

Ethics Interface

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This Ethics Interface column was written as a collaborative effort of its panel: Dorajane Apuna, Mary Barros-Bailey, and Ann Wallace, with the editorial support of Roger Weed and Tyron Elliot. The author is grateful for their wisdom and collective experience.

The 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.

Ethical Dilemma

I am a life care planner frequently working for the opposing side of a local life care planner who, in my opinion, does extremely poor work. She is a certified life care planner but her reports do not reflect the basic tenets I was taught when I was trained. I do not know if the work is a result of incompetence or if it reflects an intention to inflate costs to satisfy the attorneys who retain her. At what point should another life care planner report a peer who does poor quality work?

Response

The Standards of Practice for our varied professions do not offer recommendations on when a life care planner should report the work of a peer if it is considered to be of poor quality. The American Occupational Therapy Association Guidelines to the *Occupational Therapy Code of Ethics* (2006) gives us guidance for dealing with the impaired practitioner when it is felt the impairment interferes with “safe and effective” practice (p. 5). The Code indicates that the occupational therapy personnel should discuss the concerns with the person and assist the colleague to seek appropriate help or treatment. Should that effort fail, the occupational therapy practitioner should report the individual to the appropriate authority (e.g., employer, agency, licensing or regulatory board, certification body, professional organization). Similar guidance is provided in the codes of ethics and standards of practice of other professions from where life care planners emanate. Your question does not indicate you believe this individual is impaired. Thus, the work product needs to be the focus of your concerns.

The International Academy of Life Care Planners (IALCP) Standards of Practice (2006) provides guidelines when addressing opposing life care planners. Section IV, Standards of Performance, A.5. says, “Life Care Planners are professionals, from varying educational backgrounds, who maintain professional conduct when addressing opposing Life Care Plan consultants. Life Care Plan consultants should focus upon methodology of plan development, supporting documentation for recommendations and plan content” (p. 129).

It is important then to inform your referral source of the pertinent standards of practice of life care planning. This, along with your critique of the work product, can illuminate the poor work quality of the opposing life care planner.

Some additional standards that speak to competence:

IALCP Standards of Practice for Life Care Planners (2006), Section IV, Standards of Performance, Section A.4, Competency:

“The Life Care Planner is expected to accurately represent any information received for a particular case. Recommendations are to have medical, rehabilitation, psychological and case management foundations with appropriate medical specialist and treatment team collaboration when possible, with support from medical recommendations, clinical practice guidelines, research, and other current literature” (p. 129).

“Research information that the Life Care Planner has obtained should be readily available for review and reflected within the Life Care Plan” (p. 129).

“Each case is unique and the Life Care Plan must demonstrate professional judgment in bringing together data, supporting documentation, and the individual characteristics of the person addressed within the plan” (p. 129).

The Commission on Health Care Certification Standards (2007), www.ichcc.org:

Principle 9-Competence, “Disability examiners and life care planners shall establish and maintain their professional competencies at such a level that their patients receive the benefit of the highest quality of services the credentialed professional is capable of offering” (p. 41).

Rules of Professional Conduct-R9.2, “Disability examiners and life care planners will continuously strive through reading, attending professional meetings, and taking course instruction to keep abreast of new developments, concepts, and practices that are essential to providing the highest quality of services to their patients” (p. 41).

IARP Code of Ethics, Standards of Practice, and Competencies (2006), www.rehabpro.org:

B2) Objectivity:

a) “So that justice is served by accurate determination of the facts involved, Forensic Rehabilitation Experts/Consultants use their abilities in an objective, unbiased, nonpartisan, impartial, and fair manner in arriving at findings, conclusions, and/or opinions” (p. 5).

b) “Forensic Rehabilitation Experts/Consultants are to use appropriate methods and techniques, carefully research and analyze the evidence in a case, and render opinions or conclusions that are demonstrably objective and reasonable” (p. 5).

B3) Competence:

a) “Forensic Rehabilitation Experts/Consultants have an obligation to provide services in a manner consistent with the highest quality standards of their profession. They are responsible for their own professional and ethical conduct and the conduct of those individuals under their direct supervision” (p. 5).

Remember, there also is the opportunity typically available on a case, to recommend that the retaining attorney retain an expert consultant to help develop questions for trial or deposition. These questions can reveal the opposing expert’s knowledge regarding tenets and methodology of life care planning. At times, you may be able to help develop those questions, but other times it may need to be someone else because of discovery requirements or rules. It

is best to discuss this with your retaining attorney.

If you can verify that a life care plan was not developed according to the individual's training and ethics, then contacting the opposing expert or a referral to the certification board may be indicated. There must be significant supporting evidence for a complaint to be investigated. There is a danger in attempting any peer action through any professional association during the litigation since that may well be viewed as an underhanded way of disqualifying an opponent as opposed to using the proper approach during deposition. Certainly no such complaint should be undertaken while litigation is pending.

References

- American Occupational Therapy Association. (2006). Guidelines to the Occupational Therapy Code of Ethics. *American Journal of Occupational Therapy*, 60(6), 652-658. Retrieved June 18, 2009 from <http://www.aota.org>
- Commission on Health Care Certification. (2007). *Standards and Examination Guidelines*. Retrieved June 18, 2009 from <http://www.ichcc.org/>
- International Academy of Life Care Planners. (2006). Standards of practice for life care planners. *Journal of Life Care Planning*, 5(3), 123-129.
- International Association of Rehabilitation Professionals. (2007 update). *IARP Code of Ethics, Standards of Practice, and Competencies*. Retrieved June 18, 2009 from <http://www.rehabpro.org/>

New Ethical Dilemma

I was recently asked by an attorney to take a reduction on my bill because the case was lost at trial. This attorney is an important referral source to me and I want to stay in her good graces. Is there an ethical problem with me providing a discount? I know the attorney lost a lot of money and time on this case.

A response to the above ethical dilemma will be published in the next issue of the Journal of Life Care Planning. The Journal of Life Care Planning welcomes the submission of real world ethical dilemmas. Submissions will be altered to promote confidentiality and be kept in strict confidence. Please send submissions via email to nancymitchell4574@yahoo.com.