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Article 38

Strengthening the Social Contract With Professional Counselors

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The issue of “Social Contract” originated with early philosophers (e.g., Rousseau, Locke, Kant, etc.) and centered on the implied relationship between governments or rulers and those who were governed or ruled (Carrin, 2006). This concept has been expanded to include the relationships that exist between professional groups and the public that utilize their services.

Gardner and Shulman (2005) identified the fundamental elements necessary for groups to be considered professional. A profession must be considered a benefit to society in general and contain a theoretical foundation. A profession must also include a specialized set of skills and practices unique to the profession that lead to technical and ethical decisions. A profession must promote an organized approach to the generation of new knowledge through practice and must establish a group responsible for monitoring practice and professional education. Once established as a profession, a group would then be granted a monopoly, autonomy, and self-regulation (Pontin & Duba, 2009) signifying a social contract. Hamilton (2009) identified the social contract as “the tacit agreement between society and members of the profession that regulates their relationship with each other, in particular the profession’s control over professional work” (p.1).

The public expectation of healthcare professionals, especially physicians, is often cited as an example of the existence of a social contract. Such a contract has served to reduce chaos in a profession (Carrin, 2006), to clarify the physician/patient relationship in the context of implied responsibilities (Kurlander, Wynia, & Morin, 2005), and to address the issue of quality of life and patients’ rights for those facing acute, chronic, or terminal illnesses (Barofsky, 2003).

The issue of social contract has been applied to other professions and situations. Hamilton (2009) identified the elements of a social contract between the public and professorate as academic freedom, peer review, and shared governance. Krieg (2003)

applied the concept of social contract to examine the workability of deinstitutionalization of the mentally ill in the United States. Fox (1996) questioned whether the field of psychology was meeting its social contract citing concerns about the usefulness of research emerging from the field. Rosnow (1999) further elaborated on this when he stated, “the social contract between psychological science and society can be described as the responsibility not to do psychological or physical harm to any of our research participants and to do beneficent research in a way that will produce valid conclusions” (p.3).

Recently the American Counseling Association (ACA) celebrated its 50th anniversary. Throughout its existence, ACA has supported the development of formal training standards for professional counselors, implemented professional ethical standards for its members, and promoted counseling as a unique discipline with specialized skills (Pontin & Duba, 2009). Noting these accomplishments, is there a social contract with professional counselors?

Professional Counselors and the Social Contract

All states plus the District of Columbia and Puerto Rico have enhanced public safety by passing counselor licensure legislation. In doing so, state legislatures imply the existence of a social contract by recognizing the importance of formal academic preparation and training of professional counselors. State legislatures award licensed counselors, as a group, a certain amount of autonomy to regulate their profession through the development of academic and training requirements, a code of ethics, and sanctions for misconduct.

There are specific standards in the ACA Code of Ethics (2005) that underscore the premise that professional counselors do, in fact, accept their duties and responsibilities to society. The primary objective of professional counselors (Standard A.1.a) calls for counselors to promote the dignity and welfare of all clients. Other standards require professional counselors: to pay attention to treatment effectiveness (A.1.c, C.2.d); to use only those interventions that have sufficient supporting research (C.6.e); to hold themselves and others accountable for ethical behavior (C.2.g, H.2.a); to set limits on practices based on training and experience (C.2.a); and to scrutinize the integrity of the training and supervision of others (F.2.a, F.5.a). The ACA Code of Ethics also calls for counselors to do no harm (A.4.a) and consistently reminds them of their commitment to be aware of multicultural issues that may influence the services they provide.

Gardner and Shulman (2005) emphasized the need for professional education and for the monitoring of practice as essential elements to professional recognition. The Council for the Accreditation of Counseling and Related Educational Programs (CACREP) has adopted professional educational and training standards establishing minimum guidelines for quality counselor preparation programs. These standards have become embedded in the curricular requirements cited in counselor licensure legislation.

Professional counselors, as a group, have mechanisms in place for self-regulation. Counselor educators and supervisors serve as gatekeepers and regulate entry into the profession. The ACA Code of Ethics (2005) requires self-monitoring of counselor effectiveness (C.2.d) and the monitoring of the ethical behavior of other counselors

(H.2.a). State licensing boards include licensed professional counselors as voting members and ensure compliance to the practical and ethical standards of the profession.

Gale and Austin (2003) identify the prevailing features of a professional counselor identity which support the argument that professional counselors are considered to have a social contract. These features include an identified professional organization (ACA), a professional code of ethics, professional preparation standards and academic preparation program credentialing (CACREP), and professional licensing.

Need for Strengthening the Social Contract With Professional Counselors

While there is evidence that the foundation for a social contract exists for professional counselors, there are two issues that present significant challenges. First, paraprofessional counselors, individuals without formal professional counselor training, continue to be legally employed in community based agencies under the protection of state legislatures. This group of individuals, practicing as counselors, falls outside the oversight and regulations of licensed professionals and challenges the principle of self-regulation necessary for the existence of a social contract.

The second issue focuses on insurance company policies that control access to mental health and substance abuse treatment services or limit these services thereby reducing the control of therapy by licensed professional counselors. This further challenges the concepts of autonomy and self-regulation that are elements of a social contract.

Professionals Versus Paraprofessionals

The passage of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act in the 1970s provided federal funding to states to build mental health and substance abuse treatment centers and to train individuals to work in these centers (Banken & McGovern, 1992). This happened at a time before the emergence of licensed professional counselors and at a time when the discipline of professional counseling was still in its infancy. States, responsible for building, staffing, and regulating community agencies, found that existing human services practitioners were willing to provide mental health services but were resistant to delivery of substance abuse treatment services (Primm, 1992). Staffing requirements for counselors in community substance abuse treatment programs, both inpatient and outpatient, did not include formal graduate preparation standards and this exception has remained intact since its inception even in the presence of professional counselor licensure laws (West, Mustaine, & Wyrick, 1999).

Protection of paraprofessionals. State legislatures continue to send a mixed message when it comes to their perception of the importance of counseling as a profession. Counselor licensure laws have been passed in all states to protect the public but most states have enacted title laws that only protect the use of the terms “Licensed Professional Counselor” or LPC and do not protect the practice of counseling (American Counseling Association Office of Professional Affairs, 2008). Additionally, states continue to protect paraprofessionals working as counselors in community-based agencies funded by tax dollars. This creates a dichotomous system which challenges the principle of self-regulation necessary for the existence of a social contract. This

dichotomous system does not exist for other professional disciplines with social contracts such as physicians or lawyers.

One factor that needs to be examined is the extent to which financial considerations support the continuation of this protectionism. State legislatures are responsible for providing funding for community-based counseling agencies. It is tenable to assume that professional counselors would require higher salaries because of their advanced training and expertise and, therefore, impact on the optimal funding level of community-based agencies.

It is reasonable to assume that state legislatures believe the clinical services provided by paraprofessional counselors are equivalent to clinical services provided by licensed professionals. Research examining the effectiveness of paraprofessional counselors in the delivery of clinical services is mixed (Bright, Baker, & Neimeyer, 1999; Christensen & Jacobson, 1994). Without clear evidence indicating that the clinical services provided by paraprofessionals is at least equal in quality to those offered by professional counselors, the continued protection of paraprofessionals by state legislatures has to be called into question. More importantly, licensed professional counselors must be willing to engage in significant research efforts to support an assumption that such a discrepancy in the quality and effectiveness of therapy between these two groups does, in fact, exist. Doing so would help to determine whether the public is adequately protected when, by circumstances, individuals find that they must utilize the services of community-based counseling agencies.

Social Contract and self-regulation by professional counselors. Licensed professional counselors must strive to take control over the profession's work (Hamilton, 2009). One method to address the difference between professionals and paraprofessionals is to compare the rigor of academic preparation between the two groups. Mustaine, West, and Wyrick (2003) compared state regulation staffing requirements for paraprofessionals in the substance abuse treatment field with standards for professional counselors presented by the Council for the Accreditation of Counseling and Related Educational Programs (CACREP). This study found that paraprofessional counselors were permitted to assume counseling roles with far less rigorous training and experience requirements and called into question the beneficial nature of services being provided by paraprofessionals.

One of the last bastions of paraprofessionals has been addictions counseling, a field that has been dominated by recovering individuals working as therapists. The most recent revisions of the CACREP standards include the development of a rigorous master's program specialty in addictions counseling which emphasizes the importance of formal, graduate-level training in this specialty area (CACREP, 2009). This new program specialty provides a mechanism for professional counselors to regulate the educational preparation and training of professional addictions counselors, one of the critical elements Gardner and Shulman (2005) cite as necessary for the existence of a social contract. State legislatures must now be encouraged to reevaluate their positions regarding the protection of paraprofessional addiction counselors.

The Insurance Industry

An examination of the insurance industry also reveals challenges to the social contract for professional counselors. Mandated coverage for mental health and substance

abuse problems have resulted in insurance companies restricting access to counseling services or limiting services to particular disorders or for a specific number of treatment sessions. Braun and Cox (2005) present an overview of the growth of managed care organizations (MCOs) and the impact MCOs have had on professional counselors. Particular emphasis was placed on ethical and legal dilemmas facing professional counselors as they attempt to provide services to their insured clients. These dilemmas included issues related to informed consent, confidentiality, client autonomy, counselor competence, treatment plans, and termination.

The ability of professional counselors to control their profession, a critical component of the social contract, is challenged when insurance companies are permitted to restrict access to clinical services or limit available services. While restrictions occur in other professions as well, such as with physicians and the medical tests and procedures that are reimbursed, limitations on reimbursements for those in the human services are more severe. Physicians are not restricted on offering treatment services, but may be restricted in ordering tests and performing non-standard procedures. Restrictions on professional counselors are more profound because of the diagnostic groups of disorders that are often not considered reimbursable.

Not only are professional counselors restricted by reimbursable diagnoses, they may also be limited to the amount of services a client can receive. For managed care coverage, these limitations are often determined through actuarial tables and do not necessarily take into consideration the aggravating circumstances facing individual clients. This practice of limiting services to clients with certain diagnoses is also becoming commonplace among community agencies that rely on public funding further limiting the opportunity for professional counselors to maintain control over their discipline (self-regulation).

State legislatures govern health insurance providers in their states and set the ground rules by which companies operate. These same legislatures regulate the public funding of community counseling agencies and establish conditions by which these agencies are able to be reimbursed for the services they provide. It is through the acts of elected officials that the social contract for professional counselors is most challenged, creating an environment of professional identity confusion and limitations on professional autonomy and self-regulation.

Need for Counselors to be Proactive

Just as other professions recognize the need to re-tool and become more proactive in the promotion of their professions (Fox, 1996; Gaff, 2009), professional counselors must assume the challenge of promoting their discipline and eliminating the identity confusion. Efforts to promote a counseling profession require that professional counselors address several interrelated issues which seem to have been ignored during the evolution the professional counseling discipline.

Professional Identity

Professional counselors continue to face critical identity issues. Myers, Sweeney, and White (2002) provided a comprehensive look at the emergence of the counseling profession and warned of the need for professional counselors to consider advocacy for

the profession as seriously as they would advocacy for a client. Some 50 years after the formation of the American Personnel and Guidance Association, the precursor of the American Counseling Association, professional counselors are still trying to determine how the services they offer differ from services offered by professionals in other helping disciplines.

In the haste to differentiate professional counselors from other professional disciplines through the identification of some theoretical approach or underlying philosophy, it seems there has never been an effort to clearly define the term “professional.” So as professional counselors attempt to define what it is they do and how it differs from what psychologists, social workers, or paraprofessionals actually do, there is the assumption that the public is quite able to understand the difference between those individuals who are true professionals and those who are paraprofessionals.

The continued presence of paraprofessionals in the counseling field, endorsed by state legislatures, represents a major challenge to professional counselor identity. It is unreasonable to assume that the consumer seeking counseling services can easily distinguish between individuals who are licensed professional counselors and paraprofessional counselors who are legally permitted to offer clinical services in a state licensed counseling program. It is more reasonable to assume that the consuming public, recognizing that part of their tax dollars go to support licensed public counseling agencies, would expect that the personnel providing the clinical services in these agencies would, in fact, be professionally trained and qualified. This is not always the case.

There are also limitations imposed on professional counselors by the ACA Code of Ethics (2005) that seem to impede the development of a professional identity. There is nothing in the ACA Code of Ethics (2005) that clearly defines the term “profession” or “professional counselor.” Subsequently, counselors are to be respectful of approaches to counseling services that differ from their own and be respectful of traditions and practices of other professional groups with which they work (ACA Code of Ethics, Section D.1.a). This opens the door for paraprofessional groups to declare themselves a profession and for this status to be recognized by professional counselors even though such recognition may have no foundation and be unwarranted.

Section D.1.g of the ACA Code of Ethics states that the “acceptance of employment in an agency or institution implies that counselors are in agreement with its general policies and procedures.” Since employment eligibility and staffing conditions are generally contained in general policies and procedures, the ACA Code of Ethics creates conflict for professional counselors who seek to serve in public agencies and are faced with the disparities that exist in the training and qualifications of those described by the particular agency as “professional” staff. Combined with Section D.1., the professional counselor must accept the disparity in the qualifications of individuals who provide clinical services to clients behind closed doors, but also be respectful of this disparity.

Fundamental to the issue of professional identity is the willingness of professional counselors to advocate for responsible changes within ACA, the organization seeking to be recognized as the voice of professional counselors, to clearly define professional qualifications for counselors and to be willing to denounce the “professional” status of lesser qualified paraprofessionals by both state and national organizations. Further, professional counselors need to petition for the standards in the ACA Code of Ethics to

be sufficiently revised to provide professional counselors the opportunity to challenge the status quo that exists in the hiring practices of paraprofessional counselors in community counseling agencies without facing ethical sanctions.

Research-Based Counseling Services

In exchange for a profession's right to self-governance, a profession must be perceived as a societal benefit (Hamilton, 2009). To meet this prerequisite condition it is reasonable to assume that the profession of counseling would need to include some basic elements reflecting this societal worth. One primary element would be for professional counselors to do no harm (standard A.4.a in the ACA Code of Ethics), directly or indirectly, in the delivery of services. To support this objective, it might be expected that counselors provide clinical services that are theory and research based.

The ACA Code of Ethics (2005) promotes the use of techniques, procedures, and modalities that have a theoretical, empirical, or scientific foundation. Intervention strategies that fall outside these limitations, techniques and procedures must be defined as unproven or developing (C.6.e). Professional counselors are also required to assess the viability and effectiveness of integrated counseling plans (A.1.c) and continually monitor their effectiveness as professionals (C.2.d). These standards underscore the need for professional counselors to engage in efforts to formally measure the effectiveness of the clinical services they provide.

It is reasonable to assume that society expects professional counselors to provide effective clinical services. While it may be difficult to generate strict, quantitative research to specifically measure treatment effectiveness, other evidence-based approaches exist and may be more practical when dealing with human subjects in a helping relationship. West and Warchal (2009) presented a review of evidence-based approaches to therapeutic interventions based on research rigor.

The ACA Code of Ethics (2005) does not require professional counselors to engage in formal outcomes research initiatives to measure treatment effectiveness but does require professional counselors to be mindful of the effectiveness of the services they offer. One attribute leading to a more succinct professional identity might be the degree to which professional counselors engage in formal quantitative and qualitative outcomes research initiatives to measure treatment effectiveness which is accepted practice in the medical field.

Public and Political Advocacy

Counselor licensure, the pinnacle of recognition of professional status, has been met with great enthusiasm within the American Counseling Association and its state branches. While professional counselors, represented by ACA, understand and espouse the significance of licensure, it is not clear if the public understands the importance of counselor licensure or is able to differentiate professionally trained counselors from paraprofessionals.

Professional counselors must be willing to accept the responsibility for advancing their profession and strengthening the implied social contract. This might include joining forces with other professional counselors through ACA state branch organizations and actively participating in ongoing strategies to promote public awareness. Successful public campaigns will include differences in two specific areas. First, efforts must be

made to help the public better understand the rigor of professional licensure and to accept this as a minimum criteria when seeking clinical services. Second, professional counselors must engage in viable outcomes research initiatives that examine the effectiveness of their clinical skills and treatment interventions.

Professional counselors must also invest the necessary time, energy and financial resources to join others in establishing and maintaining effective national and state lobbying activities on behalf of their profession. Efforts must be made to strengthen counselor licensure laws and move title acts toward practice acts while attempting to remove the exclusions that permit unlicensed counselors to continue to offer clinical services. Activities must also be undertaken to ensure that professional counselors have the same access to insurance reimbursement at the same rates as similar professional disciplines.

Conclusion

Professional counselors seem to have met their obligation to the social contract through the establishment of formal training standards (focused on appropriate graduate education and licensure), evidence of social worth, the establishment of a code of ethics, and the elements necessary for self-governance. Unfortunately, professional counselors do not have exclusive control over the counseling discipline since state legislatures continue to protect lesser qualified paraprofessionals and permit them to provide the same type of clinical services reserved for professional counselors through title and practice licensure laws.

A social contract cannot exist between society and a profession when the public is unable to identify members of the profession. The presence of a dual system, one public and one private, makes it difficult for society to identify individuals who represent the professional counseling discipline.

Professional counselors can move the discipline forward toward a more balanced social contract by accepting the challenge of advocacy. Professional counselors can encourage ACA to formally define the term “professional counselor” in their Code of Ethics and revise standards that serve to recognize lesser qualified paraprofessionals. Professional counselors can accept the personal challenge to engage in formal outcomes research initiatives to measure the effectiveness of the services they offer and contribute to the body of research knowledge.

Professional counselors can participate in public education initiatives to better describe their educational preparation and clinical skill levels. Cashwell (2009) draws attention to this issue when he states:

As a profession, we struggle with the fact that the term “counselor” has a generic quality, unlike “Psychology” or “Social Work.” This is a given that we must always strive to overcome by communicating a clear sense of who we are as Professional Counselors. Time and time again, however, we have gone to the crossroads as a profession and done anything but communicate this clearly, creating a weak professional identity in the eyes of other mental health disciplines, consumers, and even among ourselves! (p.2)

Once professional counselors are able to identify their uniqueness, efforts can then be expanded to include lobbying of state and local elected officials to more clearly describe the benefits of counseling services provided by professional counselors. It is through this collective effort that professional counselors can pursue the responsibilities embodied in a social contract and take definitive steps to extend protection to all members of the public seeking professional counseling assistance.

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