

Ethics Interface

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The last issue of the *Journal of Life Care Planning* (JLCP) launched the **Ethics Interface** column. As part of creating this column, a call was made to the community of practicing life care planners for applications for an ethics review panel to assist in research and input into this column. Many excellent candidates applied and selection for the panel was made based on applicants' experience teaching or training practitioners on ethics, with an interest in having interdisciplinary representation on the panel. The JLCP welcomes Dorajane Apuna, Mary Barros-Bailey, and Ann Wallace to the panel. Special acknowledgment is given to Ann Wallace for her research and writing for this issue as well as to the panel's legal consultant and life care planning consultant for their respective reviews of the column prior to publication.

The **Ethics Interface** column is meant to be an educational forum for life care planners. It is not designed to offer an authoritative opinion from the editor or editorial board of the *Journal of Life Care Planning*, the board of the International Academy of Life Care Planners (IALCP), or the board of its parent organization, the International Association of Rehabilitation Professionals (IARP), nor is it designed to represent or replace official opinions from the certifying body or other organizations associated with the practice of life care planning.

Ethics Dilemma

I am a life care planner new to the field. I was retained by a defense attorney to review a case and possibly prepare a life care plan. In an unrelated social situation, I was introduced to the plaintiff attorney on the same case. Conversationally, I mentioned to the attorney that I believed that he and I were on opposing sides of a case. When I reported the conversation to the attorney who retained me, she was furious. What did I do wrong and why? Who is it okay to talk to and who is off limits?

Response

When working on a case it is important to know if you have been retained as a consultant or as an expert. Attorneys often do not make this clear on the initial contact and, in fact, may have not determined your role. If you have been retained as a consultant, the attorney has the right to not reveal your involvement in the case (such as a defense consultant). However, if your role is that of an expert, your name would be disclosed to all parties in the case during the discovery process. If you are retained as an expert, your name is still considered confidential work product until such time as discovery dictates when your name is disclosed.

The International Academy of Life Care Planning (IALCP) Standards of Practice address this issue under, section IV. Standards of Performance, A. Ethical, 1. Confidentiality: "Appropriate confidentiality is a sensitive and important concept." "Litigation has the additional component of attorney work product that may have an effect on what information

may be disclosed. The Life Care Planner must be thoroughly informed on this topic” (IALCP, 2006).

On occasion, an expert retained by one side will subsequently be called on by the other side to be their expert on the same case. When this happens, you must respond that you cannot accept work on the case due to a conflict, without disclosing that you have already been retained by the other side, even though it will be assumed. In fact, it is not necessary to explain the nature of the conflict or the reasons for the conflict. Simply stating that a conflict of interest exists is sufficient. To be safe, it is advisable to not disclose the name of the patient/client to any party, without a release by the client. The IALCP standard, section IV. Standards of Performance, A. Ethical, states that a primary goal of ethics is to protect clients and Life Care Planners are expected to maintain appropriate confidentiality. Even though filing a lawsuit makes a public record, the fact that the client has retained an attorney and is involved in a lawsuit is confidential. For example, a pharmacy can be contacted for prices of medications without revealing the name of the client, but the name of the client can be revealed if the client or his/her legal guardian has signed a release of information allowing disclosure of this information.

Local rules and the discovery schedules of the court will often determine the timing of required disclosures and alter the formal rules requiring disclosure at earlier dates. Life care planners should be aware of any local requirements that may supersede the general rules by asking the retaining attorney about them. The simplest and easiest way to avoid mistaken, premature, or inappropriate disclosure may be to simply keep as confidential any association to a case with anyone outside of one’s own office.

New Ethics Dilemma for Consideration:

I am a nurse and a new life care planner. I continue to work clinically in a rehabilitation hospital. A defense attorney asked for my services on a case. His client had been injured in an accident and had been a patient at my facility. I always get permission from administration to work on a case if the injured person has been a patient at my hospital and did so for this case. My ethics dilemma is that I overheard a conversation between two nurses about the manner in which the accident of this person occurred. This information would be *very* valuable to the attorney who retained me. I understand the privacy restrictions in my work as a nurse. Do I have a conflict in this case? What constitutes a conflict? I really want to work on this case.

The *Journal of Life Care Planning* welcomes the submission of real world ethics dilemmas from practicing life care planners. Submissions will be sanitized to remove any identifying information and to promote confidentiality by keeping submissions in the strictness of confidence. Please send confidential submissions via email to nancymitchell4574@yahoo.com.

Reference

International Academy of Life Care Planners. (2006). Standards of practice. Retrieved December 7, 2006, from http://www.ialcp.com/life_care_planning_guidelines.html
