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Ethics Interface
Use of Funds for Unrelated Items to Disability

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This column is the collaborative effort of Nancy Mitchell, Mary Barros-Bailey, Sherry Latham, and Ann Neulicht. 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, or the board of its parent organization, the International Association of Rehabilitation Professionals, 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

I recently did an evaluation for a plaintiff life care plan. During the process, I described many items that would be of obvious benefit to the evaluee. He said he would never use these items but would prefer to use funds for vacations and other items unrelated to the disability. Do I include the items? How should I proceed?

Response

A life care plan is a lifelong guide. People with (or without) disabilities may change their mind over time as to what they need as circumstances change. It is your role to educate the evaluee about current and future needs and the reason for the inclusion of items in the life care plan. If the person understands the reasons for items but still does not want them, the standards support the person's right to his or her point of view. However, if the person is unable to understand the reason for certain items, this may be an indication of the need for case manager involvement. It would be prudent to document the evaluee's rejection of any items as well as your reasons for including them in the plan. It is not your role to implement the life care plan but rather to educate.

It will be important to contact the referring attorney to discuss this issue. It may be critical, from a legal resolution of the case, for any monetary compensation to be placed in a trust fund to ensure that future expenditures are appropriate.

Relevant Organizational Standards

From the **International Academy of Life Care Planning Standards of Practice (2015)**:

I. INTRODUCTION

A. Definition of Life Care Plan

"The life care plan is a dynamic document based upon published standards of practice, comprehensive assessment, data analysis, and research, which provides an organized, concise plan for current and future needs with associated costs for individuals who have experienced catastrophic injury or have chronic health care needs."

II. PHILOSOPHICAL OVERVIEW / GOALS OF LIFE CARE PLANNING

The life care plan is a document that provides accurate and timely information, which can be followed by the evaluee and relevant parties. It is a detailed document that can serve as a lifelong guide to assist in the delivery of health care services. The life care plan is a collaborative effort among the various parties, when possible, and reflects goals that are preventive and rehabilitative in nature. As a dynamic document, the life care plan may require periodic updating to accommodate changes and should have quality outcomes as its goal.

Goals of Life Care Plans:

In life care planning, the evaluee is defined as the person who is the subject of the life care plan.

A. To assist the evaluee in achieving optimal outcomes by developing an appropriate plan of rehabilitation, prevention, and/or reduction of complications. This may include recommendations for evaluations or treatment that may contribute to the evaluee's level of wellness or provide information regarding treatment requirements.

B. To provide health education to the evaluee and relevant parties, when appropriate.

C. To specify services and the charges for those services needed by the evaluee.

E. To communicate the life care plan and objectives to the evaluee and relevant parties, when appropriate.

4. STANDARD: The life care planner uses a consistent, valid and reliable approach to research, data collection, analysis, and planning.

MEASUREMENT CRITERIA:

c. Considers appropriate criteria for care options such as admission criteria, treatment indications or contraindications, program goals and outcomes, whether recommended care is consistent with standards of care, duration of care, replacement frequency, ability of the evaluee to appropriately use services and products, and whether care is reasonably available.

8. STANDARD: The life care planner facilitates understanding of the life care planning process.

MEASUREMENT CRITERIA:

a. Maintains objectivity and assists others in resolving disagreements about appropriate content for the life care

plan.

b. Provides information about the life care planning process to involved parties to elicit cooperative participation.

9. STANDARD: The life care planner evaluates.

MEASUREMENT CRITERIA:

a. Reviews and revises the life care plan for internal consistency and completeness.

b. Reviews the life care plan for consistency with standards of care and seeks resolution of inconsistencies.

From the **Commission on Health Care Certification (2013)**:

Principle 1 - Professional and Legal Standards

ICHCC certificants shall behave in legal, ethical, and professional manner in the conduct of their profession, maintaining the integrity of the Code of the Professional Ethics and avoiding any behavior which would cause harm to other entities and/or individuals.

Rules of Professional Conduct:

R1.6 ICHCC Certificants shall not advocate, sanction, participate in, and cause to be accomplished, otherwise carry out through another, or condone any act, which the ICHCC Certificants are prohibited from performing by the Code of Professional Ethics.

R1.7 ICHCC Certificants shall refuse to participate in employment practices, which are inconsistent with the professional or legal standards regarding the treatment of employees or the public.

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.

Rules of Professional Conduct:

R2.1 ICHCC Certificants shall not misrepresent their role or competence to evaluee. Certificants will not misrepresent their role or competence to patients. Certificants will provide information about their credentials, if requested.

R2.2 ICHCC Certificants will avoid establishing dual relationships with evaluee that could impair one's professional judgment or increase the risk of exploitation. Sexual intimacies with patients are unethical and will not be tolerated by the ICHCC.

R2.3 ICHCC Certificants are obligated to clarify the nature of their relationship to all involved parties when providing services at the request of a third party. Similarly, and as expected, ICHCC Certificants have an obligation to provide unbiased, objective opinions regarding the evaluation results or care planning service regardless of referral source. ICHCC Certificants will clearly define through written or oral means, the limits of their relationship, particularly in the areas of informed consent and legally privileged communications to all involved individuals.

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 determined.

Principle 3 - Advocacy

ICHCC Certificants shall serve as advocates for fair and balanced reporting regardless of the referral source, with the health, care, and safety of people with disabilities not to be compromised as a result of a submitted respective report.

Rules of Professional Conduct:

R3.1 The ICHCC certificants shall further use his or her specialized knowledge and skills to do no harm to the "disabled" individual with regards to the summary and conclusions of reporting, regardless of the referral source.

Principle 6 - Confidentiality

ICHCC Certificants shall respect the confidentiality of information from evaluees, their representatives and any other sources.

Rules of Professional Conduct:

R6.1 ICHCC Certificants shall inform evaluees or their representative when applicable of the service to be provided regarding the limits of confidentiality.

R6.2 ICHCC Certificants shall inform evaluee confidentiality is waived when the ICHCC Certificant has good reason to believe that circumstances are life threatening or that laws of the state in which the ICHCC Certificant practices require reporting of suspected abuse or neglect.

R6.3 ICHCC Certificants shall not release records without a written authorization or as permitted by law.

R6.4 ICHCC Certificants shall safeguard the maintenance, storage and disposal of patient records.

R6.5 ICHCC Certificants shall obtain written permission from the evaluee or guardian for video, audio or photography when applicable.

R6.6 ICHCC Certificants presenting case studies in class settings, professional meetings, or publications will confine the content to that which can be disguised to ensure full protection of the identity of evaluees.

From the **Certification of Disability Management Specialists (CDMS) (2014)**:

PRINCIPLES

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.

RPC 1.08 – Objectivity

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

From the **Commission for Case Manager Certification (CCMC) (2014-2015)**:

I. Underlying Values

• Board-Certified Case Managers (CCMs) believe that case management is a means for improving client health, wellness and autonomy through advocacy, communication, education, identification of service resources, and service facilitation.

• Board-Certified Case Managers (CCMs) recognize the dignity, worth and rights of all people.

• Board-Certified Case Managers (CCMs) understand and commit to quality outcomes for clients, appropriate use of resources, and the empowerment of clients in a manner that is supportive and objective.

• Board-Certified Case Managers (CCMs) embrace the underlying premise that when the individual(s) reaches the optimum level of wellness and functional capability, everyone benefits: the individual(s) served, their support systems, the health care delivery systems and the various reimbursement systems.

• Board-Certified Case Managers (CCMs) understand that case management is guided by the ethical principles of autonomy, beneficence, nonmaleficence, justice, and fidelity.

Section 1 - The Client Advocate

Board-Certified Case Managers (CCMs) will serve as advocates for their clients and perform a comprehensive assessment to identify the client's needs; they will identify options and provide choices, when available and appropriate.

Section 3 - Case Manager/Client Relationships

S 9 - Description of Services

Board-Certified Case Managers (CCMs) will provide the necessary information to educate and empower clients to make informed decisions. At a minimum, Board-Certified Case Managers (CCMs) will provide information to clients about case management services, including a description of services, benefits, risks, alternatives and the right to refuse services.

S 10 - Relationships with Clients

Board-Certified Case Managers (CCMs) will maintain objectivity in their professional relationships, will not impose their values on their clients, and will not enter into a relationship with a client (business, personal, or otherwise) that interferes with that objectivity.

Section 4 – Confidentiality, Privacy, Security and Recordkeeping

S 13 - Disclosure

Board-Certified Case Managers (CCMs) will inform the client that information obtained through the relationship may be disclosed to third parties, as prescribed by law.

From the **Commission on Rehabilitation Counselor Certification (2010)**:

A.1.WELFARE OF THOSE SERVED BY REHABILITATION COUNSELORS

b. REHABILITATION AND COUNSELING PLANS. Rehabilitation counselors and clients work jointly in devising and revising integrated, individual, and mutually agreed upon rehabilitation and counseling plans that offer a reasonable promise of success and are consistent with the abilities and circumstances of clients. Rehabilitation counselors and clients regularly review rehabilitation and counseling plans to assess continued viability and effectiveness.

B.1. RESPECTING CLIENT RIGHTS

d. EXPLANATION OF LIMITATIONS. At initiation and throughout the counseling process, rehabilitation counselors inform clients of the limitations of confidentiality and seek to identify foreseeable situations in which confidentiality must be breached.

E.2. CONSULTATION

c. INFORMED CONSENT IN CONSULTATION. When providing consultation, rehabilitation counselors have an obligation to review, in writing and verbally, the rights and responsibilities of both rehabilitation counselors and consultees. Rehabilitation counselors use clear and understandable language to inform all parties involved about the purpose of the services to be provided, relevant costs, potential risks and benefits, and the limits of confidentiality. Working in conjunction with the consultees, rehabilitation counselors attempt to develop a clear definition of the problem, goals for change, and predicted consequences of interventions that are culturally responsive and appropriate to the needs of consultees.

E.3. AGENCY AND TEAM RELATIONS

c. COMMUNICATION. Rehabilitation counselors ensure that there is fair and mutual understanding of rehabilitation plans by all parties cooperating in the rehabilitation of clients.

From the American Association of Nurse Life Care Planners**, Nurse Life Care Planning Scope and Standards of Practice (2014)**:

1. The nurse life care planner (NLCP) does not discriminate against any person based on age, gender, ethnic background, religious beliefs or practices, social or economic status, life-style choices, functional status, or the nature of health or disability.

NLCP Explanation: The nurse life care planner performs in a nonjudgmental and nondiscriminatory manner.

4. The nurse life care planner safeguards the right of privacy of all individuals by maintaining confidentiality of information.

NLCP Explanation: The nurse life care planner exercises responsibility, discretion and respect in the handling and use of all protected or sensitive information and materials.

5. The nurse life care planner assumes responsibility and accountability for all actions, opinions, recommendations, and commitments.

NLCP Explanation:

a. The nurse life care planner assumes accountability for his/her life care plan, as well as their actions, opinions and

decisions.

b. The nurse life care planner relies upon his/her specialized education, body of knowledge, level of competence and experience when accepting and completing an assignment.

c. The nurse life care planner's professional services are delivered in a competent, concise and timely manner.

6. The nurse life care planner provides professional services with objectivity.

NLCP Explanation:

a. The nurse life care planner demonstrates critical thinking in decisions, recommendations and opinions.

b. All functions of the nurse life care planner are void of personal opinion, prejudice and conflict of interest or any such other consideration that could interfere with or influence objectivity, performance or outcome.

References

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