

Standards of Practice: The Weapon or the Shield?

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Abstract

As the revised standards of practice for life care planning are published this year (see page 123 of this issue), questions and issues that have arisen over the years about standards have again come to the foreground. Life care planners want to know more about the process of developing standards of practices and how those standards apply to the individual life care planning practitioner. This article addresses those questions, with a focus on the meaning of standards of practice to the individual practitioner. An attorney who works regularly with life care planners describes how standards can provide protection or be used to diminish the credibility of a life care planner.

Introduction

Standards of practice for life care planners continue to be a source of discussion and controversy in the field. Standards of practice for life care planners were first completed in 2000 through the International Academy of Life Care Planners (IALCP, 2000). After five (5) years of use within life care planning practice, the standards were reviewed with an eye toward possible revision for increased applicability to the field. In the years 2005 and 2006, the proposed revisions to the standards were published and available for field review, during which time members of the IALCP standards committee and IALCP board of directors received comments and questions from the field that indicated some life care planners may not yet be committed to embracing standards (S. Reavis, K. Preston, and T. Wingate, personal communications 2005 and 2006). Discussion points included whether a professional association has the authority to create standards of practice for the entire field, whether individual practitioners could opt out, or choose to not adhere to standards, and what consequences could occur when a practitioner does not follow standards. Turning to colleagues in the legal profession, life care planners can obtain another perspective on potential answers to these issues and determine whether standards of practice are a help or a hindrance in life care planning practice.

Where, Why, and How Standards of Practice are Created

A hallmark of professional practice is that a field undertakes activities of self-definition and self-governance. Life care planners first have training in a health related field. Whether coming from a background in counseling, nursing, medicine, therapy, or other health-related professions, all life care planners are required to have extensive training to enter their chosen field, with licensure and/or certification to practice. Historically, these fields have created pro-

professional associations that are designed to promote and protect the practitioners and to provide safeguards for those who use the professional services. Standards of practice are a common tool that professions use for these purposes. Doing a quick search on the Internet will yield standards of practice for a wide array of health and non-health related fields, all created by members of the field. Following the principles of self-definition and self-governance, life care planners can reasonably be expected to create standards of practice for life care planning, and can expect that a professional organization for and of life care planners will take the lead in the development of those standards.

Professional fields consistently view standards of practice as a benefit for practitioners and for those who use the professional services. Table 1 illustrates terminology and reasons for standards that are common themes.

Table 1, Common Terminology and Rationale for Standards of Practice

Examples of Common Terminology and Rationale for Standards of Practice

- Determine level of performance
 - Reflect normative behavior
 - Represent a level of requirement, excellence, or attainment that is agreed upon by members of a profession
 - Public declaration to society, consumers, and members of the profession about what constitutes quality
 - Describe the structure, process, or outcomes of professional practice (Happ, 2001, p. 2).

 - Describe how a practitioner is expected to perform
 - A reference tool to understand job requirements, design curriculum, investigate complaints, determine fitness to practice
 - A reference tool for quality assurance, patient relations, assessing quality of care (Ontario Association of Medical Radiation Technology, undated).

 - Values, priorities, and practice of the professional
 - Minimal levels of performance against which actual performance can be compared
 - Intended to guide practice
 - Applicable to all practitioners regardless of area of practice or setting
 - Performance below these standards is considered unacceptable (Dieticians of Canada, 1997).
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How standards are created impacts the credibility of the standards. Creating authoritative documents requires care and following a process that will maximize the accuracy of the document. As an example, the American Academy of Neurology (AAN) Quality Standards Subcommittee (American Academy of Neurology, 2006) outlines the stages involved in devel-

oping standards and guidelines:

Select topics

Form expert author panel

Develop questions (issues) to be addressed

Review literature

Write

Extensive peer review

Organization approval

Update process

The standards of practice for life care planning were created with a similar process. While this AAN example used peer review within their membership (a common practice of professional associations), the International Academy of Life Care Planners published the draft document in various sources accessible to those in the field and invited feedback from all life care planners, not just Academy members.

Standards as a Weapon, Standards as a Shield: The Attorney's Perspective

The day to day practice of life care planners is interactive, abound with views and hopes, expectations and opinions. It is in this realm that sound footing becomes the goal. There is room for differences of opinion, and widely so, yet each step of the way others are depending upon the quality of the work of the life care planner.

Standards are formulated to establish and define a set of standards of practice which will guide and direct all practitioners as they pursue their professional role. Establishing a strong sense of trust and confidence between the life care planner and all with whom they work is a worthy goal. Professional competence, character, integrity, fairness, commitment, and trustfulness provide the foundation for establishing and maintaining professional relationships. Therefore all practitioners should dedicate themselves to a course of conduct which manifests respect, confidence, and trust on the part of the general public and all users of life care planning services.

A standard of practice is analogous to a standard of care expression. Professionals are held to use that degree of care and skill that a reasonably competent professional person acting in similar circumstances would use. That concept is not difficult to understand. It is the standard to which any practitioner would be held accountable in any event, if there was some allegation of a deviation from the standard of care (or standards of practice).

A life care plan is not created to sit on a shelf and gather dust. Instead, it is a living document and plan often drawing the life care planner into an arena of further review. Foundational to this is a certain methodology, and an expectation of participation in various roles. Life care planners are often called up to present their findings and opinions, as expressed in the life care plan, to others. Whether by publication, in administrative hearing, deposition or court testimony, the fundamentals are the same. Ultimately, it is being able to comfortably stand by the opinions expressed, whether in a public or private forum. In any analysis of a life care plan and of the life care planner who has put that plan together, consideration is given to the life care planner's role and activity:

Qualifications — The qualifications of the life care planner to undertake the given task depends upon his/her personal education, licensing, and professional training. This may be qualitatively enhanced depending upon professional background, professional affiliations, and whether he/she has strengthened this by any special courses, committee work, presentations or publications in the field.

Assignment — Assuming the assignment is to put together the life care plan, one might expect some benefit from a personal interview with patient or patient's family members/care-givers, a review of medical records, some consultation with attending or consulting physicians, and careful development of future care needs.

Standards connote a minimal level of competence, not excellence. They do not commit the person to more than is reasonable. They do commit the person to an accepted baseline. Professionals want standards to provide reasonable expectations for consumers. They want to be able to say that the consumer can expect a certain level of skill and behavior from the practitioner. They want to keep incompetent people from practicing. They want to show that the field is indeed a professional practice through self-definition and self-governance. In this manner, standards can be a shield by offering professionals and consumers a measure of protection and a way to determine whether a competent life care planner is being selected.

All practitioners in the field are covered by standards. Practitioners who do not follow standards of their generic profession (e.g., medicine, nursing, etc.) can have their license or certification to practice revoked. As a field within other professions, life care planning does not have a regulatory body to enforce compliance or prohibit practice in the field. IALCP cannot grant entrance or prohibit practice. But there are consequences for following or not following standards.

Marketplace forces will favor those who follow standards and will jeopardize the ability to practice of those who do not follow standards. Ultimately, practitioners do what they do for a reason; it is when they are called upon to articulate that reason, or defend that position, that standards can be used as a shield to demonstrate competent practice and support for the manner in which the life care plan was constructed.

Practice Tips

When preparing to present and defend a life care plan in deposition, administrative hearing, or trial, take time to review the standards. This review is merely another filtering system. If the standards were clearly not followed, standards have the potential of quickly becoming a weapon to hurt credibility. Below are the kinds of questions that a life care planner may have to answer. Notice how the questions lead the life care planner toward a path of safety or potential destruction, depending on whether the life care planner followed standards of practice.

- You are a life care planner?
 - And you have practiced life care planning for how many years?
 - Please tell us a bit about what you were doing during the years prior to becoming a life care planner?
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- In what year did you first receive certification as a life care planner?
- What was involved in obtaining that certification?
- Are you a member of any professional organizations of life care planners?
- Are you familiar with the International Academy of Life Care Planners?
- Are you a member?
- Are you familiar with the International Association of Rehabilitation Professionals?
- Are you a member?
- You know, don't you, that if you are/were a member of the International Association of Rehabilitation Professionals, you could also become a member of the IALCP, which is a special interest section of International Association of Rehabilitation Professionals?
- You know that the International Academy of Life Care Planners is the only professional organization open to all Life Care Planners?
- And you, as a life care planner, would qualify, based upon education, training and experience to become a member of that organization?
- You are familiar with the fact that the International Academy of Life Care Planners has promulgated "Standards of Practice?"
- Are you familiar with those Standards of Practice?
- Do you adhere to any standards of practice for life care planning, whether those promulgated by the International Academy of Life Care Planners, or others?
- You would agree that any such Standards of Practice are established to guide and direct members as each pursues their profession?
- You would agree that the life care plan you were engaged to create, and plan, was to be a working document that provides accurate and timely information which can be easily used by the client and interested parties?
- And, you would agree that these Standards of Practice are there for life care planners to use so that their manner of practice is then at the same degree of care and skill which a reasonably competent life care planner, engaged in a similar practice and acting in similar circumstances, would use?
- Well, let's talk about your decision, in crafting the life care plan in this case, to not consult with any of the patient's attending physicians or other health care professionals.

Summary

In sum, as a life care planner, you will face the Standards of Practice anyway. There

will be those life care planners who have an opposing view, or have developed a life care plan which is an “alternative” projection of needs. In such a case, you should expect Standards of Practice to be blown up into an exhibit and used during questioning about the current and future needs and associated costs for the individual involved. Standards of Practice are there to be used by life care planners. Membership and active participation in professional organizations helps the practitioner develop a repertoire of approaches and tools to use in the prevention of unsound practice, and for assuring a competent, ethically conscientious, client-centered practice.

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