

Ethical Case Analysis Part III

Kathryn M. Carlson

Department of Graduate Studies, University of Western States

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Dr. Tamara Harris

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Introduction

Elliot's case illustrates ethical violations from breaching confidentiality, operating outside of competencies, and pressures from supervisors and directors. As a licensed professional counselor and certified mental performance consultant, Elliot is responsible for upholding the ACA and AASP Code of Ethics. The following paper will outline the decision-making model used in analyzing this case, code applications from the ACA Code of Ethics and AASP Code of Ethics, and suggested resolutions for each ethical issue. This paper aims to show a pathway where Elliot can maintain his job while operating within ethical boundaries.

Model Description

For Elliot's case, I will use the ACA Practitioner's Guide to Ethical Decision Making. This model uses foundational principles: autonomy, justice, beneficence, and nonmaleficence. Each step helps counselors determine a course of action that respects the law, the client, and the ACA Code of Ethics.

1. Identify the Problem.

- a. This step requires gathering objective, specific information about the ethical concern. Asking questions and, if necessary, seeking legal advice can help clarify the problem.

2. Apply the ACA Code of Ethics.

- a. During this step, a counselor refers to the ACA Code of Ethics and considers the unique elements of the problem, such as multicultural perspectives and technology. Applying the Code of Ethics can help lead to a resolution.

3. Determine the nature and dimensions of the dilemma.

- a. At this point, a person considers the foundation principles of the ACA Ethics Code and decides which principles apply and take precedence. A person may also need to counsel with other professionals and refer to current relevant literature. This step helps examine the problem in different ways.

4. Generate the possible courses of action.

- a. A person brainstorms as many courses of action as possible. This helps generate creative solutions to complex problems.

5. Consider the potential consequences of all options and determine a course of action.

- a. Each course of action will have implications, consequences, and results. This step helps eliminate courses of action that lead to obvious undesirable outcomes.

6. Evaluate the selected course of action.

- a. Test each course of action by applying the principles of Justice, Publicity, and Universality. If the course of action satisfies these three principles, keep this course of action. If the course of action opens more ethical dilemmas, reconsider the course of action or reevaluate previous steps.

7. Implement the course of action.

- a. Carry out the plan and follow up after the plan has been implemented. Changes can be challenging to start and maintain.

Code Application

Ethical Issue #1:

Elliot has developed protocols for distance counseling via FaceTime or Skype to help with client access to services.

ACA Codes:

- B.3.c: Counselors must discuss private information in settings where they can reasonably maintain client privacy.
- H.1.b: Counselors may not practice across state lines.
- H.2.a: Counselors must have proper distance counseling credentials.
- H.2.b: Counselors must acknowledge the limitations of confidentiality in electronic records and transmissions.

Ethical Analysis:

Since Elliot works with NCAA Division I (DI) student-athletes, many clients travel out of state for training and competition. Distance counseling is a reasonable solution after Elliot earns appropriate credentials. Lacking credentials means that Elliot would practice outside of his competencies. Also, many DI teams travel across state boundaries. Elliot may only practice within the state of his licensure. Lastly, Elliot may not be taking the proper steps to maintain confidentiality for distance counseling. Athletes may have trouble finding a private space during team travel. The programs used (FaceTime and Skype) are not fully equipped to protect the confidentiality of each client. This action may be an ethical violation. More information is needed about the software, the travel parameters, and the protocols for distance counseling.

AASP Codes:

- 23 (all sections): AASP Members and CMPCs should take measures to protect privacy and confidentiality when using technology for communication with clients. Practitioners should also seek training regarding specific telecommunication methods and refrain from using methods without proper education and training.
- 2.g: Competency must be understood related to various areas, including the use of technology.

Ethical Analysis:

Elliot is using a technology platform that does not protect privacy. He also lacks adequate education and training to engage in telehealth, and FaceTime and Skype are not adequate programs for telehealth. Many DI athletes travel outside the state for competition. If the counseling sessions occur while the athlete is in a different state, Elliot must have licensure in that state or region. This is an evident ethical concern and probable ethical violation.

Similarities and differences between ACA and AASP:

Both ACA and AASP ethics codes emphasize competency for telehealth and privacy for clients. The ACA code section H has specific telehealth parameters and limitations on service locations. The AASP code section 23 mentions that each member should know laws regarding licensures and locations. However, it lacks specific language that could prevent the practitioners from operating in states without licensure. I believe this may be due to the nature of Consultants vs. Counselors. Practitioners acting as licensed counselors are bound by geographical boundaries. Consultants do not have the same limitations when they offer consulting services. It would be necessary for practitioners to be aware and diligent in offering only appropriate services within the geographical and technological boundaries of competence. Regarding Telehealth, the ACA is a better resource for ethical guidelines.

Ethical Issue #2:

Elliot often collaborates with the medical staff about clients despite expressed concerns from student-athletes. Elliot's secretary informed a coach of the current client's counseling schedule. The client does not want the coach involved in the counseling process. Clients include mandated clients, clients referred by medical staff, and self-referred clients.

ACA Codes:

- A.2.e.: Mandated clients must have informed consent on the limitations of confidentiality.
- B.1.b.: Counselors must respect clients' privacy and may only request private information with permission when it benefits the client.
- B.1.c: Counselors must protect confidential information.
- B.1.d.: Counselor must inform clients when confidentiality will be breached.
- D.1.d: Counselors working with multi-disciplinary teams should establish roles and professional obligations to establish ethical boundaries.

Ethical Analysis:

Elliot is obtaining and giving confidential information about his clients. Elliot's secretary also disclosed private information to someone other than the client without consent. This not only violates confidentiality and privacy codes but also distresses clients. Clients are not required to disclose unrelated information without permission. Medical staff should also not disclose information as it is a HIPAA violation. Elliot should work with the other professionals to establish roles and ethical boundaries for the client's benefit if this collaboration is necessary. Overall, this action undermines the autonomy and fidelity of the clients and is an ethical violation. Continuing to disclose and obtain information will prevent trust within the counselor/client relationship and potentially cause mental harm to the client. Some limitations may apply for mandated clients, but further questions and information are needed. In such cases, Elliot should disclose the limitations to the client.

AASP Codes:

- 19: Practitioners must maintain and protect confidentiality, explain boundaries of confidentiality with persons with whom they work, and do not disclose confidential identifiable information without explicit consent.

Ethical Analysis: Elliot, his secretary, and the medical staff violated these ethical codes by sharing information about each athlete without consent. Each time information is disclosed, it must be done with adequate informed consent. If permission has not been given but collaboration is needed, practitioners must use vague information that could not be used to identify the client. Even in cases where practitioners require collaboration with colleagues, the client should be informed and allowed to decline the resource.

Similarities and differences between ACA and AASP:

Both ACA and AASP ethics codes maintain confidentiality and privacy as foundational principles for each organization. Both agree that respect for a person's privacy is fundamental to the field of psychology. ACA Code of Ethics Section B offers substantial guidance on practices that protect clients' privacy and confidentiality. Section 19 of the AASP Code of Ethics describes a practitioner's duty to respect and protect confidentiality. The ACA code has guidelines in its confidentiality section and could be considered a better resource for quick answers. However, the AASP Code of Ethics mentions confidentiality and privacy in each section where it may apply. This code requires practitioners to have a greater understanding of the boundaries and limitations of this principle.

Ethical Issue #3:

Elliot has been directed to start providing mental performance consulting to all athletes, including those he is currently counseling. Some athletes have expressed concern that this dual role will violate privacy.

ACA Codes:

- A.1.a: Counselors are primarily responsible for promoting and respecting clients' welfare.

- A.2.a: Clients have the right to enter or leave a counseling relationship, and counselors must provide adequate information throughout the relationship.
- A.6.d: Counselors must obtain informed consent from clients when changing roles.
- D.1.d: Counselors working with multi-disciplinary teams should establish roles and professional obligations to establish ethical boundaries.

Ethical Analysis:

Before hiring, Elliot stated that he would not provide mental performance consulting to the students he was also counseling. His supervisors are pressuring him to enter a dual-role relationship with student-athletes and threatening to pull funding. Not only did Elliot refuse this idea before hiring, but his current clients could not refuse mental performance consulting. Student-athletes have expressed concern and discomfort. They feel upset that their privacy may be violated. Such a change would require Elliot to inform each of his counseling clients of his new role and permit them to refuse services. Since the change hasn't happened yet, Elliot needs to bring the ethical concerns to the upcoming meeting. He must also decide which foundational principle will take priority in the conversation to help him establish his professional role in this situation. This ethical concern may value autonomy and fidelity over other foundational principles.

AASP Codes:

- 9.a: When an AASP Member or CMPC acknowledges that multiple professional relationships can occur due to the nature of the profession.
- 9.b: Practitioners must carefully evaluate and consider any possible ethical concerns with multiple relationships and roles.

Ethical Analysis:

Elliott was hired to a position with multiple roles with a high probability that he could have multiple relationships with clients: counselor and consultant. Elliott should understand this possibility. Elliott must evaluate whether he has given each athlete adequate informed consent regarding both roles. He should also allow each athlete to exit the relationship if they feel comfortable. Additional ethical concerns may apply if the athletes are mandated participants.

Similarities and differences between ACA and AASP:

Both the ACA and AASP Ethics Codes respect clients' autonomy. The ACA Code A.2.a instructs practitioners to give adequate informed consent for service. ACA Code A.6.d expands upon this principle and adds that practitioners must gain informed consent when changing roles. The AASP Ethics Code suggests that many within the SPP field experience multiple roles for clients. However, the code also encourages a practitioner's self-examination of any further ethical concerns that multiple roles cause. Although the AASP code may be more applicable to this ethical concern, the ACA ethics code creates the foundational knowledge needed for solutions.

Suggested Resolutions

Ethical Issue #1 Resolution:

To comply with the ethical codes, Elliot should consider the following steps regarding offering Telehealth services. First, Elliot should stop offering distance counseling when athletes are in a state where he does not have proper licensure. This will satisfy ACA Code H.1.b. Second, Elliot should gain education and training in Telehealth services. Such training will help him understand his limitations and provide guidance on which programs will be HIPAA-compliant. This step will address ACA Codes H.2.a, H.2.b, and 2.g from the AASP Code of Ethics. Next, if Elliot chooses to use Telehealth services, he should ensure that the sessions are

conducted in a manner that maintains client privacy and confidentiality. This includes using approved applications, being in a private room, and properly storing communication data. This step satisfies B.3.c from the ACA Code of Ethics and AASP Code 23.

Ethical Issue #2 Resolution:

This ethical violation is more difficult due to the breach of trust between Elliot and his clients. Elliot should consider the following steps to protect client confidentiality to regain clients' trust. First, Elliot should stop all unnecessary collaboration with medical staff. If collaboration is necessary, he should only do so after gaining permission from each client through informed consent and establishing roles and ethical boundaries with the medical team. This will satisfy ACA Code D.1.d. and B.1.b. and AASP Code 19. Then, Elliot should talk with each client and take the necessary steps to provide them with informed consent concerning limits on confidentiality for mandated clients, how we will protect information in the future, and tell them how their privacy may have been breached. These counseling sessions should conclude with clear boundaries on what the client has allowed to be shared. This step will address ACA Codes A.2.e, B.1.b., B.1.c., B.1.d., and AASP Code 19. Next, Elliot should educate his secretary about the confidentiality and privacy of each client. This step will also help satisfy AASP Code 19. If necessary, Elliot should allow each client to end the professional relationship and refer them to a new counselor or consultant.

Ethical Issue #3 Resolution:

The ethical violations in this issue do not stem from Elliot's choices. They come from the pressure from the coaches and the athletic department threatening to pull funding. The following steps should be taken before, during, and after he meets with the Athletic Director, Student Health and Counseling Center Director, and the provost. Before the meeting, Elliot should

prepare educational material on the role of a counselor and the role of a mental performance consultant. Elliot should include evidence of why acting in both roles to one athlete violates ethical boundaries and risks clients' welfare. This step satisfies ACA Code A.1.a and AASP Codes 9.a and 9.b. During the meeting, Elliot should work with the directors to establish roles and professional obligations that avoid ethical violations. This meeting's goal is to invite collaboration and cohesion for positive outcomes for the student-athletes. This step satisfies ACA Code D.1.d. After the meeting, Elliot must identify which clients will experience a changing role relationship. Elliot must obtain informed consent from each client and give them the right to leave the counseling relationship. This step satisfies ACA Code A.2.a. and A.6.d.

Summary

The ethical concerns from Elliot's case illustrate how a Sport and Performance Professional can violate ethics codes. Some violations came from a lack of competency and education (distance counseling). Further education and practices will help Elliot mitigate these ethical concerns. Other issues came from a lack of diligence and respect for client confidentiality. Elliot can rebuild and maintain trust by protecting confidentiality. The most difficult ethical concern is Ethical Issue #3 because it involves pressure from coaches and the athletic director. In this case, collaboration and discussion with the supervisors will be crucial. The suggested resolutions provide steps to help Elliot fulfill his professional obligations within appropriate ethical boundaries.

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