

Benchmark: Ethical Vignette

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I have no known conflict of interest to disclose.

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Abstract

In this ethical vignette, the author takes a video scenario provided and analyzes it according to the standards and categories provided. The video scenario showed an accidental breach of privacy by a receptionist to the husband of a client; this situation becomes more complicated when the receptionist finds that the couple are going through a divorce and the breach could be used against the wife. These categories include analyzing the scenario according to ACA ethical guidelines, including examining applicable ACA codes, specifically the ACA code covering client confidentiality. The scenario was also examined in light of the applicable state codes, specifically the West Virginia state codes pertaining to mental health guidelines, which outlined the privacy requirement for a client of a mental health institution. The author also examined the nature of the dilemma, specifically the counselling moral principles of fidelity and nonmaleficence; fidelity had been broken through the breach and nonmaleficence was also broken but could guide the potential repair. Federal laws were also examined, and the Privacy Act of 1974 was considered as a potential violation. Finally, the author considered a potential course of action for the counselor and the practice; this included acknowledging and documenting the potential breach of privacy, remedying the breach by training and auditing staff, and potentially preparing a statement of mental fitness for the wife if the need arise.

Keywords: *confidentiality, privacy, violation, breach, ethics*

Identify the Problem

In the video, “A Helpful Receptionist,” the accidental breach of privacy by the receptionist. In the video, a man claiming to be “John Jones,” a supposed husband of a client, asks the receptionist to let his wife know that she needs to pick up the kids, as he has a sudden work trip. The receptionist agrees to let his wife know. A minute later, his wife, Amy, walks out from her session, and the receptionist gives her the message. The wife immediately becomes concerned, as she explains to the receptionist that they are in a nasty divorce, and she is utterly afraid that now that he knows she’s in counseling, he may use this information against her when it comes time to discuss custody of their children. The problem here is that the receptionist inadvertently admitted that the wife was in counseling by agreeing to give her the message; this information may cause her to lose custody of the children. It should be noted, however, that throughout the exchange between the husband and receptionist, the wife’s name is never mentioned, so either the receptionist knew the husband, or assumed his wife was there without truly knowing the information (and thus possibly giving out incorrect information). This is an ethical, professional, and a potential legal problem. This is an ethical problem in that there was a breach of confidential information: the identity of one of the clients. Secondly, this is also a professional problem in that clerical staff should be trained to identify potential confidentiality slips and prevent them. Finally, this is a potential legal problem on several different facets. There is a potential HIPAA violation that could be filed for, and the wife could potentially file suit against the practice; because of this slip, the wife could potentially lose custody of her children; the therapist may now be called upon to give a statement about the wife’s mental fitness.

Applicable ACA Codes

Because this is clearly a clinical mental health practice in that the wife is attending counseling without her children, the ASCA codes are not included. The applicable ACA codes were ACA B.1.c, which states that counselor will strive to protect the client's confidential information to the furthest extent possible, and any disclosure must be carefully considered and as minimal as possible (2014).

Applicable State Codes/or Mental Health Laws

In this situation, there were West Virginia state codes regarding mental health institutions that did pertain to a breach of information. The applicable state code was West Virginia Law Section 27-3-1-a (2022). This law states that information obtained while treating or evaluating a client is to remain confidential; this includes the fact that the individual is or has been a client at that specific practice. This information is not to be disclosed by anyone to is assisting in any way with the client's treatment. It can be argued that by assisting in clerical work, the receptionist is in some way involved in the client's treatment; thus, the receptionist inadvertent breach of confidentiality that Amy was a current client could be considered a breaking of WV Code 27-3-1-a (2022).

Nature and Dimensions of Dilemma

The moral principles that apply to this case are fidelity and nonmaleficence. This case involves the moral counseling principle of fidelity in that when the client and the counselor entered into the therapeutic relationship, the counselor was ethically and morally bound to fidelity towards the client. The ACA defines fidelity in the counseling relationship as fulfilling commitments made to the client and maintaining trust through their actions pertaining to the

relationship (2014). Fidelity was broken within the counseling relationship when there was a breach of confidential information, and thus a breach of trust. When the counseling relationship began, there should have been an informed consent form, which should have outlined that the client's privacy would be kept, with an exception for specific circumstances. This breach was not one of the generally known legal or ethical exceptions, and thus the commitment to privacy was not fulfilled. Even though it was not the counselor specifically that broke fidelity, the practice, including the receptionist are a team and the feeling of broken trust would likely extend to all of the team. Another moral principle that applies is the principle of nonmaleficence; this principle means to avoid harm, and harm was done (2014). Although this situation seemed to be an accidental breach of information, nonmaleficence should have been applied with training to prevent breaches. Nonmaleficence can also be applied to the potential remedying of the problem.

Applicable Federal Mental Health Laws

The applicable mental health law that was found was the Privacy Act of 1974, which outlines that within health practices, there must be no disclosure of information to third parties without consent. No consent was given, even previously, by Amy that the receptionist might acknowledge in one way or another that she was attending counseling (2021).

Potential Course of Action

A potential course of action may involve several steps. Initially, the counselor must identify the problem, ethical dilemmas, etc. Then the counselor may want to consult with an colleagues, lawyers, or supervisors as well. According to the ACA's guide on making ethically solving problems, the counselor needs to create all potential course of action and then identify the best one (Miller & Davis, 2014). One of the potential courses of action is to identify if this

breach is a HIPAA violation. The HIPAA protected information covers both clinicians and administrative staff, and that confidential information covers the patient's profile and any follow-up appointments (Tariq & Hackert, 2021). Additionally, HIPAA covers practices that transmit claims electronically; although it is not certain that this specific practice does, it seems likely. This seems as though this may be a HIPPA violation, thus it may need to be reported. The counselor must contact a supervisor or the like to see if they may be covered if Amy may file a complaint. Then it must be determined if privacy rules are being documented and distributed (Vanderpool, 2019). The receptionist needs to be notified how she breached the client's privacy, and the potential consequences that may follow. Thus, the practice needs to continue to prevent this action from happening by continuing education with their staff and regularly auditing them (Vanderpool, 2019). Finally, the counselor must speak to Amy as to how the breach of confidentiality affected her, and how she wants to proceed. Because Amy was worried that her husband may use the fact that she is attending counseling as a case for her unfitness to have custody over their children, the counselor may draw up a statement for Amy stating her mental fitness and recommending that she maintain child custody. The courts highly esteem statement by mental health providers in child custody cases (Bowermaster, 2002). This is assuming that the counselor esteems Amy to be mentally fit, of course. Throughout all of it, the counselor needs to keep up with Amy as to how the breach may affect her and work through the problem alongside her.

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ATTITUDES AND BELIEFS REFLECTION

Benchmark: Attitudes and Beliefs Reflection

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ATTITUDES AND BELIEFS REFLECTION

Abstract

This reflection covers the author's discomfort with scenarios involving the client's values on marriage, family, and abortion that conflict with the author's values. The author explores what influential factors were present when she came to hold her own personal values, such as context, people, and her own thinking and decisions. Finally, the author looks at scholarly resources that pertain to value conflicts and the ethics surrounding the various ways of resolving them. The resources seem to conclude that value bracketing is the most ethical form of resolving value conflicts and give a practical application on how to carry out value bracketing from a famous therapy session used for teaching.

Keywords: personal values, beliefs, value conflicts, value imposition

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Introduction

Within the counseling profession, there are many obstacles that must be thought through before the counselor begins in the professional field. One of these obstacles is conflicting values, when the values of the client and the counselor do not align and can potentially interfere with the counseling goals. However, the counselor is ethically responsible to put the needs of the client foremost, and thus regulate their own values so that they may further those of the client. This reflection covers the potential value conflicts that the author may experience, the reasoning behind why these values are held, as well as a discussion of the action that needs taken, so that the I will be able to counsel effectively in the future.

Reaction

While completing the Benchmark assessment, there were several different scenarios that made me hesitant to consider counseling. As I pondered whether or not I could counsel those cases, I felt that if those people came into counseling, there must be some painful incongruence within their thinking. As I thought this, I realized that I would hope to change the situation based on what I personally thought should happen, yet in contrast, my job as a counselor would be to facilitate time for the client to figure out what is best for themselves. So even in my struggle to figure out whether I could counsel an individual, I was unable to objectively evaluate such. For example, there were several scenarios from the assignment that I found myself wanting to change the client's mind, but a prominent one was where a woman wanted to process her feelings around her decision to go through with an abortion. I found this one difficult, in that I would want to impose my personal value that abortion is wrong upon her. My personal conviction is that life begins at conception and that any mechanical or medically induced process to terminate that process is ending a human life.

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Although there were several similar scenarios in the assignment, I think that I would be uncomfortable with counseling a homosexual couple wanting to adopt a child. Although I want children to be adopted and given at basic needs such as a warm shelter, food, and people who love them, counseling them on adopting a child would involve discussion on a family unit and how it would be different from anything that child has probably ever experienced. Yet this is in opposition to my personal belief that the family unit is composed of a married father and mother and children, such as God created from the very beginning with Adam and Eve: He told them to have offspring, thus establishing the family unit (English Standard Version, 2011, Genesis 1:28). I think that it would be difficult to counsel that couple without imposing my convictions upon them.

Finally, I would have difficulty counseling married couple while the wife was continuing an affair. There are several scenarios with this theme of sexual relations outside of a given boundary, with which I would have difficulty counseling. This scenario in particular would be difficult for me to counsel, because I believe that marriage is a God-ordained covenant between exclusively one male and one female. My personal conviction is also that, even if the married couple are not Christians, a world of hurt and trouble can come from their adultery, even if they do not hold each other and marriage to a Biblical standard.

Response

My personal value behind my disconcertion on counseling a mother in processing her feeling surrounding abortion came from my early childhood. As an elementary and even middle school aged child, my family was very involved with our conservative church; one organization that this church was very involved with was a pregnancy support center that offered care for mothers and stood in opposition to abortion as a viable option. Around age 10, I was fundraising

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for this organization and volunteering with advertisement, such as riding in their Christmas parade float. It was something that my family discussed. This ideal that abortion was wrong was ingrained in me by the culture in which I lived. However, when I went to college, I realized that decisions to keep or abort a child are often filled with pain, and the decisions are not always straightforward and involve many variables. Even so, I could offer much sympathy and understanding to this woman who has decided to abort her child, but I don't think that I could support her decision to do so.

For my personal values on family and same-sex romantic relationship as a foundation for a family, I was first introduced to those values at a very young age. I was raised in a conservative Christian household, and I remember one afternoon as we left church, my mom explained to my siblings and I the legalization of same-sex marriage in New York. That happened when I was about nine years old, and it was my mom explaining that same-sex relationships of that manner were wrong, and that biblical marriage was between a man and a woman. Additionally, I remember hearing and reading a lot of very pro-biblical family material from such organizations as "Focus on the Family." I've heard a lot from my dad on the family as the building block of society, and that the disintegration of the family leads to the disintegration of society. A lot of these values were presented and pushed through my parents and the Christian culture in which I was deeply ingrained as a young child. However, when I was in high school, I explored these values voluntarily by writing research papers searching for a biblical answer on same-sex relations, as well as reading about a Biblical view of society, which promotes a family unit of a husband and wife. Even though I was presented these values through others, I came to hold them as my own personal convictions.

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Finally, I would find difficulty counseling a woman who came in for couples' counseling with her husband while maintaining an affair. It contradicts my personal belief that the Bible is true and accurate when it declares that marriage should be exclusively between one man and one woman, and that any sexual relations outside of that covenant of marriage is adultery (English Standard Version, 2011, Exodus 20:14, 1 Corinthians 6:18). I would have a very hard time supporting the client if it meant supporting her keeping, maintaining, and strengthening that affair. Additionally, my emotions would become involved, as I am married and would imagine the pain if that had happened to my marriage. These values are deeply ingrained within me, and the way that I view the world.

Action

Thus, the issue then becomes how to deal with these various value conflicts. There are varying theories and methods of remedying this issue that have been used in the past. One method of resolving this conflict that has been used in the past is referring patients to other counselors who may not have the same value conflicts. This can be extremely tricky, however; this is seen in *Walden vs Center for Disease Control & Prevention*, where Walden referred her client to another counselor due to her religious beliefs conflicting with her client's desire to receive same-sex relationship counseling (Herlihy, Hermann, Greden, 2014). When referring her client, Walden disclosed her religious reasons for her referral; this caused the U.S. District Court to rule against her for the way in which she addressed the issue (Herlihy, et al., 2014). Additionally, the American Counseling Association (ACA) states that to refer pending or current clients due to a conflict in the counselor's personal beliefs is unethical (ACA, 2014, pg. 6). Thus, counselors, such as I, must consider other ways to resolve the inevitable issue of value conflicts. The option that the ACA recommends counselors take to avoid imposing their own values on

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their clients is one of value bracketing (McWhorter, 2019). Value bracketing is the practice of removing one's own personal values from the values that regulate one's professional work; this keeps the personal values intact, but separate (McWhorter, 2019). Value bracketing is essential to maintain the client's autonomy to make their own choices and goals with their lives, which a very prominent value in the professional counseling world, specifically according to ACA's ethical guidelines (McWhorter, 2019). Additionally, the counselor creating a supportive environment that is sensitive to a client's potential feelings of rejection is key (McWhorter, 2019). This brings forth the question: how can I, or a counselor in general, be supportive of the client and their goals when the client desires to make a decision that is in conflict with the counselor's personal values? This is a delicate issue: one of the therapist's own values and the client's values, one of the power differentials between the client and professional, and one that holds in balance the betterment or detriment of the client. The relationship between the professional counselor and their client is one that maintains a difference of power; this is seen in the fact that the client must be vulnerable for the session to be effective, and the counselor is a trained professional and there is a general perception of expertise (Francis & Dugger, 2014). Because there is a power differential, there is an opportunity for abuse of power, which may include the counselor imposing their own values onto the client. Thus, a need for value bracketing. Within value bracketing, the counselor must exercise much self-monitoring and regulation so that countertransference is not occurring; this is an example of passively imposing values (McWhorter, 2019). If the counselor fails to do such, it could result in values convergence (Bonow, & Folette, 2009). Values convergence is where the client identifies with the therapist's values as opposed to the values they held prior to the counseling relationship began. Furthermore, values convergence is often associated with rates of improvement according to

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counselor ratings, but not according to client ratings; this could indicate that the counselor's assessment of their client is shaped more by their values than the client's goals (Bonow & Folette, 2009). This disrespects the client's autonomy. On the other hand, self-monitoring to avoid values convergence is effectively putting the client's needs, which are the central focus, ahead of the counselor's own needs (McWhorter, 2019). Therefore, is there a possible way to calm counselor's consciences and still put the client's needs ahead of their own? One way may be seen in the famous counseling training video featuring Carl Rogers and a woman named Gloria. In the video, Gloria reveals that she has been having sexual relations with men to whom she isn't married, and she is seeking a way to handle the guilt she is having associated with these relations (Francis & Dugger, 2014). In such turmoil, she asks Rogers directly if he thinks what she is doing is wrong (Francis & Dugger, 2014). Here she has placed herself in a very vulnerable spot, completely open to Rogers' possible rejection of her behavior and imposition of his values (Francis & Dugger, 2014). However, Rogers doesn't declare what he thinks or what his values are; instead, he asks her what she thinks of her own actions, he asks her about her own values (Francis & Dugger, 2014). In this way, Rogers is not imposing his values on his client or abusing his power as the therapist; rather, he respects Gloria's autonomy to make decisions, and he respects her values. In the same way, he is not affirming her choice either, leaving room for his own values if there is a possibility they may oppose her values. Thus, this may be a way in which counselors, such as myself, may ethically respond to value conflicts between the client's values and goals and the counselor's own personal values.

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