ETHICS & THE PROBATION OFFICER
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ETHICS & WORKING WITH ADULT PROBATION OFFICERS

• PARTICIPATES WILL UPON COMPLETION OF THIS COURSE:

• 1. Identify ethical theories and principles and their application in the WORKING WITH THE OFFENDERS.

• 2. Demonstrate increased skills in MAKING DECISIONS of ethical dilemmas.

• 3. Increased skills in resolution of ethical dilemmas.

• This course is presented in Modules:
• Ethics are principles adopted by an individual or group, such as, a profession or organization, to provide rules/guidelines for right conduct. Those rules are called codes of ethics. Whereas morals apply to any member of the culture or community, a code of ethics applies only to those members of the specific group. In some cultures, what is moral is determined by religious values. Ethics are based on a standard of behavior that is nonreligious. Virtues are desirable personal characteristics. They are not related to skill or behaviors so much as character, desire and motivation. Virtues are about who a person is rather than how that person may act. Virtues cannot be regulated. Some codes of ethics do include mention of virtues expected of members, such as personal self-awareness, but in general codes refer to behaviors.
• **Ethics on Micro and Macro Levels**

• Ethical issues are both personal (micro) and societal (macro) in nature. There is an ongoing struggle between legislating morality for the "public good" and fighting to retain an individual's right to autonomy. It is the intense emotional nature of such concerns that takes an issue from a personal level to a societal level.
• Alcohol and drug counselors may find that their time is spent not only sorting out client-level ethical dilemmas, but also dealing with societal-level dilemmas. This could involve advocating for legislation that protects the rights of clients or adapting to the impacts of a policy that will further restrict a provider's ability to intervene effectively with a client group.
Alcohol and drug counselors must balance what is right for them personally with what may be right based on professional standards. Substance abuse treatment professionals who are social workers, for example, should be familiar with the NASW Code of Ethics and may have to reconcile personal beliefs with the profession's code. There also may be agency standards that conflict with an individual's personal beliefs. In either case, there is a constant need to weigh what may "feel right" personally with the standards and policies of the environment and profession.
Perhaps the most difficult dilemma occurs when there are conflicts between the clinician's values and the client's behaviors. Professionals know that if a client threatens suicide or homicide, there is a duty to report. But most of the daily concerns that arise are not so simple. Ethical issues come up in numerous, seemingly insignificant ways. Did the client understand what the release of information stated, or did she rush so that the provider could make the next appointment? Did the clinician listen to what the client said about her culture, and how the treatment plan would not work because it was not created in a culturally competent manner? Was information about the client shared with Adult Probation. These are the kinds of issues that arise every day, affecting client care and reflecting on one's status as a clinician.
Informed consent: The purpose of informed consent is to meet the moral obligation of respect and autonomy for the person with whom your working. By giving the OFFENDER information about the counseling process WITH PROBATION and the limitations and purpose of that process, you provide the OFFENDER with the opportunity to chose whether to continue the counseling or not.

Compromised: To settle by concessions. To expose or make liable to danger, suspicion, or disrepute.
Because of the variety of services and systems involved with criminal justice clients, it is important for treatment providers to clarify their current role and the expectations inherent in that role as a guide for ethical decision-making and resolution of these dilemmas. THE PROBATION OFFICERS ARE TAUGHT CODE OF CONDUCT AND COUNSELORS ARE TAUGHT THE ETHICS OF THEIR ASSOCIATION.
The Judgment of Solomon refers to a story from the Hebrew Bible in which King Solomon of Israel ruled between two women both claiming to be the mother of a child by tricking the parties into revealing their true feelings. It has become an archetypal example of a judge displaying wisdom in an Ethical Decision making process.
• Decision making involves a great degree of value clarity, ethical decision making involves more! Unlike certain financial, inventory and production decisions, ethical decisions cannot be coded into digital machines. They require critical thinking and evaluation.

• What makes ethical decision making so difficult? Why cannot ethical decisions be programmed like other decisions? What leads to dilemmas in ethical decision making? In the coming paragraphs we try to answer all these questions. We also try to understand basic difficulties involved in ethical decision making.
• An organization is an amalgamation of various individuals and there is a conflict of interest at the personal level between these members, each one is concerned about his benefits and neutral or opposing to the benefits or good of others. This conflict of interest leads to situations that are morally challenging to the counselor who wants to be moral and righteous to his own conscience and serve the interests of the Adult Probation Department. Here the dilemma arises on deciding upon the course of action.
• THE PRINCIPLE OF AUTONOMY IS NOT CONSIDERED BY THE ADULT PROBATION DEPARTMENT. YOU WILL HEAR THE CRIMINAL JUSTICE SYSTEM STATE “INDIVIDUALS HAVE THE RIGHT TO DECIDE. THEIR LIFE IS A CHOICE.” HOWEVER, THAT IS JUST THE FIRST PART OF THE STORY. MOST ADDICTS MUST BE ALLOWED TO CONTROL THEIR DECISIONS UNTIL THEY HIT ROCK BOTTOM.
AUTONOMY

• The principle of autonomy assumes that individuals have the right to decide how to live their own lives, as long as their actions do not interfere with the welfare of others. This principle respects the unconditional worth of the individual and promotes the concepts of self-governance, self-determination, and self-rule. The substance abuse treatment counselor can play a key role in determining if the client is competent to make his own decisions and establishing whether or not the client has the information needed to make a personal choice.
EXAMPLE

• THERE WAS A CONSTANT CONFLICT BETWEEN OFFICER BUZZ, ADULT PROBATION BECAUSE HIS MIND-SET WAS FIXED ON ETHICs CODE OF CONDUCT. I WAS IN THE WRONG BECAUSE MY CODE OF ETHICS INCLUDED SPIRITUALITY AND VALUES. ALSO I VALUED THE PRINCIPLE OF AUTONOMY. FOR AN EXAMPLE: I HAD A CLIENT WHO WAS ADDICTED TO PAIN PILLS AND VODKA. ADULT PROBATION HAD SENT HER FOR SUBSTANCE ABUSE TREATMENT. SHE TOLD ME TO PRAY FOR HER THAT SHE COULD OVERCOME THIS ADDICTION.
EXAMPLE

• IN THE PAST YEARS, SHE HAD SUFFERED A BACK INJURY THAT CREATED CHRONIC PAIN. SHE SAT 10 HOURS A DAY DOING DATA ENTRY. SHE STATED THAT IF HER CHURCH PRAYING; HER PAIN PILLS AND VODKA WAS NOT AVAILABLE TO HER, SHE WOULD NEVER MAKE HER DAY. SHE FEEL SHE COULD NOT GIVE UP HER ADDICTION. SHE TOLD HER PROBATION OFFICER THAT “MRS. GREGORY SAID SHE WOULD PRAY FOR ME.” Officer BUZZ CAME TO MY OFFICE THE NEXT DAY TO WRITE ME UP FOR MAKING THAT STATEMENT TO HER.
I TOLD him, “I COULD NOT LOOK MYSELF IN THE MIRROR EACH MORNING IF I DID NOT PRAY FOR HER AND LET HER KNOW HER CHANCES OF CARDIAC ARREST FROM THE ALCOHOL AND PAIN PILLS.” BECAUSE OF MY VALUES, FAITH AND MORAL PRINCIPLES, I HAD A CONFLICT SITUATION WITH Officer BUZZ CONSTANTLY. I WAS NOT THE “FAVORITE CHILD” SO I AM SURE THAT I WAS NOT THE ONLY COUNSELOR. MY REGRETS EXIST TOWARD MYSELF SINCE OFFICER BUZZ TOOK A $75,000 CONTRACT FROM MY FAMILY. I WOULD NOT GIVE UP MY VALUES OR MORAL PRINCIPLES FOR THE $75,000. HOWEVER THAT BURNT A BRIDGE WITH PROBATION AND CANCELLED A CHANCE TO HELP OTHER OFFENDERS, ONLY A FEW ARE ALLOWED TO COME NOW.
In recent years, substance abuse professionals have been seeing larger numbers of clients who are referred by the criminal justice system. In addition, more criminal justice systems are offering treatment in their settings and hiring substance abuse professionals to provide treatment services. Traditional training in ethics for substance abuse counselors has not included a discussion of the different values and theories that exist in criminal justice agencies and how these may conflict with the values and theories counselors are typically exposed to in their professional training.

This conflict often presents ethical dilemmas for substance abuse counselors working in criminal justice settings with this client population. The same differences cause problems for the Non-Contract Provider.
In many respects, probation is the “dark figure” in the criminal justice world. Though responsible for nearly two-thirds of offenders under correctional control, amazingly little in-depth research has been conducted on its activities or impact, except in the limited area of intensive supervision programs (Petersilia 1999). Very little can be said with confidence about what probation does and to what effect. On the other hand, probation (like its law enforcement cousin) protects the public around the clock. Probation is the untapped giant of the public safety arena and has greater potential to control the behaviors of offenders than any other criminal justice component. In many respects, probation is the “dark figure” in the criminal justice world.
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This transformational effort will require that probation practitioners develop a plausible narrative of community-based supervision. This narrative must convey, both in what it says and what it does, how the risk offenders present while under supervision can be addressed in a credible fashion in the community. A sound narrative in probation must confront and provide an accurate accounting of the problem of crime, its extent, and what can be done to address it. The story it tells must also recognize and be responsive to the “rationality demands” that are placed on the system. It must clearly articulate the goals that the system is pursuing and defend its strategies and practices as viable means of accomplishing those goals (Corbett 1996; Rhine 1997).
The narrative provides a vehicle for communicating to the citizenry what probation does. The new narrative must give the public reason to believe in probation’s capacity to control offenders under supervision in the community. Even more, the narrative must be framed as a story that connects the efforts of probation to important public values. A new narrative for probation must, of necessity, convey a vision of important public values to be realized through the work of those in the field (Burrell 1999a; 1999b). As part of this vision and the story it tells, the narrative must necessarily explain the outcomes that will be produced through probation, as well as describe the strategies that will be used to achieve these results.
In essence, the reinvention of probation requires that supervising probation officers and Judges develop a new narrative grounded in a coherent and convincing vision. They must also embrace and employ methods and strategies embedded within the narrative that will engender the substance abuse providers and the public’s confidence and support. What, then, needs to be considered in constructing such a narrative? What are those key strategies that will move probation from an under-valued, and ineffectual correctional option to one that is “at the table” when criminal justice policy is crafted and that plays a preeminent role in promoting public safety and rehabilitating the offenders? Develop a Code of Conduct and protocol that will be in the offenders’ best interest for rehabilitation and yet, keep the public safe.
THE SOCIAL JUSTICE ETHIC

• Social Justice
• The interest of the larger community out weigh those of the individual.
• Symbols of public employment include “oath of office,” uniforms/badges, constitutional obligations.
• We are now going to discuss a different type of theory called social justice. Most criminal justice programs have a basis in this theory, which states that the institution exists for the good of society and not the individual. The employee has to take an oath of office, often wears a uniform, and is obligated to uphold the law and the constitution as opposed to a professional code of ethics with an association. Police Officers and Probation Officers do have a code of CONDUCT. THE CODE OF CONDUCT IS THEIR CODE OF ETHICS. THE FOCUS OF THEIR ETHICS IS ON LEGAL PROTOCOL AND WHAT CONDUCT IS EXPECTED IN CERTAIN SITUATIONS.
Section D
Relationships With Other Profession

• D.1. RELATIONSHIPS WITH COLLEAGUES, EMPLOYERS, AND EMPLOYEES:
  • D.1.a. Different Approaches
  • Counselors are respectful of approaches that are grounded to theory and/or have an empirical or scientific foundation but may differ from their own. Counselors acknowledge the expertise of other professional groups and are respectful of their practices.
  • D.1.b. Forming Relationships
  • Counselors work to develop and strengthen relationships with colleagues from other disciplines to best serve clients.
• Two different types of ethics are virtue ethics and principle ethics. Virtue ethics are individual characteristics and ideals of the person, such as integrity and honesty. Principle ethics are based on a set of obligations that define correct behavior. Most professional codes of ethics incorporate both principle and virtue ethics. These following six principles are universally applied in codes of ethics for helping professionals.
A. What is Virtue Ethics?

• 1. Can be described as another part of normative ethics:
  • - axiology studies what makes things (e.g. pleasure or knowledge) good or bad;
  • - normative ethics of behavior studies what makes actions (e.g. murder/charity) right or wrong;
  • - virtue ethics studies what makes the character traits of people (e.g., bravery, greediness) virtuous or vicious.
A. What is Virtue Ethics?

2. Sometimes, however, it is described as an alternative approach to ethics altogether.
3. A different explanation of why an action is right or wrong given might be given by a virtue ethicist E.g. a lie is wrong not because of its consequences and not because it violates rules but because it is not what a virtuous and honest person would do.
4. Focus is on what sort of people we should strive to be, not what things should we do on individual occasion.
5. Proponents say it captures more of what is important: being an honest person is more than just not telling lies: it requires thinking and feeling about lies in a certain way.
What is Virtue Ethics?

6. Encourages us to think about moral heroes and saints: E.g., Jesus, Mother Teresa, Gandhi, Martin Luther King And consider what about their personalities made them virtuous.

7. Virtue ethicists don’t ignore actions, but regard them as outgrowths of a person’s character. The notion of character is the morally more important concept.

8. We praise courageous acts, but courage is not really a feature of the act on its own, but of the person doing it.
B. Aristotle on Moral Knowledge

• 1. Most famous form of virtue ethics comes from Aristotle’s Nichomachean Ethics Aristotle (384-322 BCE)

2. Two kinds of knowledge:
   • theoretical knowledge (episteme): aims at the truth in some kind of science or branch of mathematics.
   • practical knowledge (phronesis): aims at wisdom about how to act and what to be.

3. Ethical knowledge is a form of the latter.

4. Practical knowledge only comes with practice: doing it yourself.
   • (E.g., knowing how to ride a bike.)
C. Aristotle on the Good

• 1. Every art, craft or inquiry aims at something good. The musical arts aim at the creation of music.
• Engineering aims at the creation of bridges and houses, etc. The medical arts aim at creating and maintaining health. Etc.
• 2. Some arts or activities are parts of others. E.g., Bridle making leads to the creation of bridles, which are used for riding horses. Making bridles is good only because riding horses is good.
• Aristotle asks the question as to whether there is some good that all other activities and arts are a part of creating?
1. A virtue is a trait that contributes to a person functioning well as a human being. (Examples include bravery, generosity, friendliness, etc.)
2. A virtue is not just a feeling. A person who “feels” brave but does not act on it is not brave.
3. A virtue is not just a natural inclination. A person who is just born a certain way is not virtuous in virtue of being born that way.
4. A virtue is not just doing a given action on a given occasion. A person who does something brave or generous once is not a brave or generous person.
The Golden Mean

1. Aristotle describes a virtue as a “mean” or “intermediate” between two extremes: one of excess and one of deficiency. **Example: bravery (e.g. on a battlefield)**

   - Involves how much we let fear restrict or modify our actions. Bravery is the mean or intermediate between cowardliness and Rashness.

   - A coward is afraid too much, and lets it keep him/her from acting in the necessary ways during a battle.
   - A rash person is afraid too little: (s)he takes unnecessary risks, and performs dangerous actions when there is little good to be got from them.

   - A brave person is someone in the middle of these extremes.
Some Examples

1. Aristotle says the mean between pleasure and pain is “temperance”.
   (What he means by this is the pleasures of the senses, like eating, drinking and having sex.)
   a) The excess would be gluttony and nymphomania, leading to health or other problems.
   b) The deficiency would be things like anorexia and/or painful asceticism.
   c) The mean involves wisely and deliberately eating well, and restricting sexual activities to the appropriate times, places and relationships.
WHAT ARE THE PRINCIPLES OF ETHICS?

• Principles are the foundations of ethical analysis because they are the viewpoints from which guidance can be obtained along the pathway to a decision. Each theory emphasizes different points such as predicting the outcome and following one's duties to others in order to reach an ethically correct decision. However, in order for an ethical theory to be useful, the theory must be directed towards a common set of goals. Ethical principles are the common goals that each theory tries to achieve in order to be successful. These goals include beneficence, least harm, respect for autonomy and justice.
The principle of beneficence guides the ethical theory to do what is good. This priority to "do good" makes an ethical perspective and possible solution to an ethical dilemma acceptable. This principle is also related to the principle of utility, which states that we should attempt to generate the largest ratio of good over evil possible in the world. This principle stipulates that ethical theories should strive to achieve the greatest amount of good because people benefit from the most good. This principle is mainly associated with the utilitarian ethical theory. An example of "doing good" is found in the practice of medicine in which the health of an individual is bettered by treatment from a physician.
This is similar to beneficence, but deals with situations in which neither choice is beneficial. In this case, a person should choose to do the least harm possible and to do harm to the fewest people. For instance, in the Hippocratic oath, a physician is first charged with the responsibility to "do no harm" to the patient since the physician's primary duty is to provide helpful treatment to the patient rather than to inflict more suffering upon the patient. One could also reasonably argue that people have a greater responsibility to "do no harm" than to take steps to benefit others. For example, a person has a larger responsibility to simply walk past a person rather than to punch a person as they walk past with no justified reason.
Respect for Autonomy

• This principle states that an ethical theory should allow people to reign over themselves and to be able to make decisions that apply to their lives. This means that people should have control over their lives as much as possible because they are the only people who completely understand their chosen type of lifestyle. Each man deserves respect because only he has had those exact life experiences and understands his emotions, motivations and body in such an intimate manner. In essence, this ethical principle is an extension of the ethical principle of beneficence because a person who is independent usually prefers to have control over his life experiences in order to obtain the lifestyle that he enjoys WITHIN SOCIETY’S ESTABLISHED LAW. WHEN THE TRAFFIC LIGHT IS “RED”, YOU MUST STOP YOUR VEHICLE.
Codes of ethics are a key ingredient in ethical decision-making and we will discuss the pros and cons of codes and the various codes that may be applicable to your practice. Counselors and their clients center on issues of value and the meaning of life as they search out solutions for problems, goals and strategies related to this meaning. They use their own interpretation of what is good, bad, right, wrong and painful in their experiences and realities to guide them. These understandings are called values.' (Cottone and Tarvydas, p. 121).
• Laws are rules developed under the authority of a state, court or federal body. Statutes are the laws passed by a legislative body. An example of this is the law that requires the reporting of child abuse. Case law is laws that are prescribed by a court. An example of this is Tarasoff v. Regents of the University of California. Liability is a legal term and refers to a professional’s responsibility to clients to perform competently.
Four criteria must exist in order for the court to support the liability charge:

• The professional had a duty to the client;
• The professional breached a duty to the client;
• Evidence proves that the client was injured or damaged;
• Proof that the injury was caused by the professional’s breach of duty.
• Regulations or Code of Conducts are guidelines prescribed by a governing authority for a specific group. Regulations or Code of Conduct can be promulgated by private groups, like counselor certification boards or a professional association, and have no statutory authority. Regulations or Code of Conduct can also be promulgated by state and federal boards and agencies that do have statutory authority.
• The regulations only apply to the group for which they are promulgated. For example, the regulations for marriage and family counselors do not apply to someone who does not identify with this profession or hold this license. The most recent federal regulations that impact counseling are the Health Insurance Portability and Accountability Act (HIPPA).
• Standards of practice are the minimal standard of behavior that is expected from a professional. In a liability suit, the standard of practice will be used to evaluate the counselor’s professional judgment and conduct. The standards of practice are established through testimony of professionals who are considered experts in their field. Standards of practice are also influenced by ethical standards, state laws, cultural factors, and interpretations of case law.
ETHICAL THEORIES

• Helping professionals would not attempt to practice their profession without a good grounding in psychological and/or counseling theories. However, many professionals engage in ethical decision making without any knowledge of ethical theories. Theories give a foundation to why we may think or act in a particular way with clients.
For example, if you believe the good of the many clients is more important than the good of one, that belief is based on a theory. How this theory might look in practice is when a professional or agency sets limits on a set number of sessions for a client; resources are scare and need to be distributed equally.
Helping professionals today are dealing with complex and diverse clients, fiscal accountability, legal mandates and shrinking resources. In 1982, Carol Gilligan proposed a model of moral development based on Kohlberg’s model of moral development that supported the ethical decision-making based on general principles and “moral logic.” This theory proposes that ethical decision-making should be done within the context of the relationships central to the ethical dilemma.
• A counselor practicing care-based ethics might act in the following way. If served with a subpoena, the counselor would discuss the pros and cons of responding with the client. Even if the counselor and client disagreed, the client would understand the reasoning of the counselor’s decision and efforts are made to preserve the helping relationship.

• Are there any ways that you will practiced this ethical theory?
ETHICAL DECISION MAKING

• An adult client referred by probation has relapsed in the course of treatment. He is otherwise working very hard at recovery. The agreement with the probation officer is to report any substance use and will result in a violation of probation and the client’s incarceration. **The substance abuse counselor decides not to report the relapse.** This was not a counselor at First Step Counseling-Spring.
Participants enter into a behavioral contract with the Court, which outlines the offender's expectations within a specified time frame. Compliance or lack thereof is met with rewards or consequences to stimulate successful treatment outcomes. The contract specifies counseling schedule, meetings with the probation officer, urinalysis testing, payment of fees, and other special Drug Court conditions. Rewards include reductions in length of probation grant, court appearances and monetary obligations.
• Sanctions include community restitution hours, "all-day court", and incarceration. Participants are responsible for paying their own treatment costs. In return, their fines are deferred and Adult Probation pays for urinalysis testing. Drug Court probationers can earn early termination and misdemeanor designation (if applicable), in as little as one year.
The ethical decision-making process can be complicated. You are practicing ethically in your daily routines without really thinking about it based on your training and experience. A formal decision-making process is only needed when faced with an ethical dilemma. Unfortunately, working within a criminal justice system, there are many dilemmas counselors encounter. We will first discuss the components of an ethical dilemma. Then we will look at the important aspects of a formal decision-making process including codes of ethics.
• Choice must be made between two or more courses of action;
• Significant consequences exist for not taking one of the courses of action;
• Each course of action can be supported by one or more ethical principles;
• The ethical principles supporting the course not taken will be compromised.
CONFLICT

• A dilemma occurs when there is a conflict between two or more ethical principles and/or an ethical principle and a legal mandate/policy. There are significant consequences involved in the choices, for example, client welfare being compromised.

• Compromised: To settle by concessions. To expose or make liable to danger, suspicion, or disrepute.
• Limits of a Code of Ethics
• Reactive rather than proactive
• Conflicts between two codes
• Conflicts with customs, personal beliefs
• Principles not virtues
• Lack of input from individuals whose welfare is at stake
• Identify ethical issues and principles
• Consult appropriate code;
• Consult with supervisor/colleague;
• Identify legal issues and need for attorney;
• Develop plan;
• Implement plan;
• Document plan.
• What happen in our counselor’s situation? Refer to Slide No. 21.
The principle of justice assumes impartiality and equality. It means that a clinician will treat all clients equally and give everyone their due portion of services. This principle applies to the individual client as well as on the larger societal level. Yet, given human nature, how possible is it really to treat everyone equally? Can it be honestly said that a clinician does not have "favorite" clients? Are there clients with whom a clinician instinctively wants to limit contact? Are there agency policies or informal agency practices that limit access to a program?
• While it is normal to have bias, it is important to know when and how it affects one's ability to practice within the principle of justice, so that no client is discriminated against or denied access to treatment that other clients have. This requires an understanding of counter transference--one's conscious and unconscious reactions to what the client may present in treatment. It also requires knowing when to ask for consultation with a probation officer, so that personal issues do not stand in the way of working with clients.
Although it may be difficult for a provider to treat everyone exactly the same, there are safeguards that Adult Probation and providers can institute to ensure an equitable level of service. Standards can call for every new client to receive an intake interview within 24 hours, or the agency may work toward clarifying its criteria for services so that they are weighed more heavily on objective information rather than on the personal impressions of a substance abuse treatment worker. These sorts of policies can help ensure a general level of fairness, regardless of a counselor’s or probation officer’s personal feelings.
CITATIONS

- Reference Librarian, 4(Summer).