Ethics Interface

Nancy Mitchell MA, OTR/L, ATP, CLCP, FIALCP

This column is a collaborative effort of Nancy Mitchell, Dorajane Apuna, Mary Barros-Bailey, Dianne Simmons-Grab, Ann Neulicht, and Hon. Judith LaBuda. The author is grateful for their editorial support, 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.

Dilemma

Can a longstanding case manager provide an objective and defensible life care plan for the client?

Response

Most of our organizations have standards of practice, codes of ethics, or codes of conduct that address the issue of dual relationships. Generally there is encouragement to avoid dual relationships especially during the course of case management service. Additionally, a case manger is typically seen as an advocate for the injured person. Therefore it is likely best practice to allow another life care planner to develop the life care plan in consultation with the case manager.

However there are circumstances when the needs of the evaluee are best met by the existing case manager in the development of the life care plan. Issues may include the lack of access to another life care planner, language or cultural issues, or a fragile family situation where yet another person involved could create significant stress or hardship. The benefit to the person being assessed along with the ability of the life care planner to develop an objective pan should always guide the decision making.

Should the case manager decide it is best for the person to proceed with the life care plan, full disclosure to all involved parties is needed. The case manager/life care planner also needs to be prepared to defend this decision in deposition and/or trial. An active case manager developing a life care plan is certain to raise questions about credibility and objectivity. The case manager is considering the conduction of a life care plan, along with the injured party's attorney, must consider whether this additional level of scrutiny and cross-examination serves the best interest of the injured party.

Our various standards of practice and codes of ethics do provide guidance with this issue:

The IALCP Standards of practice states:

IV. Standards of Performance

Ethical

2. Dual relationships: A personal relationship with a client is not appropriate during the course of service. Developing Life Care Plans for friends, co-workers, professional colleagues, or anyone where the objectivity and professionalism of the

care plan in question should be avoided.

3. Client advisement of role: Each client should be fully informed about the role of the Life Care Planner. For example, the client should be fully informed about who is requesting the Life Care Plan as well as the confidentiality of communications. Also, Life Care Planners who have dual role responsibilities should clarify that they are not acting as a case manager, psychologist, etc. and what the limits of their participation might be.

The ICHCC standards in the rules of professional conduct states:

Principle 2 – Evaluee and ICHCC Certificants Relationship
ICHCC Certificants shall respect the integrity and protect the welfare of people and groups with whom they work. The primary obligation of the certificant is to the evaluee outside of independent medical examinations and independent review of plans in which no physician/patient relationship exists.

R2.2 ICHCC Certificants will avoid establishing dual relationships with evaluee could impair one's professional judgment or increase the risk of exploitation.

R2.4 ICHCC Certificants' primary obligation and responsibility is to the catastrophically or non-catastrophically disabled person for whom assessment, evaluation, medical and vocational and rehabilitation needs are being applied and/or determined.

The Code of professional ethics for rehabilitation counselors states:

A.5.f. f. ROLE CHANGES IN THE PROFESSIONAL RELATIONSHIP. When rehabilitation counselors change roles from the original or most recent contracted relationship, they obtain informed consent from clients or evaluees and explain the right to refuse services related to the change. Examples of role changes include: (1) changing from individual to group, relationship or family counseling, or vice versa; (2) changing from a forensic to a primary care role, or vice versa; (3) changing from a nonforensic evaluative role to a rehabilitation or therapeutic role, or vice versa; (4) changing from a rehabilitation counselor to a researcher role (e.g., enlisting clients as research participants), or vice versa; and, (5) changing from a rehabilitation counselor to a mediator role, or vice versa. The clients or evaluees must be fully informed of any anticipated consequences (e.g., financial, legal, personal, or therapeutic) due to a role change by the rehabilitation counselor.

The CDMS Code of Professional Conduct states:

CDMS Preamble and Code of Professional Conduct
Certified Disability Management Specialists (certificants) recognize that their actions or inactions can either aid or hinder clients in achieving their objectives, and they accept this responsibility as part of their professional obligation. Certificants may be called upon to provide a variety of services and they are obligated to do so in a manner that is consistent with their education, formal training, and work experience. In providing services, certificants must demonstrate their adherence to certain standards. The CDMS Code of Professional Conduct (Code) has been designed to achieve these goals.

The fundamental spirit of caring and respect with which the Code is written is based upon five principles of ethical behavior. These include autonomy, beneficence, nonmaleficence, justice, and fidelity, as defined below:

Autonomy: To honor the right to make individual decision.
Beneficence: To do good to others.
Nonmaleficence: To do no harm to others.
Justice: To act or treat justly or fairly.
Fidelity: To adhere to fact or detail.

Special consideration to these principles of ethical behavior must be given because of the unique service provider/individual client relationship, and because the certificant is in a position to potentially impact decisions made in favor or against the individual client.

The primary obligation of the certificant is to exercise independent judgment in offering appropriate recommendations that consider the client's needs and the parameters of the applicable disability management system.

Principles
Principle 1: Certificants shall endeavor to place the public interest above their own at all times.

Principle 2: Certificants shall respect the integrity and protect the welfare of those persons or groups with whom they are working.

Principle 3: Certificants shall always maintain objectivity in their relationships with clients.

Rules of Professional Conduct

RPC 1.08 – Objectivity
Certificants shall maintain objectivity in their professional relationships and shall not impose their values on their clients.

RPC 1.12 – Misconduct
Certificants shall not engage in professional misconduct. It is professional misconduct if the certificant:
c. engages in conduct involving dishonesty, fraud, deceit, or misrepresentation;

RPC 1.14 – Conflict of Interest
Certificants shall fully disclose an actual or potential conflict of interest to all affected parties. If, after full disclosure, an objection is made by any affected party, the certificant shall withdraw from further participation in the case. Certificants shall refrain from taking on a professional role when personal, scientific, professional, legal, financial, or other interests or relationships could reasonably be expected to (1) impair their objectivity, competence, or effectiveness in performing their functions as disability managers or (2) expose the person or organization with whom the professional

relationship exists to harm or exploitation.

Section 2 – Provision of Services to Individual Clients
RPC 2.01 – Dual Relationships
All dual relationships must be disclosed. Certificants who provide services to an individual client at the request of a third-party payor shall disclose the nature of their dual relationship by describing their role and responsibilities to each party involved in the dual relationship. Dual relationships, other than payor/client, include but are not limited to familial, social, financial, business, close personal relationships with individual clients, or volunteer or paid work within an office in which the client is actively receiving services.

Section 3 – Provision of Services to Organizational Clients
RPC 3.01 – Forensic Evaluation
When providing forensic evaluations for an individual or organization, the primary obligation of certificants shall be to produce objective findings and opinions that can be substantiated based on information and techniques appropriate to the evaluation, and as required by applicable case law within the appropriate jurisdiction, which may include assessment of the individual and/or review of records. Certificants shall define the limits of their reports or testimony, especially when an assessment of the individual has not been conducted.

RPC 3.02 – Indirect Service Provision
Certificants who are employed by third parties as case consultants or expert witnesses and who engage in communication with the individual client shall fully disclose to the client and/or his or her designee their role and limits of their relationship. Communication includes all forms of written or oral interactions regardless of the type of communication tool used. When there is no pretense or intent to provide disability management services directly to an individual client, and where there will be no communication, disclosure by the certificant is not required. When serving as case consultants or expert witnesses, certificants shall provide unbiased, objective opinions.

The Code of Professional Conduct for Case Managers states:

PRINCIPLES
Principle 1: Certificants will place the public interest above their own at all times.

Principle 3: Certificants will always maintain objectivity in their relationships with clients.

STANDARDS FOR PROFESSIONAL CONDUCT
Section 1 - Advocacy
S 1 - The Advocate
Certified case managers will serve as advocates for their clients and ensure that:
a) a comprehensive assessment will identify the client's needs.
b) options for necessary services will be provided to the client.
c) clients are provided with access to resources to meet individual needs.

S 7 - Conflict of Interest

Certificants will fully disclose any conflict of interest to all affected parties. If, after full disclosure, an objection is made by any affected party, the Certificant will withdraw from further participation in the case.

Section 3 – Case Manager/Client Relationships

S 10 - Description of Services

Certificants will provide information to the extent reasonably necessary to permit clients to make informed decisions. At a minimum, information provided by Certificants to clients about case management services will include a description of the services, possible benefits, significant risks, alternatives and the right to refuse services. Where applicable, Certificants will also provide the client with information about the cost of case management services prior to initiation of services.

S 11 - Relationships with Clients

Certificants will not enter into any relationship with any client (business, personal or otherwise) that will interfere with the Certificant's professional objectivity.

S 13 - Objectivity

Certificants will maintain objectivity in their professional relationships and will not impose their values on their clients.

Section 5 – Professional Relationships

S 21 - Testimony

Certificants, when providing testimony in a judicial or non-judicial forum, will be impartial and limit testimony to their specific fields of expertise.

S 22 - Dual Relationships

Certificants who provide services at the request of a third-party payor will disclose the nature of their dual relationship at the outset of the Certificant/client relationship by describing their role and responsibilities to parties who have the right to know. Dual relationships, other than payor/client, include, but are not limited to, Certificants working with clients who are the Certificants' employer, employee, friend, relative, and/or research subject, and must also be disclosed.

New Dilemma

Please discuss the ethics involved in the advertisement of life care planning services.

References

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