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End-of-Life Issues and the Supervisory Relationship

Exploring 2007 American Counseling Association's Doctoral Graduate Student Ethics Case Study Competition.

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A client wishing to exploring end-of-life issues and the option of suicide may present as a complex stressful, ethical, legal case for a counselor (Crawford, 1999). A study by Rogers, Gueulette, Abbey-Hines, Carney, and Werth (2001) found that mental health professionals experience a very high rate of interaction with clients who are expressing suicidal ideation and/or completion (p. 369). Their research suggests that end-of-life issues will be encountered by most mental health professionals during their career. The Doctoral Student Case for the 2007 American Counseling Association's (ACA) Graduate Student Ethics Case Study Competition was titled End-of-Life Issues and The Supervisory Relationship. This case presents a counselor, Martha, who has completed her master's degree and is in the process of completing her two years post-graduate counseling work under the supervision of Bonnie. Martha has a 58 year-old female client who has been diagnosed with terminal cancer and has been given six months to live. Her doctor referred her to counseling because she has been experiencing depressive symptoms. This client wants Martha to provide counseling and support as she considers ending her life. She is Hopi and believes that death is not something to be feared, and believes that Western medicine interferes with the natural process of death. Martha feels ethically and morally responsible to provide counseling and support for her client's exploration of a decision about choosing whether or not to end her life own life. Martha does not feel that her client's symptoms of depression are severe enough for a diagnosis of Major Depressive Disorder. The client's husband has called Martha and threatened to sue her if she assists his wife with ending her life. Martha's supervisor, Bonnie, feels very uncomfortable with Martha, her supervisee, accepting this case. Bonnie has not had much personal experience in end-of-life care, but feels that this client is considering ending her

life due to a Major Depressive Disorder. Bonnie feels that Martha must take action by warning the client's doctor and family of the client's decision to end her own life. Bonnie feels that she personally is uncomfortable taking this case because of her own personal moral and ethical beliefs regarding suicide. Bonnie feels that Martha must stop seeing this client and refer her to another counselor.

Ethical Decision Making

Ethical decisions typically involve a counselor asking him or herself two important types of questions. The first question being: what should I do (principle ethics); and the second question: who should I be (virtue ethics). The negotiation between the answers to these questions can be difficult, as the answer to one question sometimes will conflict with the answer to the other questions. To make matters even more difficult, a third type of ethical reasoning exists and is known as aspirational ethics and refers to an individual aspiring to achieve the highest standards and intents of a code of ethics.

One way a counselor can explore these questions and explore the ethical dilemmas that arise while working with clients is to use an ethical decision making model. Forester-Miller and Davis' (1996) *Practitioner's Guide to Ethical Decision Making* (PGEDM) is such model. Steps in this model include:

1. Identifying the problem.
2. Applying the *ACA Code of Ethics* (2005).
3. Determining the nature and dimensions of the dilemma.
4. Generating potential courses of action.
5. Considering the potential consequences of all options and choosing a course of action.
6. Evaluating the selected course of action.
7. Implementing the course of action.

Identify the Problem

The first step in exploring an ethical dilemma is to identify the problem and decide if it is an ethical, legal, or clinical issue. There are several dilemmas in the above case. One problem results when Martha's client tells her that she is considering ending her life. Martha has an ethical responsibility to protect her client from harm. This raises a question for the counselor to consider: Is her client making an imminent threat of self-harm? It appears that her client desires exploring the possibility of ending her life yet this is not indicative of immediate plans for suicide. However, what are Martha's responsibilities as the counselor? Martha has the responsibility to provide her clients beneficent counseling with full autonomy, yet she also must not cause her harm.

Another valid question for consideration: Is the exploration of a decision to end life based on a mental disorder or is this exploration a competent rational decision? In this case, there appears to be some discrepancy around this issue because Martha does not believe her client's depressive symptoms are severe enough to warrant a diagnosis of Major Depressive Disorder; yet Martha's supervisor believes that the client's wish to end her life is due to her depressive symptoms. This discrepancy presents an additional dilemma as there is now disagreement between the counselor and the supervisor. This

disagreement is severe enough that Martha's supervisor wants to transfer this case to another clinician.

Another problem that is present in this case is the threatening phone call from the client's husband. The husband claims that he will sue Martha if she agrees to explore end-of-life issues with his wife. Although his threats do not dictate Martha's counseling processes, these threats are certainly stressful and worrisome for Martha. In addition, Martha is wondering if she does have an obligation to break confidentiality if she begins to feel that her client has decided to commit suicide. Although Martha does have this looming concern, she is aware of her client's multicultural heritage and her spiritual beliefs. Although Martha holds different beliefs, she wants to respect and uphold the beliefs of her clients. Martha is wondering to what extent her clients Hopi cultural and beliefs factor into this case.

Apply the ACA Code of Ethics

The second step to Forester-Miller and Davis's (1996) PGEDM is to apply the ACA Code of Ethics (ACA, 2005). Kocet (2006) described a code of ethics as a way for professional organizations and associations to communicate standards of practice and to express the shared values of that profession. He stated that the two main components of an ethical code are to outline professional behaviors that promote ethical reflection and clarification and to provide an outline that promotes competency and efficacy (p. 228). In this case, the following 2005 ACA Codes of Ethics are applicable:

- A.9.a. End-of-Life Care for Terminally Ill Clients
- A.9.b. Counselor Competency, Choice, and Referral
- A.9.c. Confidentiality
- B.1.a. Multicultural Diversity Considerations
- B.2.d. Minimal Disclosure
- C.2.a. Boundaries of Competence
- C.2.e. Consultation on Ethical Obligations
- F.1.a. Client Welfare
- F.5.b Limitation
- H.2.d. Consultation

Determining the Nature and Dimensions of the Dilemma

Consider the moral principles. Werth (2002) examined how Kitchener utilized the five moral principles (autonomy, nonmaleficence, beneficence, justice, and fidelity) to explore end-of-life situations. In order to follow the principle of autonomy, Martha will have to respect her client's ability to make her own decision and act according to her own values. To follow the principles of nonmaleficence and beneficence, Martha will have to assess whether her client's desire to explore end-of-life options is rational. It will be important for Martha to thoroughly assess the level of depression present in her patient and fully assess how any depressive symptoms may be impacting the client's decision-making process. With consideration to fidelity, Martha does not appear to have a significant reason to break confidentiality at this time, but it will be important for Martha to explore with her client how, when, and with whom information is to be shared. When giving consideration to the principle of justice, Martha needs to assess her own personal

values and be aware of any prejudices she may have about the topic of suicide and death and dying.

Review professional literature. Werth and Rogers (2005) discussed conduct for counselors working with clients facing end-of-life issues. They proposed that a counselor's duty to protect is a misunderstood concept based on the court case of *Tarasoff v. Regents of the University of California* (1974, 1976). This case actually stipulated that a counselor has a duty to warn and did not specify a specific intervention be used. Currently counselor standard of care stipulates that action must be taken if a counselor believes that a client has the potential to harm him or herself or another. Werth and Rogers proposed that a more appropriate use of the concept of duty to protect would be to assess whether clients are acting with impaired judgment. They asserted,

...conducting a satisfactory evaluation of the person's judgment would constitute an acceptable intervention under the duty to protect...if a person's ability to make judgments about various decision is not impaired, then we do not believe that a counselor has the obligation, or the right, to interfere with the individual following through with a given decision, even if the result is death. (p. 16)

For Martha, this would imply that she does not need to immediately break her client's confidentiality, but that she may want to complete a thorough psychological assessment of her client to determine whether or not she is impaired. This would be considered taking action to protect her client. However, if Martha finds that her client is impaired, she will need to re-evaluate the action she takes to protect her client.

Even so, Martha is still not under an obligation to have her client hospitalized. Werth (2002) found that, "There are no court cases or state statutes that interfere with a clinician's ability to frankly and openly discuss any end-of-life option. In fact, discussion of different possible decisions, the implications of each, and the issues involved in decision making are encouraged" (p. 377). With specific regard to general state statutes, Werth (1999) found that,

...a therapist who is working with a terminally ill client who is consulting that counselor because she or he is considering assisted death at some point in the future has no legal obligation to attempt to involuntarily commit the client in an attempt to prevent the death from occurring. (p.163)

Therefore, it is legally acceptable and ethically responsible for Martha to discuss end-of-life issues with her client. In her discussion, Martha should be sure to address whether her client is being pressured to consider ending her life by someone else; if her client is using a sound decision making process; if all alternatives have been reviewed; and if significant others have been adequately involved in this process (Werth, 1999). Since her client has come to explore end-of-life possibilities, she presents no immediate or imminent harm, and she has no current plan to commit suicide, Martha is not obligated to instantly have her client hospitalized.

Kocet (2006) discussed the important addition of A.9.a. End-of-Life Care for Terminally Ill Clients, to the 2005 ACA Code of Ethics. He wrote, "...Section A.9., provides guidance to counselors serving clients who request support when considering end-of-life issues. ACA is one of the few national mental health organizations to address this issue...ACA does not endorse one way of approaching this sensitive issue" (p. 231). Specifically, the 2005 *Code* guides counselors to take steps that facilitate clients to: 1. obtain high quality end-of-life care for their physical, emotional, social and spiritual needs; 2. to exercise the highest degree of self-determination possible; 3. to be given every opportunity possible to engage in informed decision making regarding their end-of-life care; and 4. to receive complete and adequate assessment regarding their ability to make competent, rational decisions on their own behalf from a mental health professional who is experienced in end-of-life care practice (ACA 2005, A.9.a., p. 5).

In Martha's case, these comments from the ACA *Code* may present an answer to her ethical dilemma. Martha is not experienced in end-of-life practice and it is therefore probable that she should not be counseling her client. However, Reeves, Wheeler, and Bowl (2004) discussed the importance of attaining skills in counselor training that relate to suicide, self-injury, and violence. If Martha does not have an opportunity to address end-of-life issues under supervision, how will she ever be prepared to deal with these issues when she is independently licensed?

Additional literature addressing mental health professionals' competency in end-of-life issues suggests that Martha is not qualified to provide services to her client. Werth (1999) suggested that, "Merely receiving an advanced degree... does not mean, in and of itself, that one is competent to be a consultant in situations involving hastened death" (p. 149). Martha has received a counseling degree, yet there is no knowledge that she has any specialized training in death and dying or counseling terminally ill patients. Werth's (1999) minimum requirement for general experience includes two years full-time counseling experience, which Martha does not possess.

Generate Courses of Action

One possible course of action for Martha and Bonnie is to consult with other professionals on how Martha can counsel her client and proceed in counseling. This is an unlikely scenario since Bonnie does not want Martha to continue seeing this client. Bonnie's response to Martha's client may be seen as an unethical response due to Bonnie's obvious inclusion of her personal biases and moral beliefs. However, her desire to have Martha terminate the counseling relationship and refer the client to another counselor is possibly the soundest decision in this situation. If Martha is not competent to work with this client and she does not have a supervisor competent in the domain of death and dying, she is in violation of Code A.9.a. which states that a terminally ill client has the right "to receive complete and adequate assessment regarding their ability to make competent, rational decisions on their own behalf from a mental health professional who is **experienced in end-of-life care practice**" (ACA 2005, A.9.a., p. 5).

Consider Potential Consequences

Possible consequences to client termination and referral include the client not wanting to see another counselor and refusing to continue seeking counseling services. It is Martha and Bonnie's responsibility to find a qualified professional for referral. Another

possible consequence may be that Martha will lose the opportunity to work with a terminally ill client. If this is an area of interest for her, she should seek supervised experience with this client population.

Evaluate Selected Course of Action

Does this course of action present any new ethical considerations? Terminating the counseling relationship and referring the client to another counselor may place Bonnie and Martha at risk for violating additional ethical codes. They both will have to reassess their actions and the consequences of the decisions they have made.

Implement Course of Action

Both Martha and Bonnie should have follow-up discussions regarding this case. They will need to discuss their supervisory relationship and how each can prevent further clinical and supervision issues. A possible way for each to avoid dilemmas like this is for Bonnie to screen clients for Martha and to confirm that Martha has the required training necessary to work with selected client populations. Cobia and Boes (2000) suggested, "...supervisors need to be competent in the area(s) of the supervisee's practice" (p. 294). They proposed two strategies to minimize the possibility of ethical conflict in post-master's supervision: have clear and comprehensive disclosure statements and develop formal plans for supervision.

Initially this case presented multiple ethical concerns ranging from confidentiality, disagreements between the supervisee and supervisor, multicultural implications, and personal reactions to the client's presenting concerns. By using an ethical decision making model, various aspects of the case were highlighted, and a resolution to this situation became more concrete. In this scenario, it was deemed appropriate and ethical for the counselor and supervisor to refer the client to a counselor more qualified in end-of-life care counseling. However, because all end-of-life situations are unique, all cases need to be assessed on an individual basis.

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