relationships

- Sexual transgressions with clients emerge as the most frequent specific cause for disciplinary action (Kirkland, Kirkland, and Reaves, 2004).
- Between 22% and 65% of mental health professionals will encounter clients reporting sexual exploitation by a previous counselor (Welfel, 2006).

Dual Relationships

- A social worker shall not use his professional relationship with a client or former client to further his personal interest or gain.
- A social worker shall not enter into a professional-client relationship with a member of the social worker's immediate family, an intimate, or a personal friend unless this relationship does not pose a risk of harm to the client or to a member of the client's immediate family.

Dual Relationships

- A social worker shall be solely responsible for acting appropriately in regard to a relationship with a client or former client. A client or former client's initiation of a personal, sexual, or business relationship shall not justify, excuse, or provide a defense for a violation of this section.

Confidentiality

- **Section 2. Confidentiality. (1) A credential holder shall respect and guard the confidence of each individual client in any setting and through any means of communication.**
- **(2) A credential holder shall not disclose a client confidence except:**
- **(a) As mandated or permitted by law;**
- **(b) To prevent a clear and immediate danger to a person;**
- **(c) During the course of a civil, criminal, or disciplinary action arising from the counseling, at which the credential holder is a defendant; or**
- **(d) In accordance with the terms of a written informed consent agreement.**
- **(3) A credential holder may use client or clinical material in teaching, writing, and public presentations if:**
- **(a) Written informed consent has been obtained in accordance with subsection (2)(d) of this section; or**
- **(b) Appropriate steps have been taken to protect client identity and confidentiality.**
- **(4) A credential holder shall maintain a client's record for no less than seven (7) years from termination of services with the client.**
- **(5) A credential holder shall store or dispose of a client record so as to maintain confidentiality.**

Confidentiality

- (3) An alcohol and drug counselor may use client or clinical material in teaching, writing, and public presentations if:
 - (a) Written informed consent has been obtained in accordance with subsection (2)(d) of this section; or
 - (b) Appropriate steps have been taken to protect client identity and confidentiality.
- (4) An alcohol and drug counselor shall store or dispose of a client record so as to maintain confidentiality.

Confidentiality

- In his article, *Of Cows and Confidentiality*, George Heymont (2007) gives a chilling example of the possible consequences of a break down in the security of confidential information:
- In February 1995, a 13-year-old girl (whose mother worked in a hospital admissions office in Jacksonville, Florida) accessed the records of several patients who had recently been admitted to the hospital. As a practical joke, the teenager called the patients' families and informed them that those patients had tested positive for the HIV virus. After being told that she was HIV positive and had had a positive pregnancy test, one of the victims of this teenager's prank attempted suicide.

Professional Competence and Integrity

- **Section 4. Professional Competence and Integrity. (1) A credential holder shall maintain standards of professional competence and integrity and shall be subject to disciplinary action if:**
 - **(a) The board determines the credential holder has violated KRS Chapter 309 or 201 KAR Chapter 35 by an act that results in disciplinary action by another state's regulatory agency; or**
 - **(b) The credential holder:**
 - **1. Is impaired due to mental capacity or the abuse of alcohol or other substances which negatively impacts the practice of alcohol and drug counseling or peer support services;**
 - **2. Refuses to comply with an order issued by the board; or**
 - **3. Fails to cooperate with the board by not:**
 - **a. Furnishing in writing a complete explanation to a complaint filed with the board;**
 - **b. Appearing before the board at the time and place designated; or**
 - **c. Properly responding to a subpoena issued by the board.**
 - **(2) A credential holder who is aware of conduct by another credential holder that violates this code of ethics shall report that conduct to the Kentucky Board of Alcohol and Drug Counselors.**
 - **(3) A credential holder shall comply with all the policies and procedures of the facilities where a credential holder is employed. If there is conflict with the policies or procedures of the facility and this code of ethics, the credential holder shall report this conflict to the Kentucky Board of Alcohol and Drug Counselors.**

Responsibility to a Student or Supervisee

Section 5. Responsibility to a Student or Supervisee. A credential holder shall:

- (1) Be aware of his influential position with respect to a student or supervisee;
- (2) Avoid exploiting the trust and dependency of a student or supervisee;
- (3) Avoid a social, business, personal, or other dual relationship that could:
 - (a) Impair professional judgment; and
 - (b) Increase the risk of exploitation;
- (4) Take appropriate precautions to ensure that judgment is not impaired and to prevent exploitation if a dual relationship cannot be avoided;
- (5) Not provide counseling to a:
 - (a) Student;
 - (b) Employee; or
 - (c) Supervisee;

Responsibility to a Student or Supervisee

- (6) Not engage in sexual intimacy or contact with a:
 - (a) Student; or
 - (b) Supervisee;
- (7) Not permit a student or supervisee to perform or represent oneself as competent to perform a professional service beyond his level of:
 - (a) Training;
 - (b) Experience; or
 - (c) Competence;
- (8) Not disclose the confidence of a student or supervisee unless:
 - (a) Permitted or mandated by law;
 - (b) It is necessary to prevent a clear and immediate danger to a person;
 - (c) During the course of a civil, criminal, or disciplinary action arising from the supervision, at which the credential holder is a defendant;
 - (d) In an educational or training setting, of which there are multiple supervisors or professional colleagues who share responsibility for the training of the supervisee; or
 - (e) In accordance with the terms of a written informed consent agreement.

Responsibility to a Student or Supervisee

- (8) Not disclose the confidence of a student or supervisee unless:
 - (a) Permitted or mandated by law;
 - (b) It is necessary to prevent a clear and immediate danger to a person;
 - (c) During the course of a civil, criminal, or disciplinary action arising from the supervision, at which the alcohol and drug counselor is a defendant;
 - (d) In an educational or training setting, of which there are multiple supervisors or professional colleagues who share responsibility for the training of the supervisee;
 - (e) In accordance with the terms of a written informed consent agreement.

Financial Arrangements

- Section 7. Financial Arrangements. A credential holder shall:
 - (1) Not charge an excessive fee for service;
 - (2) Disclose fees to a client and supervisee at the beginning of service;
 - (3) Make financial arrangements with a client, third-party payor, or supervisee that:
 - (a) Are reasonably understandable; and
 - (b) Conform to accepted professional practices;
 - (4) Not offer or accept compensation for a referral of a client;
 - (5) Represent facts truthfully to a client, third-party payor, or supervisee regarding services rendered; and
 - (6) Not trade services to the client in exchange for goods or services provided by or on behalf of the client.

Advertising

- Section 8. Advertising. (1) A credential holder shall:
 - (a) Accurately represent education, training, and experience relevant to the practice of professional alcohol and drug counseling;
 - (b) Not use professional identification that includes a statement or claim that is false, fraudulent, misleading, or deceptive, including the following:
 - 1. A business card;
 - 2. An office sign;
 - 3. Letterhead;
 - 4. Telephone or association directory listing; or
 - 5. Webpage or social media.
- (2) A statement shall be considered false, fraudulent, misleading, or deceptive if it:
 - (a) Contains a material misrepresentation of fact;
 - (b) Is intended to or is likely to create an unjustified expectation; or
 - (c) Deletes a material fact or information.

Environment

- Section 9. Environment. A credential holder shall provide a safe, functional environment in which to offer alcohol and drug counseling services. This shall include the following:
 - (1) Allowance for privacy and confidentiality; and
 - (2) Compliance with any other health and safety requirement according to local, state, and federal agencies.

Documentation

- Section 10. Documentation.
- An alcohol and drug counselor shall accurately document activity with a client in a timely manner.

Client Records

- (4) A credential holder shall maintain a client's record for no less than seven (7) years from termination of services with the client.

Client Records

- A social Worker shall not deceptively alter a client record
- A social worker shall retain and secure a client record in a manner that maintains confidentiality and, if authorized by law shall, shall destroy a record in a manner that ensures confidentiality.
- A social worker shall maintain a client record for at least five (5) years from the date of termination of a service, or until a client reaches the age of twenty (20)years, whichever is longer.

Inter-Professional Relationships

- Section 11. Inter-professional Relationships. A credential holder shall treat a colleague with respect, courtesy, and fairness and shall afford the same professional courtesy to other professionals.
- (1) A credential holder shall not offer professional service to a client in counseling with another professional unless efforts have been made to inform the other professional, or to establish collaborative treatment, or until after the termination of the client's relationship with the other professional.
- (2) A credential holder shall cooperate with a duly constituted professional ethics committee and promptly supply necessary information unless constrained by the demands of confidentiality. (25 Ky.R. 947; Am. 2128; eff. 3-17-1999.; 42 Ky.R. 1305; 2037; eff. 2-5-2016.)

Concept of Boundaries

- A sense of personal identity and definition that has consistency and cohesion over time.
- This remains constant regardless of emotional ups and downs or external pressure.
- The framework within which the worker-client relationship occurs.
- Provides a system of limit setting.
- The line between self of client and self of worker. (Vick, Vanderlick, & Merricks, 2004)

Boundary Issues

- Social workers and Counselors often encounter circumstances that pose potential or actual boundary issues.
- Some dual relationships however are unavoidable!!
- Is there a difference between Boundary Violations and Boundary Crossings??

Boundary Crossing vs. Boundary Violation

- Boundary Violation is exploitive or manipulative (and ALWAYS unethical). Examples would be having sex with a client or influence a client to put you in her will. Conflict of interest is a key concept.
- Boundary Crossings are not intentionally coercive or manipulative. Examples would be self-disclosure in therapy or attending the same church as a client (B. Jones, MSW, LCSW, University of Kentucky)

What About These?

- Bartering for goods and services?
- Establishing a friendship?
- Accepting gifts?
- Is it ok to have clients as Facebook friends, follow on Twitter, etc?
- Should you text your clients?
- On-line therapy and/or skyping?

Ethical And Legal Issues

- Dual Relationships and Boundary Issues:
- “The most common basis for legal action against counselors (20 % of claims) and the most frequently heard complaint by certification boards against counselors (35%) is some form of boundary violation or sexual impropriety.” (Falvey, 2002b)

Questions to Ask?

- Is this in my client's best interest?
- Whose needs are being served?
- How would I feel telling a colleague about this?
- How would this be viewed by the client's family or significant other?
- Does this client mean something "special" to me?
- Am I taking advantage of the client?
- Does this action benefit me rather than the client?

How do we Minimize Risk??

- Be alert to potential or actual conflicts of interest.
- Maintain supervision or consultation relationships.
- Be aware that isolation is often a major factor in ethical violations.
- Meet your personal needs in other areas of your life.
- Relationship should focus on client at all times.
- A clear understanding of ethics/boundaries.
- (Vick, Vanderlick, & Merricks, 2004)

Exploitation of Clients

- Use of professional relationship to promote or advance our emotional, financial, sexual, religious, or personal needs
- Stems from the inherent power differential and the ability we have to exert influence on the client

A Closer Look at Exploitation

- Client may actually initiate and be gratified by the exploitation- they may enjoy feeling 'special' or being 'helpful'
- Can be subtle and vary from promoting excessive dependency to avoiding confrontation because we enjoy the adoration of our clients
- Using information learned professionally from the client for personal gain

A Word About Termination

- When therapy has been successful, when we believe they would benefit from a different practitioner, if we believe continuing in therapy may be harmful.
- Do we talk about termination throughout their care??
- “Social workers should terminate services to clients and professional relationships with them when such services and relationships are no longer required or no longer serve the clients’ needs or interests” (NASW, 1999).
- No Shows/FTK.....

Duty to Report

➤ Section 14. Duty to Report. A social worker who has personal knowledge of a violation of the code of ethical conduct shall report to the board the name of the offending social worker and the nature of the ethical violation. The social worker shall not report the name of the client or client identifying information unless the client has given informed consent to him. (3 Ky.R. 266; eff. 10-6-76; Am. 9 Ky.R. 732; eff. 1-6-83; 23 Ky.R. 4206; 24 Ky.R. 864; eff. 10-13-97; 27 Ky.R. 198; 741; eff. 9-11-2000.)

A Step-by-Step Model for Making Ethical Decisions

- Identify the Problem
- Apply a Code of Ethics
- Determine the Nature and Dimensions of the Dilemma
- Consider all Possible Options
- Decide on a Course of Action
- Implement the Course of Action
- Evaluate the Decision

Counselor Impairment and Burnout

- Therapist impairment is a deterioration of professional abilities from a previous competent level (Kutz, 1986).
- Impairment is often caused by personal vulnerabilities such as burnout, drug or alcohol abuse, depression, loneliness, etc., and it can lead to unethical behavior, defined as causing injury or harm to a consumer during performance of a professional role (Stromberg & Dellinger, 1993).

Common Symptoms of Burnout

- 1) Deterioration in personal relationships, for example marital concerns and family dysfunction
- 2) Isolation and withdrawal from others
- 3) Sensing disillusionment with the profession
- 4) Exhibiting emotional distance during therapy sessions
- 5) Alcohol and/or drug abuse
- 6) Displaying changes in work style such as tardiness and absenteeism.
- 7) Becoming moody, depressed or anxious.,
- 8) Demonstrating procedural mistakes and poor record keeping (Remley and Herlihey, 2007).

Questions, Comments, Concerns??

- Thank You!!
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