

Take Home Exam: The Unethical Behavioral Health Counselor

Ethics 702: Ethics and Professional Issues

Pamela Chowayou

Due: July 11, 2020

Step One: Develop ethical sensitivity, integrating personal and professional values

In this paper, the resolution of an ethical dilemma faced by a counselor named Erica Gonzalez will be deliberated using the 10-Step Ethical Decision-Making Model (Welfel, 2016, p.31). As background, Erica is a new counselor in a community-based health center in East Harlem called Esperanza Health Center. Esperanza provides medical care as well as behavioral health services to a multi-ethnic population (mostly Latino and African American) of low-income urban families, children and seniors. Erica is a born-again Christian Latina who grew up in the housing projects located not far from Esperanza to Dominican immigrant parents. Erica's family was impoverished when they arrived to New York, but Erica's parents instilled in her a strong work ethic along with a solid faith in Jesus. Her family taught Erica that through hard work and obedience to Jesus, Erica could achieve any goal set before her. Her parents' favorite Bible verse comes from 2 Timothy 2:15: "Be diligent to present yourself approved to God as a workman who does not need to be ashamed, accurately handling the word of truth" (Holy Bible, New American Standard Bible).

As a result of Erica's diligence, she received a full scholarship to Columbia University majoring in psychology. Erica was accepted into Teachers College of Columbia University earning a Master of Education in Counseling Psychology. Erica believed that she heard from the Lord to return to her Dominican community to serve as a licensed mental health counselor at the Esperanza Health Center. Erica has been with Esperanza for six months, but now a potentially unethical situation confronts her.

Step 2: Clarify facts, stakeholders and the sociocultural context of the case

Randomly, Erica encounters patients of the clinic who are offering to pay for the services she is providing. One day, Erica learns (a patient discloses) that her colleague Judas (a fellow

Dominican counselor in his 50's) has been accepting monetary gifts from them as well as with other patients. Erica also heard from other patients that Judas often is seen socializing with a female client named Maria after work and on weekends. Judas has also been known to have a history of dating staff and even some patients. Erica's relationship with Judas has been positive since Judas helped orient Erica to progress notes, resources to understand her computer and advocated for Erica on several occasions letting her have the Friday after Thanksgiving as a holiday off which was their turn as a senior counselor on staff. Judas affectionately calls Erica his "Dominican Baby Sister" and tells her that as fellow Dominicans, they need to look out for each other.

Erica believes Judas is not malicious, but the pattern of Judas' behavior troubles her both professionally and personally. Since Erica's office is directly across from Judas' office, she can see the flow of clients going into his office and grows increasingly uncomfortable every time she sees clients putting away their wallets as they leave Judas' office. Erica is aware that Judas is divorced from his ex-wife with joint custody of his twin children in their last year of high school. Erica knows that she cannot stay silent much longer and summons up her courage to ask Judas about these rumors.

What Judas shares with Erica in confidence shocks her. Judas says that his Dominican clients often invite him over to their homes to enjoy an authentic Dominican meal. He has always turned them down, but lately with an increased caseload, Judas has been working much longer hours. Judas called one of his favorite clients named Maria (whom he was always sexually attracted to) to take her up on her offer to cook for him. The delicious food and care from Maria were intoxicating, and slowly their relationship evolved into a sexual nature over the last few months. Judas and Maria now meet once or twice a week after his long days of work for

a late dinner at her nearby apartment and get together on every other weekend when his twin children, Jose and Carlita, are not with him. Maria (also a divorcee) continues to be Judas' client and has been a great source of support to Judas during this time of stressful work conditions and long hours.

Additionally, Judas confesses that shortly after dating Maria, he began taking money from several of his Dominican clients who want to show their gratitude for his counseling services and referrals. The pressure of the upcoming college tuition bills for his twins keeps Judas up at night, and he has been saving these "gifts" towards the kids' college fund. Though he feels guilty about his actions, Judas pushes his conflicting thoughts away by repressing them and spending more time with Maria with whom he has not disclosed his actions. Judas pleads with Erica not to reveal his secrets because after all, they are both Dominican and need to "watch each other's back." Erica feels torn about how to proceed, but she remembers the 10-Step Ethical Model that she learned at Columbia.

As Erica listens to Judas' story, two key stakeholder groups that could be negatively impacted by Judas' actions come to mind: 1) Esperanza and its reputation and 2) the local Latino and African American community in East Harlem who desperately need Esperanza's behavioral health services. If information is revealed about Judas unscrupulous dealings, this would result in detrimental loss of Esperanza's stellar reputation in the community. Esperanza receives a majority of its funding from OASAS for its substance use program, and if an audit were to be conducted, Esperanza could be fined with severe penalties, or even worse, shut down for negligence. Necessary funding could be eliminated for its critical substance use outreach programs. Esperanza's clinicians may also become impacted if the Center loses its financial support. The implications for the future for the health center could be widespread and dire.

Step 3: Define the central issues and the available options

The central issue is the boundary violation that Judas has committed in his professional relationship with his client Maria and with his other clients from whom he has taken money. A boundary violation is one in which a counselor departs from standard practice that causes a client harm or potential harm (Welfel, 2016). There should be established a division or boundary which separates a client from a counselor (p.217). Judas has violated these ethical boundaries by having a romantic relationship with a current client and by taking payments from his low-income clients. Erica has painful memories of the unscrupulous doctors who charged her parents large sums of money even though they had Medicaid insurance. Erica pledged at a young age that she would not allow financially impoverished members of her Dominican community (like her own parents) to be taken of advantage ever again by unethical helping professionals. Erica finds it ironic that in her quest to serve the Dominican community that it is a Dominican counselor who is culpable.

The two options being considered by Erica are 1) to stay quiet and go along as though she does not know about Judas' situation or 2) to file a formal complaint to Erica's supervisor and Esperanza's compliance director. After all, Erica is the newbie on the job, having just been at Esperanza for six months. Judas has been so kind to her by taking her under his wings and mentoring her. Erica also speaks to two other long-time administrative staff whom disclosed this information about Judas' indiscretions. They were indifferent to his actions and nonchalant. They saw no problem with Judas dating a client since Judas and Maria were consenting adults. Plus, Judas had been at Esperanza for more than 20 years. He was the staff's favorite member who was charismatic and always "took care" of the staff when they needed help. These colleagues were willing to look the other way. Welfel (2106) notes that some counselors and therapists may

have difficulty acknowledging that a fellow professional may have behaved irresponsibly (p. 307). It is often easier for them to take a “head in the sand” approach or transfer the blame to the client.

The other option of alerting Erica’s supervisor and Esperanza’s compliance officer is more difficult for Erica to implement. That decision will require courage, especially to turn in a fellow Dominican who has been so kind to her as a new counselor. She remembers that same type of kindness from the Dominican neighbors who supported Erica’s family when they first arrived in New York. Dominican “uncles” and “aunties” brought food and gifts to her family during the Christmas holidays when the parents had so little money. She would feel like a traitor for turning in one of her own. In desperation, Erica begins to pray fervently, asking the Lord to show her what to do. The first step that the Holy Spirit shows her is to review the ACA Code of Ethics in light of the grievous situation to better understand Judas’ violations.

Step 4: Refer to the professional standards, guidelines and relevant laws/regulations

Erica determines that Judas had violated at least six specific categories of counselor ethics and conduct under the ACA Code of Ethics (American Counseling Association, 2014). First, under Section A.1.a. *Primary Responsibility* in the larger category of A.1 *Client Welfare* (American Counseling Association, 2014, Section A.1.a.), a counselor’s primary responsibility is to respect the dignity and promote the welfare of clients. Judas violated this ethic in numerous ways. When Judas accepted the offer of dinner from Maria, he put Maria’s emotional and mental health in jeopardy. As Maria’s therapist, Judas took advantage of Maria by entering into a sexual relationship with her. Welfel (2016, p.195) notes that power dynamics between a client and a therapist can easily become unequal and corrupted. Secondly, the illegally taking of money from the local at-risk Dominican population is a clear violation of honoring client dignity and welfare.

Secondly, under Section A.4.a. *Avoiding Harm and Imposing Values* under the category of A.4 with the same name (American Counseling Association, 2014, Section A.4.a), counselors are mandated to act in such a way that avoids harming their clients and minimizing any unavoidable or unanticipated harm. Judas intentionally created great harm to his clients through his selfish and willful actions. Thirdly, under the section A.5.a. *Sexual and/or Romantic Relationships Prohibited* under the larger category of A.5 *Prohibited Non-counseling Roles and Relationship* (American Counseling Association, 2014, Section A.5.a.), a counselor is not allowed to engage in a sexual or romantic relationship with a current client, the client's romantic partner or family members. Welfel (2016, p.184) notes that having sex with a client is prohibited because the client, the therapist and the reputation of the profession may be vulnerable to exploitation and its harmful effects.

The four and fifth violations committed by Judas come under Section A.6 *Managing and Maintaining Boundaries and Professional Relationships* under specific Sections A.6.b. *Extending Counseling Boundaries* and Section A.6.c. *Documenting Boundary Extensions* (American Counseling Association, 2014, Section A.6.b and Section A.6.c). Judas extended his professional boundaries beyond conventional parameters. The ACA Code of Ethics notes the following: "In extending these boundaries, counselors take appropriate professional precautions such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no harm occurs" (American Counseling Association, 2014, p. 5). Not only did Judas unethically extend his counseling boundary, but he did not discuss that his boundary crossings/violations with his supervisor or governing authorities at Esperanza.

The sixth violation committed by Judas can be found in Section A.10.f. *Receiving Gifts* under the larger category of A.10. *Fees and Business Practices* (American Counseling

Association, 2014, Section A.10.f.). Under this Section, when counselors determine whether to accept a gift from clients, they must “take into account the therapeutic relationship, the monetary value of the gift, the client’s motivation for giving the gift, and the counselor’s motivation for wanting to accept or decline the gift” (American Counseling Association, 2014, p. 6).

Unfortunately, Judas’ desire to have dinner at Maria’s home and taking of illegal payments were done to fulfill his own self-interests. His unethical actions leveraged his unequal power and authority over his clients.

Finally, Erica reads the Ethical Section I.1 *Standards and the Law*, specifically Section I.1.b. *Ethical Decision Making* (American Counseling Association, 2014, Section I.1.b.) and knows that she must think through “potential courses of action, deliberate the risks and benefits of disclosure and make an objective decision based on the circumstances and welfare of all involved” (American Counseling Association, 2014, p.19).

Step 5: Search out ethics scholarship

Erica researched to find any legal precedents or court cases in which agencies, counseling centers or individual therapists were sued by clients for sexual misconduct. Surprisingly, Erica does not find many public cases, but this is in line with the findings of Welfel (2016) who notes that research findings suggest that many incidents of sexual misconduct go undetected because not all professional colleagues act with a level of professionalism (Welfel, 2016, p.189). In fact, only 5% of victims in a particular study actually make a formal complaint against a therapist (Welfel, 2016, p.189). One case that Erica does read about is Doe vs. Samaritan Counseling Center (1990) in which a “Jane Doe” brings a legal suit against a pastor for sexual misconduct during counseling sessions. After going to the Superior Court, it was discovered that Jane Doe did not have success in her case against the pastor.

Step 6: Apply ethical principles to the situation

In her study of the ACA Code of Ethics (American Counseling Association, 2014), Erica's believes that Judas has grossly violated the principles of beneficence, nonmaleficence and fidelity. By illegally taking payments from clients who are primarily from low-income and immigrant populations and engaging in a sexual relationship with a current client, Judas violates the principle of beneficence. Welfel (2016, p. 45) defines beneficence as one's "responsibility to do good." As helping professionals, counselors have a duty to provide help, not harm, those who utilize the therapeutic services offered by Esperanza. Welfel (2016) states that the obligation to help is undergirded by the principles of trustworthiness and integrity. The values of trustworthiness and integrity are clearly violated when Judas takes money from his clients who can ill afford to pay him.

By entering into sexual relationship with a current client, Judas demonstrates maleficence which causes therapeutic compromise for Maria and potentially opens the door to other abusive actions for Esperanza's wider patient population. Welfel (2016, p.188) notes that professionals who engage in sexual misconduct "sometimes do not limit their misconduct to the sexual arena. Instead, it usually occurs in a context of numerous ethical violations." This proves to be the case for Judas, who began taking illegal payments from several of his Dominican clients shortly after beginning his relationship with Maria. Furthermore, Welfel contends that "sexual contact thereby constitutes a flagrant violation of the ethical principle of nonmaleficence" (Welfel, 2014, p.187).

Fidelity is the third ethical principle that Judas violates and which deals with faithfulness to the promises made to clients and to the truth (Welfel, 2016). Counselors are supposed to place their client's interests ahead of their own and to be loyal to their clients. Welfel (2016) asserts

that fidelity is important because clients are vulnerable, and the role of the therapist is one that holds “inherent power” over the client (p.47). As a Christian, Erica knows that when a person falls into sin, his conscience becomes hardened, allowing more sin to take root: “But the Spirit explicitly says that in later times some will fall away from the faith, paying attention to deceitful spirits and doctrines of demons, by means of the hypocrisy of liars seared in their own conscience as with a branding iron” (Holy Bible, 1 Timothy 4:1-2, NASB).

Step 7: Consult with supervisor and respected colleagues

With a heavy heart, Erica speaks to her supervisor Carol during their weekly 1:1 meeting and consults with her about the case without mentioning Judas’ name. The supervisor is understandably concerned and urges Erica to let her know if this is in fact a real situation in the office. Erica is unable to answer her fully but tells her supervisor that she needs more time to ponder the situation and will get back to her. Erica does not know any other colleagues to consult with since she is so new to the organization. She does not want to consult with too many other colleagues in the hopes of maintaining confidentiality on a sensitive topic.

Step 8: Deliberate and decide

After reviewing the 10-Step Ethical Model carefully, consulting with her supervisor and reviewing the precedent of the court case Doe vs. Samaritan Counseling Center (Doe vs. Samaritan Counseling Center, 1990) and reviewing the ACA Code of Ethics, Erica knows the right action to take but admits that she still feels conflicted. Growing up in her mostly Dominican neighborhood of East Harlem, Erica knows that there is an unspoken rule that individuals from the Dominican community always stick up for each other. She knows that turning Judas in through a formal complaint process would likely lead to his termination at Esperanza and possibly even losing his counseling license. However, Erica cannot ignore the numerous

violations that she found under the ACA Code of Ethics which Judas had grossly violated. The risk of turning Judas in could backfire on her professionally, but she knows that continuing to follow along Judas' ruse would only cause more actions of maleficence and infidelity against the Center's reputation, current clients and future clients.

Step 9: Inform supervisor, implement and document decision-making process and actions

Armed with her notes from her conversation with Judas, the interview notes with the indifferent colleagues and informed by the ACA Code of Ethics, Erica knows that she cannot quell the queasy feeling she has about Judas' boundary violations. She sends an urgent email to her supervisor Carol who is also the Clinical Supervisor for the Center and the Compliance Officer to have a meeting to discuss Judas. In the meeting, Erica distributes a detailed report of the six ethical violations of the ACA Code of Ethics that she believes Judas has committed.

Several contentious meetings were held with Judas, Maria and the clients who have been giving cash gifts to Judas over the next two weeks' time. Due to the fact that Maria and the three Dominican clients who have been giving money to Judas refused to press charges against Judas, no formal charges were filed against Judas. Welfel (2016) confirms that a formal complaint can only be filed only if the client has consented and waived his or her preexisting right to confidentiality. Due to Judas' popularity within the Dominican community, Maria and the other compromised clients felt that Esperanza was to blame, not Judas. They falsely believed that the Health Center had overloaded Judas with too many cases, causing him to become stressed and overworked. Each claimed that Judas had helped bring more order to their lives, and they would not abandon their Dominican brother at this critical time.

Judas was fired from Esperanza and released from his position. Extensive notes were included in his Human Resources file regarding the reason for his departure. Additionally, he

was advised to pursue therapy to understand his missteps. The two colleagues who had known about Judas' relationship but did not report it were put on a six-month probationary period and were required to take additional ethics training courses. They also received information about the Three-Step Model of Recovery as described in Welfel (2016, p.311). They also were advised to pursue therapy to understand how they could ensure not to repeat their mistakes.

Step 10: Reflect on the experience

Erica believed that by following the 10-Step Ethical Decision-Making Model and the careful review of the ACA Code of Ethics allowed her to make the right decision to disclose to her superiors, though it was an extremely difficult situation for her as a new counselor. Maria and Judas' other clients in question left Esperanza and are no longer receiving behavioral health services. The two colleagues who had kept silent shunned Erica, blaming her for "rocking the boat" and causing trouble for them at the Center. Erica tries her best to maintain her professionalism, but it can be difficult on some days. She works on her issues of insecurity and feelings of guilt in her individual counseling sessions and in her 1:1 weekly meeting with her supervisor.

Personally, Erica recognizes that she can have potential transference issues with members of the Dominican community given her particular upbringing. She had not realized how deeply rooted some of those messages about loyalty, fidelity and taking care of her community has become for her. Additionally, Erica is taking care to be vigilant about her potential vulnerability during times of work stress. Erica realizes that the combination of work stress and life can lead to emotional issues (Welfel, 2016, p. 104). Erica examines her willingness to seek support if necessary. Filled with compassion, Erica prays for Judas and her two colleagues and daily forgives them. As a new counselor, Erica is grateful for God's mercy and knows that she will be

able to serve Esperanza's community effectively through the abundance of counselors around her and the counselor tools provided to her profession such as the ACA Code of Ethics: "Without consultation, plans are frustrated, but with many counselors they succeed" (Proverbs 15:22).

References

- American Counseling Association. (2014). ACA Code of Ethics. Alexandria, VA: Author.
- Doe vs. Samaritan Counseling Center (1990). Justia US Law. Retrieved on July 11, 2020 from <https://law.justia.com/cases/alaska/supreme-court/1990/s-2957-1.html>
- The Holy Bible, New American Standard Version (1995). LaHabra, CA: The Lockman Foundation.
- Welfel, E.R. (2016). *Ethics in counseling and psychotherapy: standards, research and emerging issues* (6th ed.). Cengage Learning.