



ADVISORY OPINIONS FROM ETHICS COMMITTEE MINUTES 1996 - 2020

Opinions by Section and Number

Preamble ~ 2, 4, 6, 26, 41, 64, 118, 128, 132, 133

Section A: The Counseling Relationship

A.1 ~ Welfare of Those Served (132)

A.1.a (Primary Responsibility) ~ 4, 6, 35, 65, 73, 77, 90, 91, 92, 94, 96, 99, 100, 104, 131, 136

A.1.b (Rehabilitation Counseling Plans) ~ 25, 42, 67, 90, 94, 95, 97, 98, 123, 140

A.1.c (Employment Needs) ~ 4, 25, 27, 28, 43, 61, 67, 89, 90, 95, 97, 138

A.1.e (Autonomy) ~ 3, 104, 135

A.3 ~ Client Rights

A.3.a (Professional Disclosure Statement) ~ 1, 3, 4, 5, 6, 7, 9, 11, 14, 15, 17, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, 39, 41, 46, 47, 48, 51, 52, 53, 60, 61, 63, 65, 73, 75, 76, 77, 79, 82, 83, 84, 85, 86, 88, 89, 89, 91, 92, 94, 95, 96, 97, 99, 100, 104, 105, 107, 109, 110, 113, 114, 115, 117, 118, 119, 120, 122, 123, 125, 133, 135, 136, 138

A.3.b (Informed Consent) ~ 6, 7, 11, 17, 23, 25, 47, 73, 91, 98, 100, 110, 117, 119, 120, 123, 133, 134, 135, 143, 144

A.3.d (Inability to Give Consent) ~ 99

A.3.e (Support Network Involvement) ~ 99

A.5. ~ Roles and Relationships with Clients

A.5.f (Personal Virtual Relationships with Current Clients) ~ 117

A.5.g (Extending Professional Boundaries) ~ 37, 106, 117, 134

A.5.h (Documenting Boundary Extensions) ~ 85, 92, 106, 134

A.5.i (Role Changes in the Professional Relationship) ~ 7, 10, 51, 76, 133, 140

A. 8. ~ Termination and Referral ~ 131, 132

A.8.a (Competence Within Termination and Referral) ~ 47, 88, 89

A.8.c (Appropriate Termination and Referral) ~ 31, 88, 89

A.8.e (Abandonment Prohibited) ~ 31

Section B: Confidentiality, Privileged Communication, and Privacy

B.1 ~ Respecting Client Rights

B.1.a (Respect for Privacy) ~ 1, 15, 16, 17, 21, 26, 29, 30, 38, 41, 44, 48, 56, 62, 66, 87, 99, 107, 134, 139

B.1.b (Permission to Record) ~ 71

B.1.e (Respect for Confidentiality) ~ 16, 29, 48, 73, 91, 119, 134, 139

B.1.f (Explanation of Limitations) ~ 1, 17, 34, 55, 66, 73, 88, 89, 99, 107, 119

B.2 ~ Exceptions

B.2.a (Serious and Foreseeable Harm and Legal Requirements) ~ 61, 66, 69, 73, 79, 99, 122, 123

B.2.b (Contagious, Life-Threatening Diseases) ~ 73

B.2.c (Court-Ordered Disclosure) ~ 10, 48, 66, 69, 73, 141

B.2.d (Minimal Disclosure) ~ 26, 48, 66, 69, 73, 75, 79, 82, 88, 89, 99, 107

B.3 ~ Information Shared With Others ~ 66

B.3.a (Work Environment) ~ 16, 30, 38, 44, 62, 91, 111, 119

B.3.e (Confidential Settings) ~ 111

B.6 ~ Records and Documentation

B.6.a (Requirement of Records and Documentation) ~ 66, 71, 75, 122, 123, 135

B.6.b (Confidentiality of Records and Documentation) ~ 17, 55, 66, 119

B.6.c (Client Access) ~ 71, 87

B.6.d (Disclosure or Transfer) ~ 1, 29, 32, 66, 107

B.7 ~ Case Consultation

B.7.a (Disclosure of Confidential Information) ~ 73

B.7.b (Respect for Privacy) ~ 66

Section C: Advocacy and Accessibility

C.1 ~ Advocacy

C.1.b (Empowerment) ~ 3, 56, 88, 89, 134, 135

C.2 ~ Accessibility

C.2.b (Referral Accessibility) ~ 56

Section D: Professional Responsibility

D.1 ~ Professional Competence

D.1.a (Boundaries of Competence) ~ 4, 7, 12, 18, 26, 54, 78, 80, 89, 92, 95, 97, 99, 115, 135, 138

D.1.b (New Specialty Areas of Practice) ~ 26, 95, 97

D.1.d (Avoiding Harm) ~ 138

D.1.f (Continuing Education) ~ 48

D.4 ~ Professional Credentials

D.4.a (Accurate Representation) ~ 2, 4, 10, 49, 50, 70, 74, 80

D.4.b (Credentials) ~ 2, 4

D.4.d (Implying Doctoral-Level Competence) ~ 36, 49

D.5 ~ Responsibility to the Public and Other Professionals

D.5.a (Harassment) ~ 59

D.5.b (Reports to Third Parties) ~ 10, 35, 52, 58, 59, 60, 63

D.5.f (Conflict of Interest) ~ 7, 24, 94, 96

D.5.g (Veracity) ~ 2, 14, 58, 116

D.5.h (Disparaging Remarks) ~ 45, 58, 59, 68, 80

D.6 ~ Scientific Bases for Interventions

D.6.d (Credible Resources) ~ 46

Section E: Relationships with Other Professionals and Employers

E.1 ~ Relationships with Colleagues, Employers, and Employees

E.1.b (Negative Employment Conditions) ~ 12, 16, 26, 27, 28, 30, 38, 44, 57, 75, 77, 88, 89, 91, 101, 102, 129

E.1.c (Protection from Punitive Action and Retaliation) ~ 62, 103

E.1.d (Personnel Selection and Assignment) ~ 102

E.2 ~ Organization and Team Relationships

E.2.a (Teamwork) ~ 61

E.2.b (Team Decision-Making) ~ 4

E.3 ~ Provision of Consultation Services

E.3.b (Consultant Competency) ~ 23, 95, 97, 99

Section F: Forensic Services ~ 118

F.1 ~ Evaluatee Rights

F.1.a (Primary Obligations) ~ 6, 10, 14, 35, 42, 52, 58, 59, 63, 72, 83, 87, 91, 127, 144

F.1.b (Informed Consent) ~ 6, 11, 14, 51, 125, 126, 133

F.1.c (Role Changes) ~ 11, 14, 51, 133

F.1.d (Consultation) ~ 6, 7, 10, 13, 14, 19, 35, 42, 51, 59, 72, 87, 91, 107, 114, 125, 126

F.2. ~ Forensic Competency and Conduct

F.2.a (Objectivity) ~ 14

F.2.g (Duty to Confirm Information) ~ 130

F.2.h (Review/Critique of Opposing Work Product ~ 140

F.3. ~ Forensic Practices

F.3.a (Case Acceptance and Independent Opinion) ~ 125, 126, 140

F.3.b (Termination and Assignment Transfer) ~ 140

F.4. ~ Forensic Business Practices

F.4.a (Payments and Outcome) ~ 132, 142

Section G: Assessment and Evaluation ~ 83

G.1 ~ Informed Consent

G.1.a (Explanation to Clients) ~ 1, 83, 129

G.1.b (Recipients of Results) ~ 1, 81, 129

G.2 ~ Release of Assessment or Evaluation Information

G.2.a (Misuse of Results) ~ 68, 81, 108

G.2.b (Release of Raw Data to Qualified Professionals) ~ 1, 81, 108, 121, 141

G.3 ~ Proper Diagnosis of Mental Disorders

G.3.a (Proper Diagnosis) ~ 54

G.4 ~ Competence to Use and Interpret Tests/Instruments

G.4.a (Limits of Competence ~ 144

G.4.b (Appropriate Use) ~ 129, 144

G.4.c (Decisions Based on Results) ~ 129

G.5 ~ Test/Instrument Selection

G.5.a (Appropriateness of Tests/Instruments) ~ 93, 129

G.5.c (Culturally Diverse Populations) ~ 129

G.6 ~ Test/Instrument Administration Conditions

G.6.a (Standard Conditions) ~ 21, 81, 129

G.6.c (Unsupervised Administration) ~ 129

G.7 ~ Test/Instrument Scoring and Interpretation

G.7.a (Psychometric Limitations) ~ 129

G.7.b (Diversity Issues in Assessment) ~ 129

G.8 ~ Test/Instrument Security ~ 141

G.9 ~ Obsolete Tests/Instruments and Outdated Results ~ 93, 129

Section H: Supervision, Training, and Teaching

H.1 ~ Clinical Supervision Responsibilities

H.1.a (Client Welfare) ~ 90

H.3 ~ Roles and Relationships Between Clinical Supervisors and Supervisees ~ 112

H.3.a (Relationship Boundaries with Supervisees) ~ 85, 112

H.3.f (Supervision of Relatives and Friends) ~ 112

H.5 ~ Rehabilitation Counselor Educator Responsibilities

H.5.h (Integration of Study and Practice) ~ 26, 77

H.7 ~ Roles and Relationships Between Educators and Students

H.7.a (Relationship Boundaries with Students) ~ 85, 112

Section I: Research and Publication

I.1 ~ Research Responsibilities ~ 26

Section J: Technology, Social Media, and Distance Counseling ~ 10, 115, 117

J.1 ~ Competence and Legal Considerations

J.1.a (Competence) ~ 26, 75, 110, 118

J.2. ~ Accessibility

J.2.b (Accessing Technology) ~ 73

J.3 ~ Confidentiality, Informed Consent, and Security

J.3.b (Transmitting Confidential Information) ~ 73, 110

J.3.c (Security) ~ 110

Section K: Business Practices

K.1 ~ Advertising and Soliciting Clients

K.1.a (Accurate Advertising) ~ 49

K.1.c (Recruitment Through Self-Referral) ~ 24, 106

K.2 ~ Client Records

K.2.a (Records and Documentation) ~ 40, 60, 135, 136

K.2.c (Records Maintenance) ~ 40, 96, 113

K.3 ~ Fees, Bartering, and Billing

K.3.a (Understanding of Fees and Nonpayment of Fees) ~ 20, 33

K.3.c (Unacceptable Fee Arrangements) ~ 106, 131, 132, 142

K.3.g (Billing Records and Invoices) ~ 33

Section L: Resolving Ethical Issues

Introduction ~ 134

L.1 ~ Knowledge of Ethical Standards and the Law

L.1.c (Conflicts Between Ethics and Laws) ~ 3, 9, 10, 26, 27, 34, 40, 41, 43, 48, 57, 60, 71, 78, 79, 80, 82, 84, 86, 88, 89, 94, 95, 97, 99, 102, 107, 108, 109, 116, 120, 121, 122, 123, 128, 141

L.2 ~ Addressing Suspected Violations

L.2.a (Ethical Decision-Making Models and Skills) ~ 134

L.2.b (Consultation) ~ 10, 37, 73, 88, 89, 120, 134

L.2.c (Informal Resolution) ~ 8, 12, 13, 32, 45, 59

L.2.d. (Reporting Ethical Violations) ~ 8, 12, 13, 32, 45, 59, 72

L.2.f (Organization Conflicts) ~ 4, 26, 97, 103, 129, 137

L.3 ~ Conduct in Addressing Ethical Issues

L.3.a (Cooperation with Ethics Committee) ~ 72

ADVISORY OPINIONS

Advisory Opinion #1

The Committee reviewed two requests for interpretation of the Code. The Committee responded that personnel in both centers should inform students of the policy prior to entering into testing and/or counseling sessions. The Committee also requested that a response be sent to the questioner stating that Child Protective Service rules vary within state and that he should check required reporting within the jurisdiction and with corporate legal counsel. Further, the letter should state that good practice in rehabilitation counseling is to inform clients of limits to confidentiality at the onset of service and subsequently when issues arise. (Issued 3/96)

Related Standards: A.3.a, B.1.a, B.1.f, B.6.d, G.1.a, G.1.b, and G.2.b

Advisory Opinion #2

An organization requested CRCC's response as to whether a CRC would be required to sign an acknowledgment stating that they abide by the Code of Professional Ethics for Certified Rehabilitation Counselors. The Committee responded that as a CRC, they are bound to abide by the Code of Ethics and it would be their choice whether they wish to sign the acknowledgment. It should also be stated that the acknowledgment only notes "rehabilitation counselors" and not "Certified Rehabilitation Counselors"; therefore, requesting that non-certified individuals abide by the Code of Ethics when in fact non-certified individuals are not bound to the Code of Ethics and there is no adjudication process available for those who are not CRCs. Further, it should not be construed that a non-certified individual has the requisite knowledge and experience to practice as a CRC. (Issued 8/96)

Related Standards: Preamble, D.4.a, D.4.b, and D.5.g

Advisory Opinion #3

The Committee reviewed a request for an advisory opinion wherein an attorney questioned the advice of a CRC who, according to the attorney, stated that the client's accommodations required to perform the essential functions of a job must not be revealed to a potential employer in the resume and should not be revealed otherwise until a job offer is made. The Committee responded that this appears to be an issue of informed choice and autonomy. The CRC has the right to suggest appropriate actions for their client; however, the client has the right to choose whichever method s/he prefers. According to ADA, the necessity for accommodations must be reported within a specific time frame following employment but it is not necessary to report this information in the form of a functional resume or during an interview. The Committee recommended that the attorney review information relative to ADA, EEOC regulations, professional literature regarding the use of ADA and the job seeking phase, and information regarding functional versus chronological resumes. The Committee also wished to advise the attorney that all CRCs must abide by the Code of Professional Ethics regardless of their work setting. (Issued 2/97)

Related Standards: A.1.e, A.3.a, C.1.b, and L.1.c

Advisory Opinion #4

The CRCC received two letters; one from the head of a government agency and another from a counselor within the agency. The first letter raised concerns with regard to increased outsourcing that is being conducted by the agency and the second letter raised several more specific questions with regard to the ethical feasibility of using contractors to develop IWRPs and the like where the agency officer must sign the plan that s/he did not complete. The Committee requested that the following

information be conveyed in both responses: That the agency appears to be in a transition to a new model of practice wherein historically the counselors performed a full range of rehabilitation counseling activities and eventually the counselors will be primarily conducting case management and file review. This transition appears to be raising concerns with regard to providing appropriate client services. In this time of transition, all counselors must be cognizant of their role in this new model and must help to implement team decisions unless they feel that a breach of ethical conduct has occurred (E.2.b). Further, if a plan has been developed that is not devised according to the client's circumstances and abilities (A.1.c), or a rehabilitation counselor functions outside of his/her competency (D.1.a) or misuses the CRC designation (D.4.a, D.4.b), then the counselor has the ethical responsibility to raise concerns. If in fact the counselor's signature is the final step in the process, it is imperative that the client be accurately and fully informed as to the role or responsibilities that each member of the service team will play with that client (A.3.a). However, if the consultation with the client results in a transfer of responsibilities from the contracting counselor to the agency counselor, rehabilitation counselors will not commit receiving counselors to any prescribed course of action in relation to clients they may transfer to other colleagues or agencies. The prior general information is applicable to both parties and the following information is to be conveyed to the counselor who had specific questions: Any organization is free to select personnel in line with legal jurisdiction and payor restrictions. However, violation (D.4.a) would occur if an individual is actively stating that those who do not possess a CRC are less qualified. While CRCC would hold the position that CRCs do hold the highest credentials, CRCC does not intend to impose staffing restrictions on any agency or to disallow individuals who do not possess the CRC from practicing in their chosen profession. With respect to the counselor-client relationship, the code (A.1.a, Preamble) provides that the rehabilitation counselor's allegiance is to the client. If policies of an organization conflict with such practice, rehabilitation counselors are referred to Standard (L.2.f), which requires constructive action to attempt to effect changes within an organization. No specific guidance is given in the Code relative to how counselors conduct vocational rehabilitation counseling; however, it is incumbent on the rehabilitation counselor to assure the quality of services which must be the counselor's primary concern. Issues described in Standard (A.1.c) must be considered by the counselor when selecting their technique to accomplish specific services. (Issued 5/97)

Related Standards: Preamble, A.1.a, A.1.c, A.3.a, D.1.a, D.4.a, D.4.b, E.2.b, and L.2.f

Advisory Opinion #5

CRCC was informed by a CRC that a State Vocational Rehabilitation Department does not wish to print the individual's credentials on their business cards. The CRC felt that this was an ethical issue and requested CRCC's position on the matter. The Committee responded that this is not an ethical violation; however, professional disclosure is required of all CRCs. CRCC encourages the placement of the credential on business cards and correspondence to ensure that clients are fully informed of the preparation and expertise of the individuals serving them. Further, the display of credentials is standard practice in any profession to assure clients that they are receiving the best possible services the agency has to offer which affords protection for the agency as well. (Issued 6/97)

Related Standard: A.3.a

Advisory Opinion #6

The Committee reviewed a letter, which requested an advisory opinion from the Committee on several issues. In addition to responding to the questions as follows, the Committee requested that the response clarify that CRCC is able to respond pertaining only to actions required of CRCs rather than rehabilitation counselors in general. Further, the Committee requested that the author provide

the name and address of the Association for Trial Attorneys, as CRCC would like to inform them of CRCC's position on these important issues.

Q1. Does the qualification for acceptance of the CRC designation place a standard upon a CRC higher than a rehabilitation counselor not so designated and, if so, how should this standard affect the CRC's credibility? A. The CRC designation does not place a higher standard on rehabilitation counselors, however, certification establishes a national standard for practice that certified individuals must meet and maintain. This standard is enforceable through the Code of Professional Ethics. (Preamble)

Q2. Is there an inherent conflict in the same CRC providing an expert opinion in a case and subsequently providing rehabilitation services to the disabled individual? A. Absolutely not, although the key to ethical practice is objectivity. CRCs must be aware that such a situation may provide for greater potential to be less objective, however, CRCs are bound to provide objective opinions. At times, referral sources do choose to utilize different providers for expert testimony versus rehabilitation services due to the potential for perceived conflict. (F.1.a and F.1.d.)

Q3. Is there any doctrine promulgated by CRCC that establishes that if a CRC is hired by an adverse third party, it is not possible for the CRC to comply with Standard A.1.a? A. CRCC believes that it is possible to comply with (A.1.a) as the CRC is bound to establishing his/her role and responsibilities through informed consent as described in (F.1.b).

Q4. What is CRCC's position on how a CRC should deal with a situation where the CRC's opinion regarding what is in the client's best interest differs from the client's opinion? A. Again, this is an issue of informed consent. The CRC has a responsibility to make sure that the client understands his/her options and the consequences of his/her action. However, once the client makes a choice, it is the CRCs job to carry forth with the client's decision, making sure that the client is fully informed that the CRCs opinion (which may be contradictory to the client's choice of action) may need to be divulged in situations with the employer or in expert testimony. Standards (A.3.a and A.3.b) address this question. (F.1.a)

Q5. Would the Ethics Committee address the statement made by a client's attorney that because the primary obligation of CRCs is to their client, the CRC has a blatant conflict and could not possibly be in compliance with A.1.a when hired by the insurance carrier? A. Such a statement is untrue in that CRCs are obligated to work in the best interest of their client (the individual with disabilities receiving services) and are obligated to abide by the entire Code of Professional Ethics. Dual relationships certainly exist within the profession and CRCs are obligated to uphold the requirement of informed consent and clearly inform all parties of their relationship to all involved as supported by Standard (A.3.a). (Issued 8/97)

Related Standards: Preamble, A.1.a, A.3.a, A.3.b, F.1.a, F.1.b, and F.1.d

Advisory Opinion #7

CRCC received a request for an advisory opinion where all questions related to whether a CRC could provide rehabilitation counseling services while also functioning as a claims adjuster in long term disability cases. The Committee responded that this is possible; however, the CRC must be particularly mindful of ethical issues and provide full disclosure of their role to all involved parties. Acting as a claims adjuster may create challenges to practice ethically and each action must be reviewed to determine whether a conflict of interest may apply to that particular situation. However, the mere fact that a CRC is providing both services does not give cause for a violation of the Code as long as they are functioning within their scope of practice. (Issued 10/97)

Related Standards: A.3.a, A.3.b, A.5.i, D.1.a, D.5.f, and F.1.d

Advisory Opinion #8

The Committee considered a request for an advisory opinion prior to submission of an actual complaint. The Committee did not discuss the particular issues but rather directed the administrative office to correspond with the individual relating the complaint filing process and that: 1) advisory opinions are provided on general issues only; 2) reviewing the request could potentially bias the Committee if an actual complaint were filed; and 3) if the author believes that a violation has occurred, a complaint should be submitted but if the violation appears to be minor in nature, an attempt should be made to resolve the issue informally. (Issued 9/98)

Related Standards: L.2.c and L.2.d

Advisory Opinion #9

The Committee reviewed a request for an advisory opinion concerning signing off on vocational rehabilitation plans. The Committee responded that first and foremost, any organization has the ability to enforce and is encouraged to enforce its policy for reimbursement. Furthermore, the Committee offered that good practice dictates that CRCs directly, actively, and competently supervise those who are providing services for which CRCs are directly responsible. Provided that full disclosure of services is made to all involved parties, and all parties consent to the services to be provided, it does not appear that there would be a violation of the Code. However, those CRCs who do not comply with the mandates of the jurisdiction in which they practice may be in violation of the Code. (Issued 4/99)

Related Standards: A.3.a and L.1.c

Advisory Opinion #10

The Committee reviewed a request for an advisory opinion concerning several issues with ethical implications. The Committee responded to the first question stating that anytime forensic services becomes a possibility on a case where a CRC is also providing vocational rehabilitation counseling, one must recognize the potential for high risk that an ethical violation could occur. It is recommended that the CRC 1) fully inform the client of the situation, 2) evaluate if a conflict of interest exists, 3) fully document the results of an analysis to determine the absence or presence of a conflict of interest, and 4) design and be fully aware of any necessary risk management procedures to ensure that the client's best interests are observed (i.e., engaging in consultation with a colleague). (D.5.b, F.1.a, F.1.d, L.2.b) To the second question, the Committee indicated that it is common practice to advertise only the highest degree earned in the profession as part of one's practice. (D.4.a) Any other practice may be indicative of a fraudulent approach to advertising one's credentials. The third question speaks to Internet counseling. The Committee responded that CRCC currently endorses the Standards for Ethical Practice of Web Counseling developed by NBCC and has included additional guidance regarding Internet counseling in the most recent revision of the Code. (Section J) In response to the fourth question, the Committee indicated that best practice dictates that CRCs should require a court order or a subpoena before releasing any information and directed that the individual reference Anderson, B. (1994) The Counselor & the Law if further clarification is of assistance on the difference between a subpoena and a court order. (Issued 4/99)

Related Standards: A.5.i, B.2.c, D.4.a, D.5.b, F.1.a, F.1.d, Section J, L.1.c and L.2.b

Advisory Opinion #11

The Committee considered a request for an advisory opinion as to whether a CRC may perform claims functions and medical case management on the same file without violating the Code. The Committee responded that based on the understanding that a determination of compensability

(including the amount) has been made by a claims representative, and that the CRCs involvement in a claims function is simply the distribution of the set amount, there does not appear to be a conflict that would constitute a violation of the Code. In this case, it is imperative that the CRC engages in a process of professional disclosure whereby obligations to the client and counselor are clearly delineated. (Issued 4/99)

Related Standards: A.3.a, A.3.b, F.1.b, and F.1.c

Advisory Opinion #12

The Committee reviewed a request to advise if the Code had been violated in a particular situation. The Committee responded that they are unable to provide an advisory opinion on specific situations without a complaint being filed. However, the Committee addressed some secondary questions in the request. They include the fact that CRCC is unable to restrict or to impose staffing requirements on any agency; however, any CRC that practices beyond their individual scope of practice would be in violation of the Code. The Committee requested that the point be made that CRCC cannot address company policies and practices. Lastly, the Committee requested that it be reiterated that if the individual believes the Code has been violated, the proper course of action for a CRC is to file a complaint. (Issued 4/99)

Related Standards: D.1.a, E.1.b, L.2.c, and L.2.d

Advisory Opinion #13

The Committee reviewed a request for an advisory opinion from a CRC seeking guidance in a particular situation that concerned conducting job placement services without meeting with the client. The Committee directed administrative staff to develop a script that could be used while verbally relating the Committees comments which include: 1) a disclaimer that if a case is filed, the actions taken by the CRC will be ruled on at that time; and 2) the Committee will not comment on this particular situation but rather will comment on general considerations for the given situation. These include that the CRC should consider whether direct service provision occurred. If direct service provision occurred, practice generally requires meeting with the client; however, if indirect or forensic services are provided, meeting with the client is not necessary. (Issued 6/99)

Related Standards: F.1.d, L.2.c, and L.2.d

Advisory Opinion #14

The Committee considered a request for an advisory opinion as to whether a conflict of interest would exist if a CRC provided ongoing rehabilitation counseling and case management services that are funded by an insurance company and at the same time provided an assessment of the client's long term needs at the request of the client's attorney but to be funded by the plaintiff's attorney. The Committee responded that while there may be potential for a conflict of interest, it may or may not be an ethical violation but would certainly heighten the potential for a violation of the Code. Furthermore, that due to the heightened potential for a violation of the Code, the practice is not recommended. (Issued 9/99)

Related Standards: A.3.a, D.5.g, F.1.a, F.1.b, F.1.c, F.1.d, and F.2.a

Advisory Opinion #15

The Committee considered a request for an advisory opinion on the issue of release of information in regard to client consent. The Committee responded that Standards A.3.a and B.1.a support that

where a client has clearly made it known that information is not to be released and has not signed a release of information form, information is not to be released. (Issued 9/99)

Related Standards: A.3.a and B.1.a

Advisory Opinion #16

The Committee considered a request for an advisory opinion on the issue of the maintenance of confidentiality within a work environment that is described as not being conducive to the maintenance of confidential information. The Committee responded that while CRCC is unable to dictate the terms of employment, the work environment as described would appear to place a CRC at risk for potential violation of the Code with regard to the maintenance of confidentiality in both written and verbal communications. Additionally, the Committee suggested that the individual might wish to review laws in regard to state counselor licensure and medical privacy for instance as they may also address the issue of confidentiality. (Issued 9/99)

Related Standards: B.1.a, B.1.e, B.3.a, and E.1.b

Advisory Opinion #17

The Committee reviewed a request for an advisory opinion where an individual was questioning whether it was a violation of the Code for CRCs to provide copies of rehabilitation reports and correspondence to the referral source without specific client/attorney permission. The Committee responded that Standard (B.1.f) requires that clients be informed of the limits of confidentiality at the onset of the counseling relationship. Therefore, the client must be informed of and agree to the dissemination of rehabilitation reports and correspondence in order for services to be provided. The Committee stated that while there is no requirement to obtain written permission, it would be most beneficial. Furthermore, documentation of the attainment of informed consent should exist in case notes at a minimum. (Issued 11/99)

Related Standards: A.3.a, A.3.b, B.1.a, B.1.f, and B.6.b

Advisory Opinion #18

The Committee reviewed a request for an advisory opinion where an individual was questioning whether they could provide diagnoses according to the DSM IV and run a clinic that provides a non-drug, non-invasive treatment. The Committee responded that as long as an individual has the training and educational experience to competently perform these acts and as long as any state licensure requirements are met, then there would be no potential for an ethical violation. (Issued 11/99)

Related Standard: D.1.a

Advisory Opinion #19

The Committee reviewed a request for an advisory opinion where an individual was questioning whether it would be ethical for a CRC to sign authorizations for needed services if they had no familiarity with the case and did not perform the rehabilitation counseling activities in the case. The Committee responded that CRCs could sign authorizations if they are presented with the opportunity to review the case material; however, if unable to review the case material, CRCs would be in violation of the Code if they were to sign authorizations. (Issued 11/99)

Related Standard: F.1.d

Advisory Opinion #20

The Committee considered a request for an advisory opinion as to whether a CRC may bill for time preparing for and giving a deposition, and for expert testimony given, in a legal matter between a former client and the opposing insurance company. The Committee responded that in such cases, the individual or company requesting the deposition is typically billed for the services of the expert. Such practice is appropriate provided that the testimony is fair, accurate, and pertinent to the case. The Committee also requested that the response direct the individual to Standard K.3.b and encourage the individual to ensure that there is a clear understanding of the billing arrangement prior to engaging in the activity. (Issued 3/00)

Related Standard: K.3.a

Advisory Opinion #21

The Committee considered a request for an advisory opinion as to whether the integrity of the vocational diagnostic interview is compromised if legal representation (attorney or a representative) is present during the interview. The Committee responded that presence of an attorney or representative in and of itself does not compromise the integrity; however, if the attorney or representative influences the questions asked or answers given, it could compromise the integrity of the diagnostic interview. (Issued 3/00)

Related Standards: B.1.a and G.6.a.

Advisory Opinion #22

The Committee considered a request for an advisory opinion as to whether CRCs practicing under a relatively new law in a particular state are viewed as practicing within the mandates of the Code. The law was explained such that it only requires that the insured must demonstrate that suitable jobs exist within the claimant's usual employment area based upon the claimant's residual productive skills, education, age, and work experience. Under a law such as this, counselors no longer attempt to place the claimant with new employers nor notify them of any jobs identified in the Labor Market Survey. The Committee responded that a written professional disclosure statement is essential to assist the claimant in understanding the scope of the CRCs role and limits of the vocational rehabilitation services being provided. (Issued 6/00, Amended 08/10)

Related Standards: A.3.a

Advisory Opinion #23

The Committee considered a request for an advisory opinion from a certificant as to whether it is appropriate to refer clients for job development services to the same company employing his/her spouse, provided that the spouse would not be conducting the job development activities. The Committee responded that the certificant would be entering into a dual relationship, which is not inherently unethical. Several questions need to be addressed including the following: 1) are there any company policies that address this type of situation, 2) how large is the agency receiving the referral, 3) what is the economic impact on the spouse due to the referral, 4) what control does the spouse have, if any, over business practices, and 5) are other vendors reasonably available within the geographic area. Furthermore, informed consent is extremely critical in this situation. The client must be provided with all available options and disclosure must be provided that the certificant's spouse is employed at the referring agency and it must be disclosed as to the amount of involvement the spouse would have in the services provided to the client. Documentation that disclosure was made and informed consent was given is critical as well. The Committee suggested that one way to

minimize the appearance of an ethical violation is to have the certificant's supervisor sign off on all referrals. *(Issued 8/00)*

Related Standards: A.3.a, A.3.b, and E.3.b

Advisory Opinion #24

The Committee considered a request for an advisory opinion as to whether CRCs working in a state vocational rehabilitation agency and who provide expert witness services in the private sector are practicing within the mandates of the Code. The Committee responded that there was no inherent conflict or prohibition of acting in these roles at the same time provided that: (1) the policies of the vocational rehabilitation agency did not prevent this type of activity by its employees; (2) the evaluatee in the expert witness scenario is not also a client of the vocational rehabilitation agency; and (3) that professional disclosure is provided to the client/evaluatee as to the limits of services, especially if the offices of a vocational rehabilitation agency are used when providing expert witness services. *(Issued 11/00)*

Related Standards: A.3.a, D.5.f, and K.1.c

Advisory Opinion #25

The Committee considered a request for an advisory opinion as to whether it was appropriate for employers to require that CRCs ask specific questions such as a client's history of felony convictions or if they have a valid driver's license during an initial interview and that they record responses in their initial report. The Committee responded that these types of questions are typically discussed in initial interviews so that barriers to employment are identified and then addressed prior to initiation of placement services. In fact, the omission of pertinent data is not consistent with Standard A.1.b of the Code and can be just as much a disservice to the client. However, the key to securing this information is to make sure that full disclosure of the limits of confidentiality are provided to clients prior to discussing these types of topics with clients so that they are able to make an informed decision as to whether they wish to disclose the information. *(Issued 11/00)*

Related Standards: A.1.b, A.1.c, A.3.a, and A.3.b

Advisory Opinion #26

The Committee considered a request for an advisory opinion as to whether a company's website online message board and staff participation on the message board violates the Code. The Committee responded that an online message board in and of itself is not an issue. However, the situation carries with it numerous dangers and circumstances where it is likely to be difficult for CCRCs or CRCs to mitigate against CRCC of ethical errors. The following table represents specific questions as well as the Committee's response.

Question	Committee Response
Does the online message board fall within the scope of practice for rehabilitation counseling?	It depends on the role and function of the board. If the Corporation's counselors are participating in a professional role, then yes. (Preamble and E.1.b)
Should the board adhere to all or some of the guidelines established by the CRCC Code or the Corporation's Code?	If the Corporation's counselors are participating in a professional role, they must adhere to the CRCC Code. Adherence to the Corporation's Code is a matter to be addressed by the Corporation. (Preamble and L.2.f)
Does counselor participation violate	The actual act of participating does not; however, what

the CRCC Code?	is communicated through the posting could. Certified individuals are held to the same ethical standards regardless of their mode of communication. (J.1.a)
If counselors were to participate, what steps should be taken to ensure no violation of the Code?	While there is no certain method to ensure no violation, the Corporation should provide training as to the policies for staff participation as well as monitoring to ensure adherence with the policies. (D.1.a, D.1.b, I.1. and L.2.f)
Are the disclaimers and guidelines (as evidenced in the documentation) sufficient to protect consumers and clients and to meet the Code?	No. Disclosure must be provided with each posting so that consumers and clients understand the role of the individual who is responding. (A.3.a, B.1.a, B.2.d)
Is monitoring by a counselor required from an ethical standpoint?	While CRCC would in no way dictate how an organization should operate, monitoring would be one way in which to aid in adherence with the Corporation's policies, which may include adherence to the CRCC Code.
Are there any additional issues, concerns, recommendations, or sources of information?	The Corporation should seek legal advice given the inherent dangers. Related Codes of Ethics, such as the ACA and NBCC Code may be of assistance as well. (L.1.c)

(Issued 6/01)

Related Standards: Preamble, A.3.a, B.1.a, B.2.d, D.1.a, D.1.b, E.1.b, H.5.h, I.1., J.1.a, L.1.c, and L.2.f

Advisory Opinion #27

The Committee considered a request for an advisory opinion as to whether it was appropriate to provide limited services, such as job placement, which is being requested in workers' compensation cases where work avoidance is a concern. The Committee responded that performing one facet of the full scope of rehabilitation counseling services is common regardless of the setting; however, certified individuals must still adhere to the Code. Specifically, the certified individuals must ensure that their activities are consistent with Standard A.1.c and that they provide full disclosure to the client of their role and responsibilities. Furthermore, that while CRCC would not consider providing job placement solely based upon a functional capacities evaluation and the worker's job history to be best practice in rehabilitation counseling, individuals required to conduct placement activities in this situation must be certain to document the limitations regarding available sources of information as they conduct placement activities. (Issued 6/01)

Related Standards: A.1.c, A.3.a, E.1.b, and L.1.c

Advisory Opinion #28

The Committee considered a request for an advisory opinion as to whether it was appropriate to use labor market information that identifies positions an individual is able to perform, even if at minimum wage, to determine benefits. The Committee responded that while CRCC would not consider this to be best practice in rehabilitation counseling, there is nothing unethical about a certified individual doing so when compelled to by the system in which they work. The Committee requested that the response also refer to Standard E.1.b (Negative Employment Conditions) where CRCs have an obligation to effect change through constructive action. (Issued 6/01)

Related Standards: A.1.c, A.3.a, and E.1.b

Advisory Opinion #29

The Committee considered a request for an advisory opinion as to whether it was appropriate to furnish reports for clients other than those in the case in question. The Committee responded that the request appears to be a simple request from an attorney where the certified individual has no obligation to respond. (Issued 6/01)

Related Standards: B.1.a, B.1.e, and B.6.d

Advisory Opinion #30

The Committee considered a request for an advisory opinion as to whether it was appropriate for an agency to require that individuals provide rehabilitation counseling services in cubicles provided that confidential interview rooms are available on an as needed basis. The Committee responded that certified individuals are obligated to remain vigilant in complying with ethical standards related to confidentiality and privacy. If an issue does arise where confidential interview rooms are not available, certified individuals should decline to provide services and should notify their supervisor immediately. (Issued 6/01)

Related Standards: B.1.a, B.3.a, and E.1.b

Advisory Opinion #31

The Committee considered a request for an advisory opinion as to the appropriate action to take when dismissed from employment and denied the opportunity to fulfill ethical obligations with regard to terminating services to a client. The Committee responded that certified individuals should document their request to the employer to properly terminate services by way of a certified letter with a return receipt. (Issued 6/01)

Related Standard: A.8.c and A.8.e

Advisory Opinion #32

The Committee considered a request for an advisory opinion as to whether CRCs are obligated to report credentialed providers against whom a government agency has finalized audit findings. The Committee responded that there is an extremely high likelihood that most audit findings are relatively minor in nature, thereby, not rising to the level of an ethical violation. In these situations, it is not necessary that CRCs take action to attempt to resolve the issue informally or file a complaint. However, if the audit produces findings that amount to fraud, for example, this would be considered to rise to the level of an ethical violation whereby it would be appropriate for a CRC to file a complaint with CRCC. In the event a complaint is filed, CRCs should ensure that they have the client's permission if the client's workers' compensation file is to be used to support the complaint. (Issued 8/01)

Related Standards: B.6.d, L.2.c, and L.2.d

Advisory Opinion #33

The Committee considered a request for an advisory opinion as to whether an organization's billing guidelines are consistent with the Code, whether CRCs who comply with these guidelines would be in violation of the Code, and whether CRCs who represent themselves as independent providers modify services to clients to conform to the guidelines. The Committee responded that the development and

use of guidelines that outline the fees paid for specific types of services rendered, such as these, are a business function that serves well to ensure that all parties understand the reimbursement policy. Ethical considerations for CRCs would arise only in the event that proper disclosure is not made to the client about the limits of services, such as the limit in the amount of time that the CRC can spend working on the client's file. The requirement of appropriate disclosure applies to all CRCs no matter if they are an agent of the organization or an independent provider. (Issued 8/01)

Related Standards: A.3.a, K.3.a, and K.3.g

Advisory Opinion #34

The Committee considered a request for an advisory opinion as to whether it is appropriate for a CRC to notify the workers' compensation carrier when the CRC learns that a client has returned to work without informing or intending to inform the carrier. The Committee responded that CRCs would be compliant with the law if they inform the carrier of such knowledge. However, it is incumbent upon CRCs to properly disclose to clients the limits of confidentiality at the outset of the relationship so that clients are aware of the limits and of the potential repercussions of their actions. (Issued 8/01)

Related Standards: A.3.a, B.1.f, and L.1.c

Advisory Opinion #35

The Committee considered a request for an advisory opinion as to whether CRCs are obligated to provide unbiased, objective opinions in all cases, whether there is a relationship with an insurer. The Committee responded that while this obligation exists, CRCs often find themselves maneuvering through systems that place them in situations where ethical dilemmas may occur. The overall majority of CRCs recognize these situations and abide by the Code as they work through them. Those who do not may find themselves addressing a complaint against them. Written disclosure of system limits to clients often prevents a lack of understanding and is highly recommended so that they can be addressed by the client and CRC. (Issued 11/01)

Related Standards: A.1.a, A.3.a, D.5.b, F.1.a, and F.1.d

Advisory Opinion #36

The Committee considered a request for an advisory opinion as to whether it is appropriate to list non-related degrees on items to include business cards. The Committee responded that doing so without any explanation of the field in which the degree is obtained can lead a client to make an incorrect determination of the level of training and is to be avoided. (Issued 11/01)

Related Standard: D.4.d

Advisory Opinion #37

The Committee considered information where an individual requested an advisory opinion, but then retracted his request. The original request addressed a situation where the individual may have entered into a dual relationship with a client. Although the request was retracted, the Committee requested that a response be sent stating that the Committee hopes that the individual has sought appropriate consultation in resolving the issue. (Issued 11/01)

Related Standards: A.5.g and L.2.b

Advisory Opinion #38

The Committee considered a request for an advisory opinion as to whether it is realistic to assume that CRCs required to practice in an open environment, such as cubicles, could maintain confidentiality. The Committee responded that it is highly likely that confidentiality could not be maintained at all times, thus there is high potential for a violation of the Code. (Issued 3/02)

Related Standards: B.1.a, B.3.a, and E.1.b

Advisory Opinion #39

The Committee considered a request for an advisory opinion as to whether a conflict of interest exists in a situation where a life care plan was provided for a physician and then a referral was received to complete a life care plan for a client who received services from the hospital where the physician was employed and where medical malpractice was cited, but it is unknown whether the physician provided services to the client. The Committee responded that it is best practice to decline the second referral. Alternatively, if the referral is accepted, it should only be done when the certified individual can clearly rule out any potential for conflict of interest, which may require alerting the opposing counsel to a problematic situation, and thus could lead to a situation fraught with ethical challenges. (Issued 3/02)

Related Standard: A.3.a

Advisory Opinion #40

The Committee considered a request for an advisory opinion as to whether information can be removed from a file at the request of the client and whether a supervisor's actions to remove material were appropriate. The Committee responded that the certificant should first confirm whether the law supports this action. Furthermore, that while the CRCC Code directs CRCs that any alterations to case notes must be made in a manner to preserve the original note and should indicate the date, author, and rationale for the change, the provisions of record maintenance, which directs that records be maintained according to the law and/or agency requirements supersedes other aspects of maintaining client records. If actions of the supervisor were not consistent with agency requirements and the law, the certificant should obtain legal advice. It would also be appropriate to raise this issue with the new leadership noted within the correspondence. (Issued 6/02)

Related Standards: K.2.a, K.2.c, and L.1.c

Advisory Opinion #41

The Committee considered a request for an advisory opinion as to whether a certificant is bound to the CRCC Code in performing his/her job as a service provider in an office for students with disabilities, whether these activities are considered rehabilitation counseling, whether the CRC should be used in this position, and what information was considered confidential. The Committee responded that a number of aspects of the certificant's activities as described fall within the scope of rehabilitation counseling activities. Therefore, given that the certificant is working as a rehabilitation counselor, the certificant is bound by the Code and may use the CRC designation in the performance of these activities. Furthermore, that there are relevant Federal, State, and agency laws regarding confidentiality and privileged information which must be complied with as directed by the Code. (Issued 6/02)

Related Standards: Preamble, A.3.a, B.1.a, and L.1.c

Advisory Opinion #42

The Committee considered a request for an advisory opinion as to whether development of vocational rehabilitation plans with no client interaction and no identification of vocational goals is appropriate. The Committee responded that the plan as described by the certificant is not considered a vocational rehabilitation plan because it is not a plan created jointly with the client nor does it identify goals. Instead, the plan is simply a product of a forensic evaluation with recommendations for placement services. Furthermore, those preparing such evaluations should delineate the basis on which the recommendations were made and should be certain to include notions regarding the limitations of this type of assessment that lacks client participation. (Issued 6/02)

Related Standard: A.1.b, F.1.a, and F.1.d

Advisory Opinion #43

The Committee considered a request for an advisory opinion as to whether it is appropriate that certificants do not request information from medical service providers when developing a vocational plan. The Committee responded that a CRC who lacked current medical information would be unable to develop a vocational report because they are unqualified to render an opinion about an individual's ability to return-to-work or about their functional capacities absent such documentation from qualified service providers. Furthermore, requiring that individuals prepare vocational reports without the use of information from medical service providers appears to be inconsistent with Federal and state guidelines. (Issued 6/02)

Related Standards: A.1.c and L.1.c

Advisory Opinion #44

The Committee considered a request for an advisory opinion as to whether working in an open environment, such as cubicles, could result in a violation of the Code and what action should be taken in such an environment to protect the confidentiality of clients. The Committee responded that it is highly unlikely that confidentiality could be maintained at all times, thus there is high potential for a violation of the Code. Further, clients must be made aware of any limitations to confidentiality when communicating in such a setting. (Issued 8/02)

Related Standards: B.1.a, B.3.a, and E.1.b

Advisory Opinion #45

The Committee considered a request for an advisory opinion as to what action should be taken in the event that another CRC is making disparaging remarks. The Committee responded that the proper action is first to confront the CRC who is making the remarks. Given a less than acceptable conclusion, the next line of contact would be with the individual's supervisor. Further, that these contacts should be documented in writing. If these efforts fail to resolve the matter, a complaint should be filed with CRCC. (Issued 8/02)

Related Standards: D.5.h, L.2.c, and L.2.d

Advisory Opinion #46

The Committee considered a request for an advisory opinion as to a CRC's obligation to inform clients, customers, and business associates about the lack of current and complete information in the DOT and O*Net. The Committee responded that the individual should first be apprised that it is not the Committee's understanding that the Department of Labor had mandated in 1999 that the O*Net is in its final form and suitable as a replacement for the DOT. It should also be noted that, even when in

a final format, sources of this nature will always fall short of listing every position. Further, that either reference is only one source of information, which should be supplemented with additional information such as that obtained from current labor market surveys, and that judgment should be applied when making use of any data upon which a professional relies when developing recommendations. (Issued 11/02)

Related Standards: A.3.a and D.6.d

Advisory Opinion #47

The Committee considered a request for an advisory opinion as to whether the individual should withhold his/her relationship to the client from other members of the treatment team. The Committee responded that the individual should first seek direction from his/her supervisor in the state agency regarding the request for services. Further, that as general direction in any matter, CRCs must disclose to clients the effects of any limitations placed on their ability to provide services and that if limitations placed upon a CRC, such as the inability to gain access to information and individuals, impinge on their ability to provide effective services, CRCs should decline acceptance of the case. (Issued 11/02)

Related Standards: A.3.a, A.3.b, and A.8.a

Advisory Opinion #48

The Committee considered a request for an advisory opinion as to whether it is appropriate to contact employers regarding a particular client when the client is unaware of each instance of contact. The Committee voiced strong concern about the individual's practice and directed that communication be sent advising the individual to immediately cease from the activity as described. The Committee responded that contacting the employer in the manner described is a direct violation of the client's civil rights under the Americans with Disabilities Act (ADA), and could potentially be a significant legal problem, which is in turn a direct violation of Standard L.1.c of the Code. The Committee further explained that, under the ADA, clients have a right to expect that employers are not apprised of their disability during initial discussions, unless the client so chooses to share that information either directly or through another party. Only at the time that a conditional offer of employment is extended does the employer have the right to gather information that may divulge the disability. By offering the type of information the individual had offered to the employer the individual had, in effect, stated to the employer that the client has a disability without the client having consented to the release of such information. (Issued 11/02)

Related Standards: A.3.a, B.1.a, B.1.e, B.2.c, B.2.d, D.1.f, and L.1.c

Advisory Opinion #49

The Committee considered a request for an advisory opinion as to whether it is appropriate to use the title Dr. after receiving a degree from a Christian Counseling program from a college that is accredited by TRACS, but not by one of the six regional accreditation organizations. The Committee responded that the Code only speaks about misrepresenting credentials and about degrees from unrelated fields, neither of which applies to the scenario presented. Therefore, the individual may use the title of Dr. in practice after having been granted the degree. (Issued 11/02)

Related Standards: D.4.a, D.4.d, and K.1.a

Advisory Opinion #50

The Committee considered a request for an advisory opinion as to whether it is appropriate to cite all degrees and credentials in a signature line given the specific type of work the CRC does as stated within the request for an opinion. The Committee responded that the intent of Standard D.4.a is to ensure that individuals do not purport a higher level of education when unrelated to the type of work in which they engage. Further, that use of the degrees and credentials appears appropriate for the type of work in which the CRC engages. However, to ensure that clients understand the acronyms used, it is best practice to include a description of these within a written professional disclosure statement that is provided to clients. (Issued 3/03)

Related Standard: D.4.a

Advisory Opinion #51

The Committee considered a request for an advisory opinion relating to two scenarios expressed by the author that pertained to providing forensic services. With regard to the first question as to whether a counselor should accept a referral designed for provision of vocational rehabilitation services and then concentrate primarily on rendering a forensic opinion about employability, the Committee responded that any counselor receiving a referral needs to assess the referral and together with the client and referral source agree on the services that are required and that will be provided. With regard to the questions of whether a counselor should render a forensic opinion regarding the entirety of a case when he or she has actively worked with the client in the past and to what extent should the client be notified of the potential for expert testimony after case closure, the Committee responded that if the counselor is compelled by the court to testify as to their knowledge regarding the case, then the counselor must comply. Further, that the counselor should always advise the client of the potential for the counselor to be called to testify or to be requested to act in a forensic role even after case closure and that this should be conveyed as part of a written disclosure statement. The Committee requested that the sample disclosure statements be provided to the author. (Issued 3/03)

Related Standards: A.3.a, A.5.i, F.1.b, F.1.c, and F.1.d

Advisory Opinion #52

The Committee considered a request for an advisory opinion as to whether it is unethical for a certified individual to work in an expert testimony capacity for an insurance carrier where the CRC would conduct a vocational interview with the claimant in order to provide testimony. The Committee responded that the scenario as stated is not inherently unethical. However, if it can be proved that the CRC was biased and inaccurate in his/her testimony, then there may be potential for violation. Likewise, there may also be potential for violation if the CRC did not provide proper disclosure to the client. (Issued 8/03)

Related Standards: A.3.a, D.5.b, and F.1.a

Advisory Opinion #53

The Committee considered a request for an advisory opinion as to whether a state vocational rehabilitation counselor needs to obtain a signed release from the client to store case notes on computer files where the files are maintained by the agency on a secure server. The Committee responded that provided clients are informed of how records are being preserved (A.3.a), there is no requirement to obtain a signed release, but doing so would be a good practice. (Issued 8/03)

Related Standard: A.3.a

Advisory Opinion #54

The Committee considered a request for an advisory opinion as to when rehabilitation counselors are qualified to make a diagnosis of a mental disorder. The Committee responded that mere possession of a CRC does not qualify individuals to make such a diagnosis, but that CRCs may receive the additional training and qualifications to make such a diagnosis. (Issued 8/03)

Related Standards: D.1.a and G.3.a

Advisory Opinion #55

The Committee considered a request for an advisory opinion as to whether the individual should notify the clients and agency personnel of a breach in confidentiality caused by the supervisor. The Committee responded that the individual be directed that s/he should notify both the clients and agency personnel. (Issued 8/03)

Related Standards: B.1.f and B.6.b

Advisory Opinion #56

The Committee considered a request for an advisory opinion with regard to requesting reasonable accommodations under the Americans with Disabilities Act (ADA). The Committee responded that a CRC is obligated to advise and educate clients about their rights under the ADA and that unless a client waives his/her right to confidentiality, the CRC would not be involved in discussions with an employer about accommodations for the client. Further, that it would be appropriate for CRCs to assist clients in researching what appropriate accommodations might be to include the cost and how they may be implemented. (Issued 11/03)

Related Standards: B.1.a, C.1.b, and C.2.b

Advisory Opinion #57

The Committee considered a request for an advisory opinion as to whether a CRC is required to have an order by a physician to see a patient in a rehabilitation hospital. The Committee responded that the issue is not addressed within the Code because it is not a standardized professional practice nationwide due to the fact that it would depend on the hospital's policy. The Committee added that if the individual is concerned with hospital policy on the matter, s/he should refer to Standard E.1.b. (Issued 11/03)

Related Standards: E.1.b and L.1.c

Advisory Opinion #58

The Committee considered a request for an advisory opinion with regard to forensic or consultant services as they relate to Standards D.5.b, D.5.g, and F.1.a of the Code and to any conflict that would then arise with Standard D.5.h. The Committee responded that while it is inherent in the nature of service provision in a forensic setting to comment on the opinions of another professional, there are ways in which to phrase opinions about another professional's work so that they are not stated in a disparaging way but rather point out why one may disagree with the findings. With regard to disclosure of information, the Committee responded that the need to disclose particular information in a report would need to be assessed on a case-by-case basis. Given the particular scenario offered, the Committee stated that the first question that would need to be addressed is whether the counselor should have accepted the assignment given the potential of an appearance of impropriety as to the

validity of the opinion even if the counselor were to write a report in compliance with the requirements of D.5.b, D.5.g, and F.1.a. (Issued 3/04)

Related Standards: D.5.b, D.5.g, D.5.h, and F.1.a

Advisory Opinion #59

The Committee considered a request for an advisory opinion with regard to forensic services as they relate to Standards D.5.b, F.1.a, and F.1.d of the Code and to any conflict that would then arise with Standard D.5.h. In addition, guidance was requested on Standards L.2.c, and L.2.d. The Committee responded that if a CRC is providing opinions that are biased toward the side of the referral source, there would be cause to file a complaint with CRCC. Further, that the rationale provided regarding why an individual would not feel comfortable with performing the activity suggested in L.2.c, is a reasonable rationale for omitting this step and proceeding with filing a complaint instead. With regard to the potential for conflict with D.5.a when performing the activities required in D.5.b, F.1.a, and F.1.d, the Committee responded that there are ways in which to phrase opinions about another professional's work so that they are not stated in a disparaging way but rather point out why one may disagree with the findings. (Issued 3/04)

Related Standards: D.5.a, D.5.b, D.5.h, F.1.a, F.1.d, L.2.c, and L.2.d

Advisory Opinion #60

The Committee considered a request for an advisory opinion with regard to submitting a proposed vocational rehabilitation plan that the injured worker does not agree with and has not signed. The Committee responded that it is appropriate to submit such a plan in states where a counselor is required to do so. However, it is imperative that clients are informed at the outset of the relationship that this may occur and to address the potential ramifications should this occur. Furthermore, it is equally important to document that such disclosure was made in case notes and reports and to document why a client chose not to sign a plan if indeed this does occur so that the workers' compensation system is aware of the rationale for submitting an unsigned report. (Issued 3/04)

Related Standards: A.3.a, D.5.b, K.2.a, and L.1.c

Advisory Opinion #61

The Committee considered a request for an advisory opinion with regard to advising a potential employer about sexually deviant behavior. The Committee responded that, given the very specific scenario presented, the first question to address is whether the client is ready for placement given what appears to be ongoing sexually deviant behavior and, if indeed the client is deemed ready for placement, whether that placement should be limited to selective placement in a position where it would not be possible for the client to pose harm. Further, agreement to proceed to placement should be a mutual agreement between all agencies cooperating in the rehabilitation process. Once an individual is ready for job placement, appropriate disclosure to the client should occur that results in an understanding between all parties as to the information that will be released to potential employers. (Issued 3/04)

Related Standards: A.1.c, A.3.a, B.2.a, and E.2.a

Advisory Opinion #62

The Committee considered a request for an advisory opinion with regard to whether it is appropriate for an agency to require that individuals provide rehabilitation counseling services in cubicles where interview rooms are provided but not always available. The Committee responded that they do not

recommend an open work environment, as would occur with the use of cubicles, due to the high likelihood that confidentiality could not be maintained at all times. Further, that if certified individuals working in an open environment encounter a situation where confidential interview rooms are not available, they should decline to provide services and should notify their supervisor immediately. (Issued 3/04)

Related Standards: B.1.a, B.3.a, and E.1.c

Advisory Opinion #63

The Committee considered a request for an advisory opinion with regard to forensic evaluations and the workers' compensation laws in a specific state. The Committee responded that while working in the workers' compensation system in that State or any state presents challenges, the certificant needs to disclose to the individual why work is being done and to make sure that all reports are objective. (Issued 6/04)

Related Standards: A.3.a, D.5.b, and F.1.a

Advisory Opinion #64

The Committee considered a request for an advisory opinion by a certificant, who is also an attorney. The Committee responded that if a person is a CRC then they are bound by the Code, but that the Code is not enforceable by CRCC against those who are not certified. (Issued 6/04)

Related Standards: Preamble

Advisory Opinion #65

The Committee considered a request for an advisory opinion with regard to the counselor's responsibility in the circumstance where the referral source advises the counselor that his/her client is under investigation. The Committee responded that the best practices approach would be first to advise the referral source that if they make it known to the counselor that the client is under investigation, the counselor has a duty to disclose this information to the client. Furthermore, the client should also be advised, preferably as part of a written disclosure form, that the counselor has a duty to inform the referral source if they find that the client is working while receiving benefits, assuming that this is not allowed within the particular benefit system. (Issued 11/04)

Related Standards: A.1.a and A.3.a

Advisory Opinion #66

The Committee considered a request for an advisory opinion with regard to an amended request for production and motion to compel where the individual was concerned with matters of confidentiality. The Committee responded that the counselor has no choice but to comply with the court order. Further, that the request as amended appears to be for records in which the client's name is removed in order to provide for confidentiality. That being the case in this instance, there would be no need to seek out releases from clients. However, should a CRC receive a request for information in a manner that would not protect the client's confidentiality, a counselor would be obligated to request that the court amend the request, as may have been done in this instance. (Issued 11/04)

Related Standards: B.1.a, B.1.f, B.2.a, B.2.c, B.2.d, B.3, B.6.a, B.6.b, B.6.d, B.7.b

Advisory Opinion #67

The Committee considered a request for an advisory opinion with regard to making a determination of employability as an Exotic Dancer if the attending physician approves the job analysis for dancer indicating that the individual can physically perform the requirements of the occupation and the labor market survey supports employability. The Committee responded that while the position may be a viable option for employment according to the statutes, if the client expresses concern related to the potential for psychological or physical harm should the client be returned to the former occupation, the CRC has an ethical responsibility to advise of that fact. (Issued 3/05)

Related Standards: A.1.b and A.1.c

Advisory Opinion #68

The Committee considered a request for an advisory opinion with regard to whether rehabilitation counselors may serve as an expert witness regarding the acts or omissions of another vocational rehabilitation counselor and whether a factually-based negative opinion by one counselor of the professional services rendered by another counselor would be considered disparaging. The Committee responded that CRCs may serve as expert witnesses and that if the opinion is based on fact and is a critique of the work product versus a more personal attack of professional character, it would not be considered disparaging. (Issued 3/05)

Related Standards: D.5.h and G.2.a

Advisory Opinion #69

The Committee considered a request for an advisory opinion that pertained to whether it is appropriate for a CRC to reveal that the individual who the CRC was transporting while involved in an auto accident was a consumer of the organization by which the CRC was employed and whether the CRC can be forced to reveal anything about the consumer's treatment. The Committee responded that disclosure to the CRC's attorney of the fact that the individual was a consumer of the organization by which the CRC was employed would be appropriate and would be protected by attorney-client privilege. Release of treatment information, which may be considered protected health information, does not appear germane to the situation and therefore the CRC should not disclose such information. Should the CRC be compelled to release treatment information (B.2.a or B.2.c), minimal disclosure would be critical (B.2.d). The Committee requested that the opinion advise that the CRC should consult with his/her attorney to determine if s/he is legally obligated to release confidential information. (Issued 5/05)

Related Standards: B.2.a, B.2.c, and B.2.d

Advisory Opinion #70

The Committee considered a request for an advisory opinion with regard to whether the individual may use his/her Ph.D. on his/her business card. The Committee responded that the intent of Standard D.4.a is to ensure that no individual attributes a higher level of education in the counseling field to an individual who does not have such education. Therefore, for example, use of the Ph.D. in Philosophy on the business card would constitute an ethical violation. (Issued 5/05)

Related Standard: D.4.a

Advisory Opinion #71

The Committee considered a request for an advisory opinion with regard to: 1) whether a CRC hired by a workers' compensation carrier is obligated to comply with an injured worker's request to release

copies of bills to the injured worker, and 2) whether a CRC, who chooses to have an assistant attend meetings between the CRC and the injured worker for the purposes of making “notes” that are later described by the CRC as “transcripts”, is required to first obtain the injured worker’s permission to record the meeting. With regard to the first question, the Committee responded that CRCs are required to abide by the law. Therefore, the injured worker should seek legal advice as to whether there is a legal requirement for a CRC hired by a workers’ compensation carrier to comply with an injured worker’s request to release copies of bills to the injured worker. With regard to the second question, the Committee responded that there is insufficient information provided for the Committee to comment on the matter. However, should the injured worker believe that a violation of the Code has occurred, the individual should submit a complaint to CRCC. (Issued 5/05)

Related Standards: B.1.b, B.6.a, B.6.c, and L.1.c

Advisory Opinion #72

The Committee considered a request for an advisory opinion with regard to: 1) whether CRCC should compose and distribute to CRCs a standard decline letter, 2) whether the documents attached to the request for an advisory opinion indicate specific conduct which CRCs should refrain from, 3) whether it is ethical for a CRC to give an opinion about a case and/or an opinion about a claimant when the CRC has not been asked to give an opinion, and 4) whether it is ethical for a CRC to render an opinion that would affect a claimant’s case and life without the CRC ever alerting the claimant that the opinion exists, that the opinion has been distributed and what the opinion is. With regard to the first question, the Committee responded that CRCC does not find it appropriate to compose and distribute a standard decline letter. With regard to the second and fourth questions, the Committee responded that should the injured worker believe that a violation of the Code has occurred, the individual should submit a complaint to CRCC. With regard to the third question, the Committee responded that it is ethical for a CRC to decline a case and explain the rationale for doing so. (Issued 5/05)

Related Standards: F.1.a, F.1.d and L.2.d, and L.3.a

Advisory Opinion #73

The Committee considered a request for an advisory opinion with regard to whether a CRC would break confidentiality for any reason except danger to self or others, past or present child abuse, elder/dependent adult abuse, or court order. The Committee responded that the laws in each state are different regarding these issues and therefore a CRC is required to know the law in the state having jurisdiction in the matter, which may require consulting with an attorney. (Issued 5/05)

Related Standards: A.1.a, A.3.a, A.3.b, B.1.e, B.1.f, B.2.a, B.2.b, B.2.c, B.2.d, B.7.a, J.3.b, and L.2.b

Advisory Opinion #74

The Committee considered a request for an advisory opinion with regard to the use of an Ed.S. graduate degree among the list of credentials. The Committee responded that, assuming the Ed.S. is a counseling degree and is related to the work being performed as a CRC, it would be appropriate to include among the list of credentials. (Issued 9/05)

Related Standard: D.4.a

Advisory Opinion #75

The Committee considered a request for an advisory opinion with regard to several questions about electronic communications. The questions and the Committee’s responses are detailed as follows.

Q1: Does the Code prohibit electronic real time sharing of client case notes that may or may not contain confidential information? A1: No; however, individuals should be aware of the need for minimal disclosure (B.2.d) and should understand that any documented information, whether in a paper file or computerized system, is discoverable. Further, that individuals are held to the same level of expected behavior regardless of the form of communication they use (J.1.a). While all individuals should have an understanding of what is essential and vocationally relevant to record in case notes, there may be a stronger need for training in a situation of real time sharing of case notes. Other applicable standards include A.3.a and B.6.a.

Q2: If case notes are to be shared electronically in real time, what is the CRC required to do regarding disclosure to the client and obtaining their permission? A2: Disclosure about the confidentiality of records initially and throughout the process should be a routine activity. CRCC recommends the use of written disclosure forms (A.3.a and B.6.a).

Q3: How should the CRC handle minimal disclosure issues if the case notes can be seen in real time without an opportunity to edit or somehow limit access to the notes? A3: As noted in response to question one, individuals should have an understanding of what is essential and vocationally relevant to include. It may be useful to type the information into another computer application and then cut and paste it into the software. Information that is critical to retain but not relevant to the issue could be maintained in a paper file. However, individuals must recognize the need for minimal disclosure and that the contents of the paper file would be discoverable.

Q4: What is the definition of confidential? A4: Confidential information would be that which cannot be disclosed without permission or statutory right to do so. If there is a question in a particular situation that cannot be resolved within the organization, it may be necessary to contact legal counsel to assist with determining if information is confidential.

Q5: What is considered unwarranted disclosures of confidential information? A5: When information is determined confidential, disclosure would be unwarranted if it is disclosed without permission or statutory right to do so.

Q6: What is the CRCs responsibility to ensure that notes transmitted electronically to other parties are not used outside the scope of claims management and the parameters of the workers' compensation program? Are we required to control and/or limit further release of this information? A6: Liability for security of data rests with the organization assuming that the data is correct. If there is a concern about data security, CRCs are encouraged to be advocates for change (E.1.b).

Q7: How does CRCC review electronic sharing of case notes? What is the CRCs obligation to inform our clients of confidentiality limitations in this situation? Is it inappropriate to share some or all of typical case notes recorded in the vocational counseling process electronically? What does CRCC view as minimal disclosure? A7: Disclosure and informed consent are critical in every situation, but come to the forefront given this method of recording data. Furthermore, it is necessary that CRCs understand what is essential and vocationally relevant in a matter. The organization may need to provide additional training to staff members so that they understand these concepts. (Issued 9/05)

Related Standards: A.3.a, B.2.d, B.6.a, E.1.b, and J.1.a

Advisory Opinion #76

The Committee considered a request for an advisory opinion with regard to rendering vocational case management services absent signed release forms to both obtain and provide information related to ongoing rehabilitation services. The Committee responded that it does not appear feasible that the CRC would be able to continue to provide effective services for the client without the ability to directly communicate with others involved in the case. The Committee also added that, assuming that the CRC would cease to provide services for the client based on an inability to directly communicate with others involved in the case, the CRC might be requested to be a fact witness or vocational expert in the matter in the future. While individuals routinely become fact witnesses in such instances, it would

be appropriate to be a vocational expert only if the client was advised at the outset of the relationship of the fact that such a situation could occur. (Issued 9/05)

Related Standards: A.3.a and A.5.i

Advisory Opinion #77

The Committee considered a request for an advisory opinion with regard to potential ethical implications of a system that measures vocational provider performance. The Committee responded that there is nothing inherently unethical in employing a system to measure performance. In fact, measures of accountability exist in various forms and in many settings, particularly when a payor is a party to the process. Such measures of accountability may heighten the potential for ethical dilemmas but that does not necessarily translate to a fact that an individual cannot practice ethically under the circumstances. Points of interest arise when there is controversy regarding the objectivity and fairness of the particular measurement system. While CRCC is not in a position to comment on the objectivity or fairness of any particular system, issues that might be explored as all parties examine issues of objectivity and fairness could include whether the system accurately accounts for variations in complexity of cases and whether the performance of interns, who may not be as adept at effective management of cases, is accounted for in supervisor ratings. In relation to Certified Rehabilitation Counselors' (CRCs) ethical responsibilities in a system where individuals are accountable for their performance, regardless of the system, CRCs have an obligation to perform their activities in an ethical manner. It appears that a CRC who is subject to ratings would need to focus efforts on effective management of cases in order to continue to provide effective services to the client, who is the individual with a disability receiving services. Those who choose to work in this setting may choose to inform the client of the fact that the counselor is subject to a rating system that measures the counselor's performance in the delivery of services. However, the counselor should also be comfortable with his or her ability to provide effective services that will not result in a diminished level of quality services and should be able to advise the client of this fact. Those who find that they are unable to provide quality services in such a system where they believe the system to be lacking fairness should alert the referral source to their concern, document such action, and take constructive action to attempt to affect change. However, where change cannot be affected, counselors may need to consider whether they are able to continue to work in the setting in an ethical manner. From another perspective, CRCs who employ individuals (either directly or under contract) that are subject to such rating systems also must be cognizant of their obligation to provide for fair and objective evaluations of an individual's performance. Thus, CRCs who are employees of entities who administer rating systems have an obligation to monitor the effectiveness of any system that monitors an individual's performance and to attempt to effect changes where factual information warrants such change. (Issued 11/05)

Related Standards: A.1.a, A.3.a, E.1.b, and H.5.h

Advisory Opinion #78

The Committee considered a request for an advisory opinion with regard to whether it is appropriate for a CRC to provide patients with sample medications with a physician's prior script approval. The Committee responded that CRCs must follow the law in accordance with Standard L.1.c. Unless the CRC is also authorized to dispense medication, the CRC would be violating the law and Standard L.1.c if he or she were to dispense medication. (Issued 11/05)

Related Standards: D.1.a and L.1.c

Advisory Opinion #79

The Committee considered a request for an advisory opinion with regard to ethical practice in the event that a client advises a CRC repeatedly that her husband gets drunk and drives his vehicle with their children in the car. The Committee responded that the CRC is obligated to know whether there is a legal duty to report such behavior, which varies from state-to-state, and that if there is a legal requirement to report, the CRC must take such action. (Issued 11/05)

Related Standards: A.3.a, B.2.a, B.2.d, and L.1.c

Advisory Opinion #80

The Committee considered a request for an advisory opinion with regard to whether it is considered disparaging in a forensic setting to advise attorneys of the differences in background between the credentials of vocational experts and to suggest that the attorney make a reasonable and critical examination of the differences. The Committee responded that simply informing individuals about professional qualifications is not disparaging. Further, that should a CRC believe that an individual does not possess a required license to practice, the CRC should address the matter with the licensing board. In addition, it is incumbent upon the CRC to file a complaint alleging unethical conduct should the licensing board find that the individual is required to be licensed to practice and has not obtained such license. (Issued 11/05)

Related Standards: D.1.a, D.4.a, D.5.h, and L.1.c

Advisory Opinion #81

The Committee considered a request for an advisory opinion with regard to whether there is anything legally or ethically improper about a vocational expert or other representative being retained by an attorney to observe the interview and testing administered by an opposing vocational expert. The Committee responded that they are unable to comment with regard to the legalities of a matter but, assuming standardization protocols for testing are not being violated by the presence of an observer, there is nothing inherently unethical in the situation described. Factors that must be considered include disclosure of any potential impact to standardization and whether the opposing counsel requests copies of any documentation or test results following the interview and testing. Any requests for copies of documentation or test results should be clarified prior to the interview and testing and, provided that the client consents to release of information, documentation and test results that include appropriate interpretations should be released only to individuals who are competent to interpret the data so as to avoid copyright violation and violation of testing protocol. (Issued 11/05)

Related Standards: G.1.b, G.2.a, G.2.b, and G.6.a

Advisory Opinion #82

The Committee considered a request for an advisory opinion with regard to disclosure related to the use of medical marijuana for those also receiving services from a federal agency, which does not recognize any medicinal purposes for marijuana. The Committee responded that since the state recognizes and authorizes the use of marijuana for medicinal purposes, there is no reason that its use should be treated differently than any other prescribed medication. To fail to record use of medical marijuana would be inconsistent with standard procedure. Therefore, since it is realistic to assume that the federal agency would become aware of the use of medical marijuana through the course of usual and customary service provision, it is important to ensure that proper disclosure about matters of confidentiality be provided at the outset of a client-counselor relationship. Given the conflict in state and federal law, it would also be important to seek legal consultation in relation to disclosure to the federal agency. (Issued 3/06)

Related Standards: A.3.a, B.2.d, and L.1.c

Advisory Opinion #83

The Committee considered a request for an advisory opinion with regard to the obligation to a client in disclosing information, writing reports, and making recommendations without the client's participation, knowledge, input or consideration when the client was initially interviewed and evaluated by the rehabilitation counselor. The Committee responded that the obligation is dependent upon the reason for the referral, which should have been disclosed to the client at the outset of services. (Issued 3/06)

Related Standards: A.3.a, F.1.a, and Section G in its entirety with emphasis on G.1.a

Advisory Opinion #84

The Committee considered a request for an advisory opinion with regard to the ethical obligations of a CRC. The Committee responded that the obligation of a CRC is to follow the Code of Professional Ethics for Rehabilitation Counselors as well as the laws within the jurisdiction in which he or she practices. Further, that whether the mandates of state statutes for vocational rehabilitation and that of the insurance carrier comport or conflict with one another, the CRC is required to comply with the Code. (Issued 3/06)

Related Standard: A.3.a and L.1.c

Advisory Opinion #85

The Committee considered a request for an advisory opinion with regard to whether it is problematic to allow a client meeting to occur at a counselor's home for a specific client given unavailability of training materials at the agency and whether it is appropriate to engage in a non-professional relationship such as purchasing the work product of a client. The Committee responded that counselors should refrain from making allowances for clients that are not made available to all clients as they may, either by perception or in reality, create an appearance of impropriety or establish unrealistic expectations on the part of the client. However, should a non-traditional arrangement be the only option for the provision of services, counselors must provide appropriate disclosure so as to allow the client to make an informed choice in the matter. In terms of non-professional relationships with clients, the Code clearly states that rehabilitation counselors will make every effort to avoid non-professional relationships with clients that could impair professional judgment or increase the risk of harm to clients. Given that both situations lend themselves to potential for violation of the Code, the Committee would recommend that a counselor refrain from engaging in either action. (Issued 6/06)

Related Standards: A.3.a, A.5.h, H.3.a, and H.7.a

Advisory Opinion #86

The Committee considered a request for an advisory opinion with regard to whether CRCC's Code of Professional Ethics for Rehabilitation Counselors precludes the provision of services to undocumented workers. The Committee responded that CRCC's Code requires that individuals comply with legal requirements in the jurisdiction in which they practice and observe legal limitations of services they offer to clients. Should such legal requirements or limitations prohibit the provision of services to undocumented workers, the Code would require that a CRC does not engage in any such service provision. (Issued 6/06)

Related Standards: A.3.a and L.1.c

Advisory Opinion #87

The Committee considered a request for an advisory opinion with regard to two dilemmas with the first pertaining to a CRC being requested to perform labor market surveys as case consultants only, with or without the opportunity to meet with the client, and to provide this information to the insurance company and/or defense attorney. The question was whether the CRC has an ethical obligation to provide a copy of the labor market survey to the client if requested by the client. The Committee responded that there is no ethical obligation to provide the report to the client but that since the referral source receives a copy, the client or client's attorney may be directed to request a copy from the referral source. If given the opportunity to speak with the client, such information may be provided as part of the professional disclosure process. The second dilemma pertained to a situation when the CRC is unable to meet with the client before completing the labor market survey; however, once the survey is completed the counselor follows up on potential job leads identified in the survey, using the client's name without a release to do so, to determine if the client has made contact with any of the leads. The Committee responded that such action would constitute a violation of confidentiality and would also be inconsistent with the scope of practice of a CRC. (Issued 9/06)

Related Standards: B.1.a, B.6.c, F.1.a, and F.1.d

Advisory Opinion #88

The Committee considered a request for an advisory opinion with regard to the issue of undocumented workers with several questions regarding the actions that a CRC might take in specific instances. Note that the issue of the provision of services to undocumented workers, albeit currently in the media, is not the only legal issue that could cause an impediment or barrier to employment. The Committee indicated that legal issues that cause such barriers (e.g., criminal background, inability to be legally employed in the country, working while receiving compensation benefits, etc.) should be addressed collectively as part of the disclosure process and no single individual or groups of individuals should be profiled as to which legal barrier questions should be asked.

The first issue raised was whether CRCs are required to ask clients about their legal employment status and, secondarily, whether CRCs should ask to see the paperwork documenting such status. In response to these matters, the Committee again cautions that there are different requirements in the various jurisdictions in which a CRC might practice; thus, a CRC must know the laws and regulations in the jurisdiction in which they practice and conduct their practice in accordance with those laws and regulations. Depending on the jurisdiction, this may require a CRC to ask the client about his or her legal employment status and may also require that the CRC obtain certain documents in accordance with system requirements. However, a CRC should not act outside of his or her scope of practice if asked to inspect documents to attest to the veracity of a client's statement regarding his or her employment status. Conversely, there may be instances where laws and regulations do not exist that mandate a CRC's documentation of an individual's ability to be legally employed. In accordance with the Code, in such a situation CRCs need to examine the services to be provided to the client and determine if knowledge of legal issues, which may include employment status, would be a barrier to providing the scope of services needed under the program or jurisdiction just as would be done in any other instance if a barrier existed to the provision of services.

The second issue raised was with regard to the level of disclosure to the referral source and/or employer that is required when a CRC asks a client about legal employment status and learns that the client does not hold that status. The Committee responded that the first obligation in the disclosure process is to the client. The CRCC highly recommends the use of written professional disclosure statements at the outset of a counselor-client relationship so that important issues, such as legal issues preventing a client's ability to be employed in any or all branches of the labor market or to

receive other vocational services, may be addressed. Sample disclosure statements are available at the CRCC website, http://www.crccertification.com/pages/certificant_resource_materials/42.php. Whether a written disclosure form is used, the practice of professional disclosure both at the outset of a counselor-client relationship and during the relationship is imperative. In the scenario raised, it would be important to advise the client of the CRC's obligation to advise the referral source of the client's legal employment status since it would seem a barrier in that particular program or jurisdiction, and should be asked in the context of the overall inquiry regarding legal barriers that may hinder employment in any or all branches of the labor market. Further, the CRC should advise the client that his or her attorney or representative, if the client is represented, would also be advised of the information reported by the client. The client may also be advised at that time of the potential impact such as the possibility that the CRC may not be able to provide a variety of services that might be impacted by the barrier imposed by the legal issue and may need to recommend termination of services and possible referral, if the circumstances lend themselves to a possible referral for services elsewhere. However, it would be outside of the scope of responsibilities of a CRC to report such information to the employer or, for example, an agency that would have oversight of legal employment matters if not working directly with them as part of the rehabilitation team.

The third question relates to issues arising while a CRC facilitated a determination of return-to-work (RTW) abilities when it became known that the documentation to substantiate legal employment status was not legal or valid. In this scenario there was an assumption or suspicion as to the validity of the employment documentation. As an initial consideration, please refer to the Committee's response to Scenario 2 above in which the Committee responded that the CRC's first obligation of disclosure is to the client. With regard to the issue of advising the employer that the worker may not have legal documentation and that the worker must produce valid and legal documentation in order to return to work, the Committee found such action to be appropriate, assuming a direct relationship between the CRC and the employer exists, provided that the client is made aware of the fact that the CRC will be advising the employer in such a manner if the CRC has ongoing reasonable concern regarding the client's legal ability to be employed. The Committee also responded that it would be inappropriate for the CRC to assist the employer in the development of a RTW offer letter contingent upon receipt of documentation to support legal employment status (if such documentation is necessary within the jurisdiction or) if the CRC learns in the counseling process as to the client's legal inability to be employed. Likewise, the Committee responded that it would be inappropriate for a CRC to facilitate claim closure by disclosing the technique of development of an RTW offer letter to the employer or referral sources when the CRC suspects that documentation is not legal or valid, as it is not the CRCs obligation to assist an employer or insurer with case closure.

Related Standards: A.3.a, A.8.a, A.8.c, B.1.f, B.2.d, C.1.b, E.1.b, L.1.c, and L.2.b

The Committee considered a secondary request for clarification regarding the following wording in the previously-issued advisory opinion: "However, it would be outside the scope of responsibilities of a CRC to report such information to the employer or, for example, an agency that would have oversight of legal employment matters if not working directly with them as part of the rehabilitation team."

The Committee responded that if a client's legal issues (e.g., undocumented status, criminal record, incarceration, etc.) are relevant to the services provided by the CRC (e.g., if the legal issue may impact services or the kinds of services that are provided) best practices indicate that the counselor should inquire regarding the existence of that status. These kinds of questions would be posed to all clients within that particular programmatic setting without regard to race, place of origin, or other potentially discriminating factor.

Should it be suspected that these legal issues exist, that suspicion should be first disclosed to the client along with potential consequences pertaining to the provision of services. If the CRC is unable to continue to provide services, because engaging in these would place the counselor in a position of knowingly participating in an illegal act, the counselor has the responsibility of disclosing their inability to provide services first to the client, and then to other parties on a need-to-know basis as it pertains to that individual client, case, program, system, or jurisdiction. This typically includes member(s) of a rehabilitation team also providing services on the case.

The definition of who constitutes a rehabilitation team member can vary depending on the needs of the client, per practice setting, or by jurisdiction and may or may not necessarily include the employer. Rules of confidentiality dictate that minimal disclosure is prudent to only those members of the rehabilitation team needing to know the information, not to secondary parties to the case. (Issued 10/06)

Advisory Opinion #89

The Committee considered a request for an advisory opinion with regard to two dilemmas with the first pertaining to the appropriate course of action to take when there are conflicting opinions about a client's ability to return to work, as determined by a treating physician and a physician conducting an IME. The Committee responded that it would be outside of the scope of practice of a CRC to determine which set of restrictions or recommendations apply. Further, a CRC would need to limit or discontinue services until the conflict is resolved so as to be able to recommend and conduct appropriate job placement activities that are not harmful to the client. Should such a situation arise, the CRC would need to inform the client of the conflict and disclose to the client the need to alert the referral source so that the conflict may be resolved. The client should also be advised of any limitations, delays or discontinuation of services.

Related Standards: A.1.c, A.3.a, and D.1.a

The second dilemma pertains globally to the issue of undocumented workers with regard to the actions that a CRC might take in specific instances. The Committee responded that the issue of the provision of services to undocumented workers is not the only legal issue that could cause an impediment or barrier to employment. The Committee indicated that legal issues that cause such barriers (e.g., criminal background, inability to be legally employed in the country, working while receiving compensation benefits, etc.) should be addressed collectively as part of the disclosure process and no single individual or groups of individuals should be profiled as to which legal barrier questions should be asked. The Committee referenced Advisory Opinion # 88 for an in-depth response of the matter of undocumented workers. (Issued 10/06)

Related Standards: A.3.a, A.8.a, A.8.c, B.1.f, B.2.d, C.1.b, E.1.b, L.1.c, and L.2.b

Advisory Opinion #90

The request addressed a dilemma pertaining to a CRC signing off on the vocational notes of another individual who is not a CRC. The Committee responded that signing off on another individual's case notes would require the CRC to be responsible for content and accuracy. Further, that if a CRC engages in such action, the CRC should be aware of the responsibility to perform direct supervision sufficient to ensure that services provided to clients are adequate and do not cause harm to the client. (Issued 11/06)

Related Standards: A.1.a, A.1.b, A.1.c, and H.1.a

Advisory Opinion #91

The Committee considered a request for an advisory opinion pertaining to issues of the counseling relationship and disclosure. The Committee considered several questions and their responses are detailed as follows:

- Q.1. The question was raised as to what constitutes the onset of a counseling relationship. The Committee responded that the onset of a client/counselor relationship commences when a rehabilitation counselor initiates contact with the client and offers rehabilitation counseling services. This relationship continues until it is terminated by the client or the counselor.
- a. In response to the question of whether a CRC is precluded from working for defense counsel once a CRC has offered to provide services on behalf of an employer, the Committee responded that the issues of disclosure and informed consent are paramount. Assuming that the CRC has not yet begun to offer services, the CRC should advise the client of situation and potential consequences of his or her decision to proceed with services offered by the CRC so that the client may make an informed decision in the matter. If the client requests that the CRC does not switch roles, then the CRC should refuse the request of the defense counsel. It should also be noted that provision of services for the defense is not to be assumed as an improper role since unbiased, objective findings are required in accordance with Standard F.1.a.
 - b. In response to the question of whether a CRC is obligated to share results of a job search with the injured worker, the Committee responded that, assuming a situation where the CRC is not engaged in services at the request of the client, the CRC should have engaged in disclosure with the client to advise of his/her role and that the CRC's findings may or may not be provided in writing and to whom that information is provided, such as the client's attorney or employer. In such instances, the client should be made aware that he/she may request a copy directly from his/her attorney or employer.
 - c. In response to the question of the appropriateness of sharing information with an employer without an injured worker expressly authorizing it, the Committee responded that a CRC should engage in full disclosure at the onset of the relationship to ensure that the client understands how information will be shared and with whom, which will depend upon the role the CRC is playing and who has retained the CRC for services. While verbal disclosure must be provided at the outset of the relationship and throughout as necessary, CRCC also strongly recommends that written disclosure also be provided.
 - d. In response to the question of whether it is proper to share information acquired during a joint interview with the employer without express consent by the worker when the CRC is retained by the employer, the Committee responded that the client should always be notified at the outset of the relationship how information will be shared and with whom so that, in the situation described, the client is fully aware that the information will be shared with the employer.
- Q.2. The question was raised as to whether there is an ethical violation when a CRC retained by the employer works in the role of service provider/counselor for an injured worker, but then shares all information learned with a separate forensic vocational evaluator who will testify in court having never met the injured worker. The Committee responded that a CRC should engage in full disclosure at the onset of the relationship and throughout the

relationship to ensure that the client understands the rightful, legal parties who will receive information. If the CRC is requested to directly share information with another forensic vocational evaluator, before sharing information, the CRC must have provided full disclosure to the client so that the client can make an informed decision as to whether he/she wishes to allow release of the information. If a CRC were to release information to an employer as a rightful, legal party where the client was made aware that the employer would be receiving information from the CRC, it would then be the employer's obligation to see to proper use and dissemination of the information.

- Q.3. The question was raised as to what information should be conveyed about consequences of refusal for services in relation to the language of Standard A.3.a., which states that clients have a right to refuse any recommended services and be advised of the consequences of such refusal. The Committee responded that a CRC is obligated to inform the client of any consequences that could occur if the client does not accept an offer for services.
- Q.4. The question was raised as to whether a client is entitled to choose not to work with a CRC who is retained by the party he/she is suing for wage loss. The Committee responded that the CRC would be obligated to provide full disclosure to the client in order that the client may make an informed decision and understand consequences regarding whether he/she wishes to participate in services. (Issued 6/07)

Related Standards: A.1.a, A.3.a, A.3.b, B.1.e, B.3.a, E.1.b, F.1.a, and F.1.d

Advisory Opinion #92

The Committee considered a request for an advisory opinion pertaining to whether it is appropriate for a bi-lingual CRC to become involved with: 1) the obtaining of recorded statements by translating questions from insurance professionals and interpreting the client's response where the client is not a client of the CRC, or 2) to provide translation and/or interpretation services during settlement negotiations on active files without offering any advice to the client on the actions he/she should take.

In relation to providing translation and/or interpretation services during the obtainment of recorded statements as described, the Committee responded that engaging in such activity may place CRCs in a position of a perceived conflict of interest. Should a client become aware of the credentials of the CRC providing translation and/or interpretation services, he/she may mistakenly attribute more to the involvement of the CRC than is intended even if proper disclosure is provided. In addition, the mere fact of being considered bi-lingual does not ensure that an individual is a qualified translator and/or interpreter. Thus, CRCs should refrain from such an activity with requests referred to certified, qualified translators and/or interpreters to ensure an accurate translation.

The same concerns apply in the situation of providing translation and/or interpretation services during settlement negotiations on active files with an even greater likelihood of a violation of CRCC's Code of Professional Ethics for Rehabilitation Counselors. An added element in this situation is potential confusion about whether the CRC would be serving the interests of the client, as defined in Standard A.1.a, or the insurance carrier. Therefore, CRCs should also refrain from engaging in this activity with all translation and/or interpretation needs referred to certified, qualified translators and/or interpreters. (Issued 8/07)

Related Standards: A.1.a, A.3.a, A.5.h, and D.1.a

Advisory Opinion #93

The Committee considered a request for an advisory opinion pertaining to whether it is ethical to use vocational assessments that are not standardized or norm referenced. The Committee responded that CRCC's Code of Professional Ethics for Rehabilitation Counselors would not preclude the use of vocational assessments that are not standardized or norm referenced. However, one should carefully consider the validity, reliability, psychometric limitations and appropriateness of instruments in accordance with Standard G.5.a. Further, CRCs should carefully consider the selection of tests to ensure that they are not obsolete or outdated and may wish to access professional resources that assist with test selection. (Issued 8/07)

Related Standards: G.5.a and G.9

Advisory Opinion #94

The Committee considered a request for an advisory opinion pertaining to legislation that will take effect January 1, 2008 where it was noted that eligibility and retraining benefits will increase for plans approved after January 1, 2008. Note that CRCC has not attempted to verify the accuracy of the interpretation of the legislation. It was requested that CRCC comment on concern regarding client welfare and discrimination in light of the benefits currently available versus those available in 2008.

The Committee responded that should the legislation have mandated requirements based on date of injury, it would have circumvented temptation to subvert the legal system, which may exist when the denominator is the date of plan approval. Rehabilitation counselors must always keep in mind the definition of the client as outlined in Standard A.1.a. Further, they must always develop a plan and goals that are consistent with the abilities and interests of the client as stated in Standard A.1.b and must do so in a timely manner consistent with the standards for service delivery within the state.

Therefore, the characteristics of the benefit package should not be a consideration in appropriate and timely plan development. Should there be a clause within state guidelines that would legally allow an injured worker to defer participation or services, it would be appropriate to disclose such information to the client so that he/she may make an informed decision. However, absent such provisions, action by a CRC to delay plan development would be inconsistent with a CRC's responsibilities to the client. (Issued 8/07)

Related Standards: A.1.a, A.1.b, A.3.a, D.5.f, and L.1.c

Advisory Opinion #95

The Committee considered a request for an advisory opinion pertaining to two questions raised for consideration in relation to development of best practices. The first matter related to whether a CRC who places or assists in the placement of a client, who plans to manage his/her substance abuse by means other than abstention, would be damaging the interests of the employer or the public.

The Committee responded that paramount to this issue is ensuring that individuals possess the requisite knowledge, expertise, and credentials such as a substance abuse or addiction license and/or certification where required to work with this specific population of clients, which directly correlates to the types of services they will provide versus those that will be outsourced. Assuming a CRC possesses the requisite skills, it is critical for a CRC in this scenario to have first worked with the client to jointly devise an individual plan that contains realistic and mutually agreed upon goals that are consistent with the abilities and circumstances of the client. Having done so would ensure working toward a mutually agreed upon employment goal in which the client can be successful.

The second matter pertained to whether a counselor would be operating outside of his/her boundaries of professional competence if serving clients with substance abuse diagnoses without having completed a supervised experience in substance abuse counseling or holding a credential specifically related to substance abuse.

The Committee responded that CRCs are obligated to practice only within their boundaries of competence. Should a CRC be expected to provide certain services to a specific population of client and not feel competent to do so, he/she should secure appropriate training or education prior to the provision of services. Further, the CRC should provide for the appropriate referral of clients to individuals who are qualified to provide services for those services that are outside of the CRC's individual scope of practice. CRCs must also be aware of any mandate to hold a particular license or credential for practice and should obtain those credential(s) when required in order to practice. (Issued 8/07)

Related Standards: A.1.b, A.1.c, A.3.a, D.1.a, D.1.b, E.3.b, and L.1.c

Advisory Opinion #96

The Committee considered a request for an advisory opinion pertaining to whether there was a potential conflict of interest in relation to a rehabilitation firm preparing a Life Care Plan in response to a request from the attorney of a former client knowing that fifteen years earlier, the firm provided a Vocational Evaluation for the same individual having initially been referred the case by an insurance adjuster. It was noted that the same CRC originally assigned to the case would not be preparing the Life Care Plan. The Committee responded that they did not perceive there to be a conflict of interest. Based on the amount of time that had lapsed, the fact that the initial case material was not maintained and the same CRC was not assigned to the case, strengthened their position that a conflict of interest did not exist. The Committee indicated that the primary obligation is to the client and the CRC must provide objective services, despite the referral source. (Issued 11/07)

Related Standards: A.1.a, A.3.a, D.5.f, and K.2.c

Advisory Opinion #97

The Committee considered a request for an advisory opinion pertaining to whether it is ethical for a CRC to proceed with the placement of a client who is currently an active substance abuser. The Committee responded that an advisory opinion was recently issued on this issue and urged this individual review Advisory Opinion #95 found on the CRCC website. In addition to the issues addressed in the above captioned advisory opinion, the Committee indicated that it would be unethical for a CRC to place a client, knowing they are actively engaged in substance abuse. Further, they responded that it is critical for CRCs to operate within the boundaries of their competence working jointly with treatment team members to develop a mutually agreed upon treatment plan that takes into consideration the individuals goals and abilities so that they can be successfully placed, and when necessary, refer the client if they are unable to assist them. Finally, the Committee noted that CRCs who find that the demands of an affiliate organization conflict with the Code should work toward change within the organization, specifying the nature of the conflict to supervisors or other responsible officials and expressing their commitment to adhere to the Code. (Issued 11/07)

Related Standards: A.1.b, A.1.c, A.3.a, D.1.a, D.1.b, E.3.b, L.1.c, and L.2.f

Advisory Opinion #98

The Committee considered a request for an advisory opinion pertaining to whether a CRC should recommend a client enroll in a technical school when the CRC does not possess all the records and test results to make an informed decision on the value of this training for the client. The Committee responded that the CRC is obligated to withhold judgment on the value of the training that the client wishes to engage in until sufficient records and test results are obtained. Upon receipt of sufficient documentation, the CRC should work with the client to attempt to develop a jointly devised plan that is consistent with the abilities and circumstances of the client and in which the client can be successful. If it is the opinion of the CRC that the client would not be successful in this endeavor and the client still wishes to enroll in the training program, the CRC should ensure that the client understands that he/she has the freedom to choose to do so but that the funding would not be provided through the agency, as the CRC and the client could not develop a jointly devised plan that includes such a goal. (Issued 11/07)

Related Standards: A.1.b and A.3.b

Advisory Opinion #99

The Committee considered a request for an advisory opinion pertaining to issues regarding whether self-injurious behavior warrants a breach of confidentiality, both for minor and adult students. The Committee responded that at the beginning of the counseling relationship and throughout the counseling relationship as necessary, the CRC should disclose to the client, and if appropriate to the client's parent(s) or other legally responsible party, the limitations of and exceptions to confidentiality. Generally speaking, disclosure of confidential information will depend on the applicable laws and statutes of the legal jurisdiction in which one practices and the parties to which confidential information may be revealed may also depend on the jurisdiction and setting, although CRCs should always take care to reveal only information relevant to the circumstances of concern. In the specific instance of self-injurious behavior, because cutting is not a normal adolescent behavior and since the CRC always has the responsibility to ensure the safety of the client and others, this is essential information to disclose to the members of the IEP team in a school setting, which may include the parent(s) or other legally responsible party, so that team members may determine an appropriate course of action. If the CRC is not qualified to make a proper mental health diagnosis and treat mental health disorders, and there is no other qualified mental health professional identified by the IEP team, then an immediate referral should be made so as to secure specific recommendations from a qualified mental health professional. (Issued 12/07)

Related Standards: A.1.a, A.3.a, A.3.d, A.3.e, B.1.a, B.1.f, B.2.a, B.2.d, D.1.a, E.3.b, and L.1.c

Advisory Opinion #100

The Committee considered a request for an advisory opinion pertaining to two issues, the first being in relation to a situation where an injured worker has refused services, has not signed a service agreement, and who indicates recently returning to work. The question posed is whether a Vocational Rehabilitation Case Manager (VRCM) is able to follow the file, on request of the managed care organization to provide return-to-work follow-up services mainly speaking with the employer of record to make sure that return-to-work is going satisfactory, without the injured worker's written approval to services or involvement with their file. The Committee responded that since the injured worker has refused services, the VRCM should not to pursue any follow-up services as the individual is not a client and has exercised his or her freedom of choice not to engage in rehabilitation counseling services.

The second issue is whether the VRCM should have access to information about an injured worker without any prior contact with that individual and written agreement to program interest and participation. The Committee responded that it would be appropriate for the agency that determined eligibility for services to provide the injured worker's file to the VRCM. However, when it becomes evident that the injured worker has no intention of participating in services from the agency, the file should be returned to the agency or properly disposed of and no further action should be taken. (Issued 3/08)

Related Standards: A.1.a, A.3.a, and A.3.b

Advisory Opinion #101

The Committee considered a request for an advisory opinion pertaining to whether there is a conflict in referring clients for vocational rehabilitation services to an affiliate or preferred company provider. The Committee responded that this matter appears to be regulated by policy. While the Committee did not find concern with respect to the policy, they did cite reference to Standard E.1.b, particularly the first sentence. (Issued 6/08)

Related Standard: E.1.b

Advisory Opinion #102

The Committee considered a request for an advisory opinion pertaining to two questions regarding qualifications of individuals to provide vocational rehabilitation services, which appear to be regulated by state statute. CRCC lacks jurisdiction to interpret state statute, however the Code does direct individuals to take constructive action to affect change when concerns arise. Therefore, the Committee recommends bringing these concerns to the state for review in order to direct future actions. Although CRCC has no jurisdiction in interpretation of state statute, the Committee indicated no concern with state statute and therefore compliance with the statute would in turn translate to compliance with the Code. (Issued 6/08)

Related Standards: E.1.b, E.1.d, and L.1.c

Advisory Opinion #103

The Committee considered a request for an advisory opinion pertaining to whether any ethical issues exist in a situation where a rehabilitation manager providing claims adjustment services in a union setting is required to communicate responses to requests for services in writing to management (the employer), who would in turn be responsible for informing rehabilitation consultants of such decisions for the injured worker. The Committee responded that it appears that the rehabilitation manager has no direct client-counselor relationship; rather, the client-counselor relationship occurs with the rehabilitation consultant. Further, that while the practice in and of itself does not appear to present a direct ethical concern, the process may give rise to a heightened opportunity for a potential compromise of ethical standards and seems to introduce an opportunity for advocacy efforts with the employer. (Issued 8/08)

Related Standards: E.1.c and L.2.f

Advisory Opinion #104

The Committee considered a request for an advisory opinion pertaining to whether claims service specialists or rehabilitation field case managers should contact potential employers to verify that an injured worker is conducting a "good faith" job search effort and/or to discuss return-to-work incentive programs. The Committee responded that when counseling is initiated and throughout the

counseling process rehabilitation counselors are responsible for providing full disclosure to their client, preferably both verbally and in writing, regarding the services that they will be providing to the client during the counseling relationship. Such disclosure would include any intention to contact potential employers and the scope of such contact so that the counselor may obtain client consent prior to doing so. Although the Committee indicated that it would not be an ethical violation for a rehabilitation counselor to engage in this activity as part of their services, as long as the appropriate disclosure takes place and client consent is obtained, the Committee indicated that contact with a potential employer should then occur routinely whether or not the client believes that his/her chances for employment are enhanced by such contact. (A.1.a, A.1.e, and A.3.a, as well as previously issued Advisory Opinions #27, 48, and 91, Question 1d). (Issued 11/08)

Related Standards: A.1.a, A.1.e, and A.3.a

Advisory Opinion #105

The Committee considered a request for an advisory opinion pertaining to whether Certified Rehabilitation Counselors (CRCs) are required to use and disclose all of the credentials they possess in all practice settings in which they provide services if they feel that this practice may affect the rapport with the client or evaluatee due to the perception of a power differential. The Committee responded that CRCs should use their best judgment as to what credentials would be appropriate to disclose initially to the client or evaluatee. In addition, the Committee indicated that a complete list of credentials that the counselor possesses should be made available to the client at an appropriate time during the counseling process, such as within a written professional disclosure statement. (A.3.a as well as a previously issued Advisory Opinion #50.) (Issued 11/08)

Related Standard: A.3.a

Advisory Opinion #106

The Committee considered a request for an advisory opinion pertaining to whether a conflict of interest situation arises when CRCs choose to engage in employment secondary to their primary job where clients who are recipients of services from their primary job may also engage in services from their secondary job. The Committee responded that the practices stated, such as not referring clients from the primary employer to the secondary employer, ensuring no financial gain based on clients who receive services from both employers, and not providing services at both the primary and secondary job to clients who receive services from both employers are best practices. (Issued 6/09)

Related Standards: A.5.g, A.5.h, K.1.c, and K.3.c

Advisory Opinion #107

The Committee considered a request for an advisory opinion pertaining to three issues with the first being whether an individual counselor needs a release from a client in order to provide his/her reports to a Workers' Compensation Agency as part of the regulatory process. The Committee responded that these matters are typically outlined by the Agency and may differ depending on the Agency. CRCs are required to know and obey the laws and statutes of the jurisdiction in which they practice.

The second issue was whether the Code would support sharing with the plaintiff attorney information that has not been generated by the CRC. The Committee responded that CRCs should not share information that they have not generated unless specifically authorized by the client to do so. Further, that such authorization should be in writing.

The third issue was whether the CRC would need to have written consent or release of information from the client in order to participate in a workers' compensation deposition or mediation hearing. The Committee responded that consent is not required but that CRCs must be aware of their obligation to disclose the fact that they may be required to participate in a deposition or mediation hearing. Further, that such disclosure should also be in writing and may need to be provided more than just at the outset of the relationship (e.g. such as when there is a role change). (Issued 6/09)

Related Standards: A.3.a, B.1.a, B.1.f, B.2.d, B.6.d, F.1.d, and L.1.c

Advisory Opinion #108

Your request pertained to whether a rehabilitation counselor, when served with a court order, should release raw data to an individual that is not recognized as being competent to interpret the data. The Committee responded that although rehabilitation counselors should release raw test data only to individuals who are competent to interpret such data, in the case where a court order has been issued and the rehabilitation counselor has taken all reasonable measures to convey disagreement with such a release, the rehabilitation counselor is obligated to comply with the court order. In addition, the Committee recommends that the release of the data should be accompanied by a statement that the rehabilitation counselor disagrees with release of the information as ordered on the basis that the Code directs that raw data should be released only to individuals who are competent to interpret the data. (Issued 9/09)

Related Standards: G.2.a, G.2.b, and L.1.c

Advisory Opinion #109

The Committee considered a request for an advisory opinion related to two issues with the first being whether it would be ethical to release a performance assessment report directly to a client upon learning that the report submitted to the employer was altered and presented to the client on the rehabilitation counselor's letterhead, thereby misleading the client as to the findings of the assessment. The Committee responded that based on the limited information provided, and without knowing what was provided by the employer that established the scope of services that were to be provided, they were unclear as to whether the individual receiving services was a client or an evaluatee. Therefore, they were unable to determine whether the original report could legally be released to the client or whether the rehabilitation counselor was contracted to release the report only to the employer. Given a lack of clarity on certain matters, the Committee recommended that the original report should not be provided to the client. Given the client has retained legal representation, it was stated that the client's attorney could subpoena the original report.

The second issue pertained to whether it would be a conflict of interest to provide the client with Job Coaching services. The Committee responded that it would be ethical to be retained by the client to provide Job Coaching services but in doing so, the rehabilitation counselor would be entering into a different role with this individual and would be obligated to explain the role change with the client. This professional disclosure should be conducted in a manner that is consistent with the requirements of the Code. Further, given potential for litigation to arise in the future, disclosure should specifically address the potential role that the rehabilitation counselor may have in testifying regarding services provided at the request of the employer so that the client may choose whether to enter into the client-counselor relationship. (Issued 11/09)

Related Standards: A.3.a and L.1.c

Advisory Opinion #110

The Committee considered a request for an advisory opinion regarding several questions related to informed consent and professional disclosure within the workers' compensation setting where the carrier or accreditation standards mandate the use of certain documents in relation to informed consent and disclosure. The Committee responded first by clarifying that CRCs are now mandated to use written disclosure statements in accordance with Section A.3.a of the Code. Further, that this response will address a CRCs obligation with respect to the Code as opposed to any requirements established by an accrediting agency.

The Committee also responded that several of the specific questions may be addressed with some overarching comments about informed consent and disclosure. These two issues are closely related in that informed consent is, in brief, an ongoing process supporting the rights of clients to make an informed choice with regard to services. Disclosure is an integral part of the process in seeing that clients have the necessary information in order to make an informed choice. While CRCC does offer sample statements on its website, we do so with the caveat that the forms may not fully address every specific situation and as a result should be modified as needed. Regardless of whether the full scope or one facet of rehabilitation counseling services are offered, or whether rehabilitation counseling is one of the services provided within a broader scope of services for which the client has already consented to participate, the use of written disclosure forms are required to help clients understand the various components addressed through professional disclosure as outlined in Standard A.3.a.

CRCC also recognizes that there may be instances where direct client contact does not occur in person or needs to occur rather quickly. This may make it difficult to physically provide a written disclosure statement to the client upon initial interaction with the client. In such instances, the matters should be verbally discussed with the client. Thereafter, the written statement should be forwarded to the client by mail or electronic means, provided that confidentiality is preserved with any electronic communications. It is also important to document in case notes both the verbal disclosure and the fact that the written disclosure form was provided and how it was provided.

Another situation that CRCs may experience is a client's refusal to sign a written disclosure statement acknowledging that the information has been discussed. This may be due to the client's own preferences or may be at the advice of legal counsel. Refusal to sign, in and of itself should not hinder the continuation of services or be viewed as a client's refusal to consent to services. It should simply be noted on the form or in the case file that the matters were discussed, although the client declined to indicate their acknowledgment by signing the form.

A question was also raised about whether it is necessary to use a written disclosure statement when providing services that may require interaction with employers but perhaps do not require client interaction. The Committee responded that the need for a disclosure statement would depend on whether the services include interaction with the client. For example, if the CRC is conducting a job analysis directly with the employer and there is no interaction with the client, then a disclosure statement is not required. However, if any of the services include client interaction, then use of a disclosure statement is required. (Issued 4/10)

Related Standards: A.3.a, A.3.b, J.1.a, J.3.b, and J.3.c

Advisory Opinion #111

The Committee considered a request for an advisory opinion related to whether it is appropriate to hold meetings with clients in places like fast food restaurants. The Committee responded that

Advisory Opinions 44 and 62 address client interactions in spaces such as cubicles. These opinions would relate to any open-space environment. Further, CRCs who have a need to identify a suitable location for meetings should check with local libraries, attorney offices, and other colleagues who may have locations available for use. Knowledge of these resources and the ability to have visited the location in advance of establishing a location for meetings with clients will facilitate safe and confidential provision of services. (Issued 4/10)

Related Standards: B.3.a and B.3.e

Advisory Opinion #112

The Committee considered a request for an advisory opinion related to acceptance of a former colleague as a student in a rehabilitation counselor education program. The Committee responded that while the Code does provide guidance in Standard H.3.f with respect to close relatives, romantic partners or friends, it does not preclude acceptance of former colleagues as supervisees or trainees. The Committee suggested that the individual consult with the university to determine their policies with respect to this matter. Further, Section H.3 of the Code provides guidance with respect to various roles and relationships with supervisees and trainees, which may assist in the decision-making process. (Issued 4/10)

Related Standards: Section H.3, with emphasis on H.3.a, H.3.f, and H.7.a

Advisory Opinion #113

The Committee considered a request for an advisory opinion regarding record preservation policies for contract employees. The policy requires that all hardcopy and electronic copies of case file information as well as any other documents that may contain personally identifiable information associated with the case should be returned to the contracting organization or destroyed. The Committee responded that they found this type of statement to be in compliance with Standard K.2.c of the Code. Further, that it is incumbent upon the CRC to address the issue of records maintenance and preservation with the client as part of the disclosure process outlined in Standard A.3.a of the Code. (Issued 4/10)

Related Standards: A.3.a and K.2.c

Advisory Opinion #114

The Committee considered a request for an advisory opinion regarding completion of a Labor Market Survey and whether job notification letters and applications should be referred to the injured worker. The Committee responded that there appears to be some ambiguity with respect to interpretation of state law in this specific matter and that CRCC is unable to provide clarification in matters of law. With regard to the Code, however, if the system or setting requires or promotes this type of activity and as long as full disclosure is provided to the client as to the scope and limits of information and services that will be provided, there would seem to be no concern about providing job notification letters and applications. (Issued 4/10)

Related Standards: A.3.a and F.1.d

Advisory Opinion #115

The Committee considered a request for an advisory opinion regarding two questions. The first related to any concerns that may arise from use of an internet email account that is jointly accessed by both the CRC and the client in order to facilitate communication of job searches assuming disclosure is provided regarding the purposes and use of the joint email account. The Committee

responded that many standards within Section J of the Code apply in this situation. The CRC should take action to ensure that he/she and the CRC's employer fully understand the heightened precautions and security measures that must be addressed when using technology to assist in the rehabilitation counseling process. Further, that while the employer must be aware of the CRC's obligations under the Code, it is incumbent upon the CRC to carefully and continually assess compliance with the Code.

The second question related to whether a CRC can coordinate a background check for a client to determine if there are any hindering factors to future employment. The Committee responded that to do so would place the CRC in an investigative role, which is not within the scope of services provided by CRCs. However, it is a common and appropriate practice with professional disclosure to ask clients about any legal issues that they are aware of that might present a barrier to employment. This matter should routinely and consistently be addressed as part of the professional disclosure process with each client and without regard to individual client circumstances. (Issued 4/10)

Related Standards: A.3.a, D.1.a, and Section J

Advisory Opinion #116

The Committee considered a request for an advisory opinion regarding whether it is ethical to trace over a client's signature in black ink in order to conform to employer requirements. The Committee responded that best practices would support the suggested alternative of having the client redo the paperwork using black ink. Further, potential for violation of the Code may exist if there is legal precedent to support that tracing over an individual's signature is a fraudulent action. (Issued 6/10)

Related Standards: D.5.g and L.1.c

Advisory Opinion #117

The Committee considered a request for an advisory opinion regarding the ethical implications of rehabilitation counselors using sites such as Facebook, Twitter, Skype and other social networking venues to communicate with their clients. In its response, the Committee presumed that the communications would be only those professional interactions as part of the client-counselor relationship versus non-professional interactions.

The Committee acknowledged that this is an emerging issue that will require more in-depth exploration, which they intend to engage in over the course of the next year. As initial considerations, the Committee responded that it is important to note that CRCs are held to the same level of expected behavior and competence regardless of the technology used. Each social networking site operates differently and it is important to understand what precautions need to be taken in order to maintain confidentiality or if confidentiality can even be maintained within that environment. Disclosure and informed consent are also basic tenets that must be considered in any communication. It is also important to consider the type of communication and interaction. There is certainly a distinction between counseling and communicating. For example, it is common to simply confirm or change the time of an appointment using electronic communication. However, distance counseling and other rehabilitation counseling services would require the CRC to take precautions to ensure the confidentiality of information transmitted such as proper encryption. Another important consideration is whether the site would allow the appropriate level of control for dissemination of personal information in order that professional boundaries are maintained throughout the course of the client-counselor relationship.

Again, the Committee recognizes that further exploration of the issues is required. They will continue their work and intend on publishing their findings on this matter as they become available. Please feel free to communicate more specific scenarios that will help us to provide a more in-depth response. (Issued 6/10)

Related Standards: A.3.a, A.3.b, A.5.f, A.5.g, and the majority of Section J

Advisory Opinion #118

The Committee is aware that there have been questions raised concerning the applicability of the Code for those providing forensic or indirect services. Section F: Forensic Services provides specific guidance for CRCs who engage in the provision of forensic and indirect services where no *ongoing* client-counselor relationship is established and where there is no follow-up contact or further services provided.

As explained in the Preamble, rehabilitation counselors do not have clients in a forensic setting; rather, the subjects of the objective and unbiased evaluations are evaluatees. However, the primary obligation remains to clients or evaluatees. Further, Standard F.1.a clarifies that, "...Forensic rehabilitation counselors produce unbiased, objective opinions and findings that can be substantiated by information and methodologies appropriate to the service being provided, *which may include evaluation, research, and/or review of records...*"

The question most commonly raised is whether a client-counselor relationship is established that would then make it clear that the whole Code applies. Any time a counselor interacts with a client, a client-counselor relationship is established. However, due to the nature of services provided, certain client-counselor relationships will be limited to a single interaction while others may be more extensive.

While all CRCs must abide by the Code, there are legitimately some Standards that are not relevant to certain practices or certain situations. If, for example, a CRC has never engaged in research or publication, then Section I has had no relevance to their practice. If a CRC has never engaged in teaching, supervision, or training, then Section H has had no relevance to their practice. In fact the same can be said for Section F. However, individuals often change course in their professional activities and venture into these areas, which then makes these sections relevant to them at that point in time.

For those providing indirect or forensic services, along with Section F, certain other Sections of the Code may also be relevant. For example, Section J provides guidance with regard to technology. Standard J.1.a advises that "...rehabilitation counselors are held to the same level of expected behavior and competence as defined by the Code regardless of the technology used..." This Standard is clearly relevant whether a CRC is engaged in direct, indirect, or forensic service provision. Section K includes direction in terms business practices. While the term "client" is used in certain Standards, this Section still provides guidance and direction to CRCs regardless of whether direct, indirect, or forensic services are offered.

Standards that may cause the most confusion are those within Section A: The Counseling Relationship. As noted above, any time a counselor interacts with a client, a client-counselor relationship is established. Therefore, many of the Standards in Section A are applicable while some related very clearly to direct service provision would not be applicable when a CRC is providing forensic or indirect services. For example, Standards related to roles and relationships and to nondiscrimination should be upheld regardless of the type of services being provided while Standards

related to the development of rehabilitation and counseling plans clearly pertain to direct service provision and thus have not applicability for a CRC who is providing forensic or indirect services.

In summary, CRCs providing forensic or indirect services should be familiar with the entire Code versus limiting their focus to Section F, as many Standards within multiple Sections are applicable to their practice. (Issued 8/10)

Related Standards: Preamble, A.3.a, Section F, and J.1.a

Advisory Opinion #119

The Committee considered a request for an advisory opinion related to whether there is potential risk to clients and agency staff if clients are provided the opportunity to be hired into temporary support positions, while still having an open case with the agency. The position would include tasks such as: establishing/reestablishing relationships with community resources and educating the community; taking and following up with client calls; following up with medical and psychological providers regarding services and requests for records; connecting clients with service agencies in the community as needed; accompanying clients to community appointments; and assisting clients with paperwork, to name a few. The client's counselor would not supervise the client nor have any evaluative or training functions. The agency would provide the client and current staff with training in areas to include boundary issues, dual/multiple relationships, limits of confidentiality, and limitations of the relationship with agency staff.

The Committee responded that although there is a heightened potential for risk of unethical behavior, there is nothing inherently unethical in the situation described. In fact, the client may benefit from the opportunity for employment. Further, conscientious attention to precautionary measures and enforcement of strong policies and practices regarding disclosure, informed consent, and confidentiality should minimize the risk for unethical behavior. The Committee also suggested that the agency clearly define who it is that is regarded as the counselor, supervisor, client, consumer, etc., and that these terms are used consistently within policies and trainings in order to avoid confusion. (Issued 9/10)

Related Standards: A.3.a., A.3.b, B.1.e, B.1.f, B.3.a, and B.6.b

Advisory Opinion #120

The Committee considered a request for an advisory opinion related to whether a rehabilitation counselor is obligated to provide vocational rehabilitation services to an individual who refuses to respond to an inquiry as to whether they are legally authorized to work in the United States.

The Committee responded that there are certain vocational rehabilitation services that may be provided. Job placement, however, is a service that can only be provided for individuals who are legally able to obtain employment and therefore a CRC would not be obligated to engage in job placement services if a client's legal employment status is unknown. For a more in-depth exploration of legal issues that impact provision of services, see Advisory Opinion #88 that CRCC issued in 2006. (Issued 11/10)

Related Standards: A.3.a, A.3.b, L.1.c, and L.2.b

Advisory Opinion #121

The Committee considered a request for an advisory opinion related to the release of raw test data to students and/or their attorney under FERPA law. The Committee responded that first and foremost,

clarification should be obtained directly from legal counsel as to the validity of the statement that raw test data, which is part of a student's disability documentation, is an educational record as opposed to a medical record covered by HIPPA law and that there is a legal obligation under FERPA to provide any and all disability documentation at the request of the student. Provided the aforementioned is confirmed true by legal counsel and a rehabilitation counselor is legally obligated to release raw test data to individuals other than professionals qualified to interpret the data, and where there is no likelihood of or reasonable opportunity to impact the mandate to release the information, the rehabilitation counselor should attach a cover letter with a disclaimer that the raw test data is being released due to a legal requirement and should only be interpreted by professionals who are qualified to interpret the data. (Issued 3/11)

Related Standards: G.2.b and L.1.c

Advisory Opinion #122

The Committee considered a request for an advisory opinion questioning whether a client's prior conviction for child abuse many years ago combined with current erratic emotional changes during mental health counseling treatment of a client whose minor relatives are living with the client would give rise to a need to report a concern to authorities. If yes, should the CRC continue to work with the client. The Committee responded that if a CRC has reason to believe that a child or any person may be in danger, the CRC has an obligation to, in a timely manner, consult the laws and statutes in the jurisdiction in which he or she practices to determine the reporting requirements. If a report is to be made, the CRC should disclose to the client his or her concerns and inform the client of his or her obligation with respect to reporting. In addition, the CRC should include sufficient and timely documentation in the case file and continue to provide services to the client. (Issued 1/12)

Related Standards: A.3.a, B.2.a, B.6.a, and L.1.c

Advisory Opinion #123

The Committee considered a request for an advisory opinion addresses several matters relating to a client's use of legal and illegal substances.

After assessing a CRC's responsibilities to a client who has been identified as impaired and may operate a motor vehicle, the Committee responded that if a CRC suspects a client is under the influence and would pose a risk to either him/herself or others, the CRC would have a responsibility to discuss the concerns with the client, addressing possible risks of driving under the influence and encouraging the client to make alternate arrangements for transportation.

In relation to whether a CRC has the responsibility of alerting law enforcement officials if a client believed to be under the influence wishes to operate a motor vehicle when the CRC is aware that this could lead to legal charges for the client, the Committee responded that a CRC should refrain from contacting law enforcement unless required to do so, based on the laws and statutes in the jurisdiction in which the CRC practices.

In regard to whether a CRC can mandate a client's participation in substance abuse treatment, the Committee responded that it is unlikely that substance abuse treatment can be mandated unless it is part of the requirements to participate in services. However, the CRC should discuss this barrier to employment with the client noting that job development and placement services cannot be provided until any barriers to employment are resolved. The client may then make an informed decision regarding services, which may lead to mutual agreement to add substance abuse treatment as part of the vocational rehabilitation plan.

In response to the final question of whether a CRC should inform an employer that a client is using medical marijuana, the Committee responded that disclosure to an employer of the client's use of medical marijuana should not occur. However, the CRC should inform the client during the course of routine professional disclosure of the possibility that an employer may require drug testing and discuss how the client could respond to the positive test result.

In all instances noted above, the CRC should document the case file as to the interaction with the client and any required disclosure to law enforcement. For additional information on disclosure related to the use of medical marijuana, see Advisory Opinion # 82 that CRCC issued in 2006. Also refer to Advisory Opinion #88 that CRCC issued in 2006 regarding additional information on potential barriers to employment. (Issued 3/12)

Related Standards: A.1.b, A.3.a, A.3.b, B.2.a, B.6.a, and L.1.c

Advisory Opinion #124

The Committee considered a request for an advisory opinion addressing whether it is ethical to accept referrals, perform case management services on those cases, and allow the referral source to place the report on their letterhead thereby giving the appearance that an employee of their company conducted the services.

The Committee responded that this situation is not governed by the Code; rather, it is a business ethics matter. The Committee suggests exploration of the matter as one would with any other business relationship, possibly obtaining advice on issues of liability from legal counsel and/or the professional liability insurer.

Advisory Opinion #125

The Committee considered a request for an advisory opinion addressing several matters relating to the provision of vocational evaluation services for students receiving educational supports through school districts.

Questions were raised as to whether there is a need to receive signed professional disclosure, consent, and release of information forms from a parent/guardian or the student (if not a minor) when the referral source is the school district.

The Committee responded that it is incumbent upon the CRC to establish business practices and to communicate them to referral sources in advance of accepting a referral, whereby arrangements are made for appropriate disclosure of services. Matters of consent for participation in services and distribution of reports are to be addressed as part of the disclosure process and do not necessarily require use of a separate form.

Although certain elements of required disclosure may be included in documents that are provided to parents through the school district, not all elements of required disclosure for a CRC will be addressed. It is likely necessary to arrange with the referral source a way to provide a separate disclosure form to a parent/guardian or the student (if able to act on his/her own behalf) in advance of the evaluation, advising of the ability to discuss any questions in advance of the evaluation to allow the opportunity for verbal disclosure, understanding that a parent/guardian does not always attend a minor student's evaluation.

After assessing a CRC's responsibilities related to release of vocational evaluation reports, the Committee responded that CRCs should give careful consideration of the issues that arise within the service delivery system and establish a standard protocol for their practice, as the Code does not prescribe to whom reports are to be issued. The Committee underscored the need for CRCs to address issues such as distribution and release of reports with referral sources as those relationships are developed and prior to accepting a referral. Further, it would be important to document those business practices in a contract or agreement with the referral source and to communicate it to parents/guardians (or the student if not a minor) as part of the disclosure process. (Issued 9/12)

Related Standards: A.3.a, F.1.b, F.1.d, and F.3.a

Advisory Opinion #126

The Committee considered a request for an advisory opinion relating to three questions about the provision of vocational evaluation services for special education students.

The first question is to whom does the disclosure apply and the second question is who is the client, the student and/or parent? The Committee responded that the student is the recipient of services; however, if the student is a minor or otherwise unable to act on his/her behalf, disclosure is provided to the parent/guardian. In addition, verbal disclosure should always be provided to the student in a manner consistent with his/her level of understanding.

The third question asked about the boundaries of the CRC's involvement in the Individual Education Program (IEP) process, including consultations with the parent/guardian and attending IEP meetings. Such consultations and meetings may be services that are beyond the scope of services paid for by the school/referral source. The Committee responded that it is incumbent upon the CRC to establish business practices that address day to day operation and to communicate those business practices to referral sources before accepting a referral and to parents, when appropriate. Established business practices should address how the CRC will respond to requests for services that are not part of the scope of services paid for by the school/referral source, including when the CRC will interact with parents and how the CRC will respond to parents' requests to review and discuss the CRC's report and/or participate in the IEP meeting. Further, it would be important to document those business practices, including payment for evaluation, review, consultation, and other services to be provided, in a contract or agreement negotiated with the referral source. (Issued 9/12)

Related Standards: F.1.b, F.1.d, and F.3.a

Advisory Opinion #127

The Ethics Committee considered a request for an advisory opinion questioning if a rebuttal to a loss of earning capacity analysis must include a statement regarding whether the individual submitting the rebuttal conducted a personal interview with the evaluatee.

The Committee responded that reports must define the limits of the opinions formed by identifying the source(s) used as the bases for those opinions. In order to be in compliance with the Code, a statement regarding whether a personal interview was conducted is only required when such an interview has occurred. (Issued 6/13)

Related Standard: F.1.a

Advisory Opinion #128

The Ethics Committee considered a request for an advisory opinion addressing whether an agency's proposed outcome-based fee schedule is in conflict with the Code in that it could potentially be a disincentive to serve all injured workers equally. To summarize, the proposed fee schedule would reimburse 70% of allowable fees with the remaining 30% withheld until the injured worker successfully returns to work and expects the provider to meet or exceed a 65% success rate.

The Committee responded that while the proposed fee schedule is not inherently unethical, they are concerned that it has the potential to motivate CRCs to decline cases based on the probability of a successful return to work, thereby jeopardizing the quality and timely provision of services to all clients, especially those with the most significant disabilities. (Issued 8/14)

Related Standards: Preamble; with an emphasis on the principle of Justice, and L.1.c

Advisory Opinion #129

The Ethics Committee considered a request for an advisory opinion which raised concern regarding an employer's mandate to purchase a particular aptitude and interest inventory, effectively making it the only way to assess the client's vocational direction. As a CRC and since the employer also requires adherence to CRCC's *Code of Professional Ethics for Rehabilitation Counselors* (Code), there was concern the employer policy may place the rehabilitation counselor in a position of violating the Code.

The Committee responded that assuming the facts are as stated, legitimate concern was raised with regard to potential conflict with several Standards in Section G of the Code. Broadly, these concerns include an inability to:

- explain the nature and purpose of the assessment and the specific use of results given that instructions to take the test are delivered to the client prior to the rehabilitation counselor speaking or meeting with the client;
- attend to the selection and administration of appropriate tests, test interpretation, and development of recommendations based on test results where there are concerns with the validity of the instrument and where the rehabilitation counselor is unable to ascertain whether the test is appropriate for the client given the client's abilities and individual considerations;
- attend to administration conditions since the test is to be taken prior to the initial meeting and first contact with the counselor; and
- exercise professional judgment in selecting and administering tests that may be more suitable given process and policy constraints for referral, which effect the timeliness of services.

The Committee also noted actions taken by the rehabilitation counselor are consistent with the Code, including raising concerns with the supervisor and expressing commitment to the Code. In doing so, the rehabilitation counselor appropriately advocated for change within the organization to promote adherence to the Code and to promote conditions that may better serve individuals with disabilities. (Issued 6/16)

Related Standards: E.1.b, G.1.a, G.1.b, G.4.b, G.4.c, G.5.a, G.5.c, G.6.a, G.6.c, G.7.a, G.7.b, G.9, and L.2.f

Advisory Opinion #130

The Ethics Committee considered a request for an interpretation of Standard F.2.g of the CRCC *Code of Professional Ethics for Rehabilitation Counselors* (Code) and specifically whether it requires a rehabilitation counselor to personally verify everything conveyed by an evaluatee.

The Committee cautions that individual enforceable standards are not meant to be interpreted in isolation. Instead, they should be interpreted as a body, with each enforceable standard interpreted in conjunction with other, related standards. The Committee reminds that the primary obligation of rehabilitation counselors providing forensic services is to produce unbiased, objective opinions and findings that can be substantiated by information and methodologies appropriate to the evaluation. Further, that rehabilitation counselors form opinions based on their professional knowledge and expertise that can be supported by the data gathered in evaluations.

When conducting evaluations and receiving data from a variety of sources, inconsistencies or discrepancies among data may occur. Rehabilitation counselors are then guided by the Code to use their professional judgment to determine when it is necessary to attempt to verify the data. Verification may not always be necessary; for example, evidence in documents and reports may be available to substantiate information verbally reported by an evaluatee. Further, circumstances do not always permit independent verification such as in instances where the rehabilitation counselor is prohibited from contacting the source of the data. (Issued 9/16)

Related Standards: F.2.g

Advisory Opinion #131

The Ethics Committee considered a request for an interpretation of Standard K.3.c of the 2017 Code as it relates to service and financial reimbursement arrangements promulgated by a workers' compensation system. The communication indicated, "All fees and costs associated with management of the referral, and approval for consideration of vocational services, are negotiated between the service coordinating entity source and the independent vocational rehabilitation providers...The entities, unlike the MCO must initiate numerous steps in order to obtain approval to provide vocational services."

The Committee noted the communication suggests there is a well-articulated and transparent process in place to negotiate fees for collective service provision that is within the boundaries of agency policy, which is consistent with the Code.

The Committee further noted the intention of Standard K.3.c is to convey that practices where monetary and/or non-monetary gains and commissions are received as an incentive in exchange for business referrals is unacceptable. In keeping with the spirit of the Code, and with reference to the Preamble and Sections A.1 and A.8 of the Code, services are to be based on the client's needs and welfare, which appears to be the focus in the fee structure described. (Issued 11/16)

Related Standards: Preamble, Section A.1 and A.8, and K.3.c

Advisory Opinion #132

The Ethics Committee considered a request for an interpretation of Standards F.4.a and K.3.c of the 2017 Code as they pertain to arrangements between two CRCs or in which some aspects of administration are performed by one entity while the professional services are rendered by the CRC.

The communication requested the Committee address the rationale for these standards. In addition, it provided three scenarios as illustrative examples for the Committee's consideration and requested response as to application of these standards in those instances.

The Committee noted the intention of Standards F.4.a and K.3.c is not to prohibit cooperative relationships but rather to convey appropriate boundaries in such relationships. Specifically related to the request, these standards convey that commissions and rebates based solely on referral for services is unacceptable. In keeping with the spirit of the Code, and with reference to the Preamble and Sections A.1 and A.8 of the Code, services are to be based on the client's needs and welfare.

In response to the first scenario where a group of CRCs serve as vocational experts and form a cooperative entity that includes centralized scheduling and billing performed, the Committee stated there are no inherent ethical concerns with such a practice. It is understood there is a set fee for vocational services received by the entity while work is performed by more than one party in this cooperative arrangement and each party is paid for their service. In this scenario, there is no referral fee paid or received and therefore there is no concern about inappropriate business arrangements.

The second scenario indicated an experienced Forensic Rehabilitation Counselor (FRC) assists another CRC seeking to gain experience by allowing the CRC to perform work on a file and then submit it to the FRC for review and finalization. The FRC then submits a billing for the total work on the case and pays the CRC for their services. The Committee responded that subcontracting work, being careful to attend to quality services, is an appropriate business relationship. Here again there is no payment for a referral and therefore no concern about this arrangement.

The final scenario indicated a relationship between two CRCs where one who resides in a large metropolitan area regularly receives requests for work in rural areas of the state and subcontracts to another CRC in the area. Further, the scenario indicates the referral source does not wish to go through the administrative process to contract with the CRC in the rural area but prefers to accept the work of the CRC in the rural area as a subcontractor. This relationship alone is not problematic from an ethical standpoint. However, it does become problematic when the scenario goes on to state the CRC in the rural area would not have nearly as many cases each year if not for the referrals from the CRC in the metropolitan area and therefore wishes to give the CRC in the metropolitan area a referral fee or commission on each case to ensure referrals continue. This practice is in direct opposition to and is prohibited by the Standards. (Issued 03/17)

Related Standards: Preamble, Section A.1, Section A.8, F.4.a, and K.3.c

Advisory Opinion #133

The Ethics Committee considered a request for an interpretation of the Section F Introduction and Standard F.1.c of the 2017 CRCC *Code of Professional Ethics for Rehabilitation Counselors* (Code) as they pertain to a change of roles and a stated knowledge of a narrow interpretation being used in litigation where a specific sentence from the Section F Introduction is used, which reads, "Although forensic rehabilitation counselors may meet with the evaluatee, they do not engage in the provision of direct rehabilitation counseling services." The request indicated a scenario in which the initial service provided is expert testimony regarding loss of earning capacity where an evaluation has been conducted. The subsequent service provided for the same individual is vocational rehabilitation counseling to return him/her to work. The communication requested the Committee address whether a CRC who initially provided the expert testimony may then provide vocational rehabilitation counseling.

Paraphrasing an element of the request, it shared an opinion that the role of a vocational expert and a vocational rehabilitation counselor cannot be divorced as conclusions and recommendations are based on knowledge and training as a vocational rehabilitation counselor. Further, it stated these clients typically have no alternative and to hand them off to another counselor may not be in their best interest.

The Committee responded first by citing the following important elements of the Preamble, as they relate to this request:

- Introductions are intended to help set the tone for each Section and to provide a starting point that invites reflection on the Enforceable Standards in that Section.
- Enforceable Standards within the Code are the exacting, enforceable standards intended to provide guidance in specific circumstances and serve as the basis for processing complaints initiated against certified rehabilitation counselors.
- Enforceable Standards are not meant to be interpreted in isolation and actions of rehabilitation counselors should be consistent with the spirit, as well as the letter, of the Enforceable Standards.

With this context in mind, the Committee noted the importance of professional disclosure and informed consent (Standards A.3.a and A.3.b and F.1.b.) They also referenced Standard A.5.i regarding role changes in the professional relationship.

Considering these Standards, in the scenario described it is clear that a role change is permitted as long as the Forensic Rehabilitation Counselor has acted in accordance with the steps described in these Standards to affect a role change.

Preeminent in this process is to ensure the individual receiving services is provided proper professional disclosure and understands the role change as well as the fact that he/she has the right to refuse services related to the change. In addition, this process of disclosure and informed consent needs to include the risks and benefits along with the availability of alternate service providers. Such a statement is not to be construed as a need to provide a list of providers but rather to share with the individual that there are other individuals who may also provide quality return-to-work services.

With respect to the opinion that the role of a vocational expert and vocational rehabilitation counselor cannot be divorced, the Committee indicated agreement that knowledge and training of a vocational rehabilitation counselor does support the knowledge and skills necessary to provide forensic services in the capacity of a Forensic Rehabilitation Counselor, which is a term specifically defined in the Code and is a role that is separate and apart from a rehabilitation counselor providing vocational rehabilitation counseling services. These services may not be provided concurrently by the same rehabilitation counselor. The Committee also cited concern about the connotation that a CRC performing the forensic services outlined would be better equipped than another provider to conduct return-to-work services simply because of the prior work with the injured worker. Sharing such a statement with the individual receiving service is likely to cause undue influence over the client's right to informed choice. (Issued 03/17)

Related Standards: Preamble, A.3.a, A.3.b, A.5.i, F.1.b, and F.1.c

Advisory Opinion # 134

The Ethics Committee considered a request for an advisory opinion that addressed a scenario where a rehabilitation counselor was working with a client who completed vocational training and was in the process of an employment search. The client informed the rehabilitation counselor that his vehicle was not working and he did not have internet service, neither of which he could rectify due to financial constraints. Without a vehicle and internet service, the client could not search for a job. The rehabilitation counselor spoke to the client and his neighbor, who brought him to the appointment. The neighbor offered to repair the client's car when the client had funds to purchase parts and, in the meantime, would lend the client a vehicle if he was able to find a job. As the client was unable to re-establish his internet service account due to an outstanding debt with the internet service provider, the rehabilitation counselor established a month-to-month internet service account in the rehabilitation counselor's name and using the counselor's personal information, with the services going to the client's address. Each month the client would verify receipt of service per policy. This arrangement was to be provided until the client was able to pay for services himself and continued for approximately six months.

The Committee responded the rehabilitation counselor's actions to establish an internet service account for the client was an improper extension of professional boundaries (Standard A.5.g.). The Committee noted there was no indication that other options were explored to assist the client in obtaining internet service when other options, such as prepaid internet services, are available. The Committee cited the directive within Standard A.5.g that rehabilitation counselors take appropriate precautions such as seeking informed consent, consultation, and supervision. In addition, Standard A.5.h instructs, rehabilitation counselors to officially document, prior to the interaction when feasible, the rationale for such action, the potential benefit, and anticipated consequences. The rehabilitation counselor appears to have failed to act in accordance with the directives in Standards A.5.g and A.5.h.

Further, in accordance with Standard A.3.b, the Committee was unclear as to whether the client was given adequate information and fully understood important issues such as the terms of the contract with the internet service provider with respect to obligations of users of services and how the client could affect termination of services if he so chose, in order to make an informed decision to accept or refuse the rehabilitation counselor's action to contract for internet services. In addition, it is unclear as to whether the rehabilitation counselor provided disclosure regarding the use and risks of technology.

As expressed in Standard C.1.b, and consistent with the ethical principles of autonomy and non-maleficence, rehabilitation counselors provide appropriate information to facilitate client self-advocacy actions. The Committee noted there was no indication the rehabilitation counselor took any action to encourage or assist the client in identifying other resources to secure internet service but rather acted in what appears to be a paternalistic manner when taking personal ownership and responsibility to provide for the client's needs.

The Committee also cited potential for violation of Standards B.1.a and B.1.e regarding privacy and confidentiality if the client was not provided the opportunity to consent to the sharing of information with the client's neighbor.

Noting the author's remarks about this being a unique situation that had never surfaced in many years of practice, the Committee wishes to illuminate the importance of Section L of the Code, as reinforced in the Introduction to the Section, and particularly Standards L.2.a and L.2.b. These Standards provide important guidance regarding the use of decision-making models and consultation

prior to action in order to assist rehabilitation counselors in complying with ethical practice. (Issued 10/17)

Related Standards: A.3.b, A.5.g, A.5.h, B.1.a, B.1.e, C.1.b, Introduction to Section L, L.2.a, and L.2.b.

Advisory Opinion # 135

The Ethics Committee considered a request addressing two scenarios with the first being whether it is ethical for a vocational rehabilitation counselor to force and/or demand that a supported employment contractor enter behavior reported by another professional into a state form when the behavior is unobserved during the contractor's direct observation and evaluation of the client.

The Committee responded that although there was limited information provided regarding the roles and responsibilities of each individual identified in the scenario, best practice would dictate that reports provided in relation to direct service provision include the author's observations and cite any reports received and reviewed by the author when making recommendations regarding client services.

The second scenario addresses whether it is ethical for a vocational rehabilitation counselor to force a client to take medication in order to receive employment services from the contractor, after the client and parent reported the medication made the client "feel funny" and "bad".

The Committee responded it is a vocational rehabilitation counselor's obligation to provide information so the client may make informed decisions, including the consequences of any actions that may impact the continuation of services. In the scenario provided, if services are contingent upon the client remaining compliant with a treatment plan, the vocational rehabilitation counselor would be obligated to provide such information to the client. In addition, the vocational rehabilitation counselor would be acting within the boundaries of his or her competence and facilitating the client's self-advocacy by referring the client back to his or her treatment provider to address the reported effects of the medication. (Issued 03/18)

Related Standards: A.1.e, A.3.a, A.3.b, B.6.a, C.1.b, D.1.a, and K.2.a.

Advisory Opinion # 136

The Ethics Committee considered a request addressing three issues related to surveillance, with the first being whether a rehabilitation counselor is obligated to inform a client of the presence of surveillance, if having knowledge of such based upon information from the referral source. Also questioned was regarding working with clients with significant psychiatric issues, and whether such disclosure might lead an individual to harm themselves or others. Also, whether a rehabilitation counselor might be complicit in furthering the client's "fraudulent behavior" by giving them warning that "someone was watching them". The Committee responded that Advisory Opinion #65 issued 2004 still remains true and reads:

The Committee considered a request for an advisory opinion with regard to the counselor's responsibility in the circumstance where the referral source advises the counselor that his/her client is under investigation. The Committee responded that the best practices approach would be first to advise the referral source that if they make it known to the counselor that the client is under investigation, the counselor has a duty to disclose this information to the client.

Furthermore, the client should also be advised, preferably as part of a written disclosure form, that the counselor has a duty to inform the referral source if they find that the client is working

while receiving benefits, assuming that this is not allowed within the particular benefit system.
Related Standards: A.1.a and A.3.a

In essence, if the rehabilitation counselor is made aware the client is under investigation/surveillance, they are obligated to inform the client. In addition to the Standards cited in the 2004 Advisory Opinion, the Committee noted the addition of the Principles of Autonomy, Fidelity, Nonmaleficence, and Veracity. The Committee further noted that a client's potential behavior after learning of such surveillance should not deter a rehabilitation counselor from its obligation to inform.

The second issue related to whether it was appropriate for a rehabilitation counselor to take surveillance film to a physician (IME or treating) on behalf of the claims entity to seek comment on work capacity. The Committee responded that it would be outside the scope of practice for a rehabilitation counselor to engage in seeking consultation to determine the work capacity of a client based on surveillance footage. The Committee believes any such consultation should be initiated by the referral source.

The final issue related to whether it was appropriate for a rehabilitation counselor to recommend surveillance be placed upon a client if there is a reason to believe the client was overstating the extent of their limitations to the physician by engaging in activity outside of the examination room that exceeds their representation to the physician. The Committee respond that, as with the previous scenario, it would be outside the scope of practice for a rehabilitation counselor to make a recommendation to surveil a client. (Issued 8/18)

Related Principals include: Autonomy, Fidelity, Nonmaleficence, and Veracity.
Related Standards include A.1.a and A.3.a.

Advisory Opinion # 137

The Ethics Committee considered a request addressing multiple situations where a vocational rehabilitation counselor met with a client to determine their eligibility for services. During the initial client meeting, the counselor determined eligibility could not be established at that time. In accordance with agency policy, the client was given an extension and the rationale for the extension was noted within the agency's online case file system. Upon review of the case file, the vocational rehabilitation counselor's supervisor changed the client's status back to an active application status. In doing so, the rehabilitation counselor's initial extension status and justification was overwritten by the supervisor and the initial notes made by the vocational rehabilitation counselor were not preserved and are no longer retrievable.

Thereafter, the counselor met with the supervisor and informed her that changing client records without preserving the counselors notes and justifications for an extension, violated the CRCC Code of Professional Ethics for Rehabilitation Counselors (Code), specifically, Section K.2. The supervisor then added a case note to the files indicating the change of status, minus the date of the original case note.

Further, the counselor and supervisor consulted with a policy expert within their agency who noted that it was an acceptable agency practice that if the justification for extension was invalid, changes made by the supervisor, without preserving the original case note, was appropriate because the extension and justification "never existed" and could be deleted. Thereafter the supervisor reversed the decision and reverted the client back into an extension status and created a new justification for such. The rehabilitation counselor is seeking confirmation that changing case notes as noted above is a violation of the Code.

The Committee responded that in accordance with Standard K.2.a of the Code, rehabilitation counselors ensure client records are accurate and if they are altered, it is done so in accordance with organizational policy and where the original record is preserved. Further, when rehabilitation counselors believe the organizational policy is in conflict with the Code, they advocate for change within the organization and if they cannot resolve the manner, rehabilitation counselors evaluate their continued affiliation with the organization. (Issued 8/18)

Related Standards include K.2.a and L.2.f.

Advisory Opinion # 138

The Ethics Committee considered a request addressing a situation where a rehabilitation counselor was retained by an employer and their insurance company to provide vocational rehabilitation counseling services to an workers' compensation claimant. After several spinal surgeries, in late 2016 the claimant underwent a functional capacities evaluation (FCE). At that time, the evaluation determined the claimant was functional to the Medium Duty physical demand level and his physician released him to work at that level. Approximately two years later, the treating physician further restricted the claimant, noting he could only sit for 40 minutes per hour. The claimant underwent another FCE and it was determined he could only work three hours per day, with further restrictions on standing and walking. Based on the results of the FCE, the treating physician restricted the claimant to Light Duty physical demand level. Becoming aware of the new restrictions, an independent medical evaluation was ordered by the employer and their insurance company. The evaluator's opinion was there was no significant medical basis to determine a change in the claimant's medical condition and the functional capacities evaluation done two years prior remained appropriate. An arbitrator at the Workers' Compensation Commission reviewed the case and determined the claimant was not totally disabled but did not rule on which set of restrictions should be used. The employer and insurance company are of the opinion the initial FCE remains appropriate and the rehabilitation counselor should disregard the most recent FCE and physician restrictions and attempt to place the claimant based on the Medium Duty physical demand level.

It is the rehabilitation counselor's contention that he has no medical or other basis to choose one set of medical restrictions over another and before providing services, a determination regarding which set of restriction should be adjudicated. Thereafter, the rehabilitation counselor could proceed appropriately. The rehabilitation counselor is seeking confirmation that it would be unethical to proceed with the request of the referral source without a final determination being made as to the appropriate medical restrictions to follow.

The Committee responded that in 2006 the Ethics Committee issued Advisory Opinion # 89 that is closely related to the situation described in this request, and reads:

The Committee considered a request for an advisory opinion with regard to two dilemmas with the first pertaining to the appropriate course of action to take when there are conflicting opinions about a client's ability to return to work, as determined by a treating physician and a physician conducting an IME. The Committee responded that it would be outside of the scope of practice of a CRC to determine which set of restrictions or recommendations apply. Further, a CRC would need to limit or discontinue services until the conflict is resolved so as to be able to recommend and conduct appropriate job placement activities that are not harmful to the client. Should such a situation arise, the CRC would need to inform the client of the conflict and disclose to the client the need to alert the referral source so that the conflict may be

resolved. The client should also be advised of any limitations, delays or discontinuation of services. Related Standards: A.1.c, A.3.a, and D.1.a.

In addition to the Standards cited above, the Committee also noted Standard D.1.d, which reinforces the requirement for rehabilitation counselors to avoid harming clients. (Issued 8/18)

Related Standards include A.1.c, A.3.a, D.1.a, and D.1.d.

Advisory Opinion # 139

The Ethics Committee considered a request addressing two scenarios with the first being a situation where a vocational rehabilitation (VR) service provider requires VR services for their own disability-related barriers to employment. During the time when services are being provided, the service provider does not render services to other VR clients. When the case is closed, the agency utilizes their services once again.

The second scenario describes a situation that while providing VR services, it is determined the VR client is a good match for work in a specific field (i.e. Job Coaching, Job Development, Skills Training, etc.) where the agency is experiencing significant problems recruiting qualified vendors. After services are provided to the client and the case is closed, the client is recruited as a service provider for other VR clients.

Your inquiry questions whether there is a timeline for engaging or re-engaging these individuals under the circumstances described and whether there is concern regarding breaching confidentiality. It was made clear the individuals in question are fully qualified in their field to provide services, have met all licensing/certification requirements, and have passed the required background checks.

The Committee responded to the first scenario that once their case has been closed, there is no timeline before re-engaging the vendor to again provide services to the agency's VR clients. Further, there is no reason for the agency or the VR provider to disclose the provider had been a former client of the agency. The Committee responded to the second scenario that if the client is qualified to become a VR provider, again after their case has been closed, there is no timeline before they may begin providing services. (Issued 12/18)

Related Standards B.1.a and B.1.e

Advisory Opinion # 140

The Ethics Committee considered a request addressing a situation where a rehabilitation counselor completed an in-person vocational assessment and labor market survey (LMS) in a workers' compensation case and provided a report to the referral source. Thereafter, the defense attorney provided additional medical records and requested a vocational rehabilitation plan be developed and provided to the defense counsel, petitioner's counsel, the insurance company, and also filed with the state workers' compensation commission. The question raised is whether it is ethical to develop a vocational rehabilitation plan when no additional services (i.e. job placement) have been requested.

The Committee responded that there appears to be a role change from the original contracted role. Therefore, in accordance with Standard A.5.i of the Code of Professional Ethics for Rehabilitation Counselors (Code), the rehabilitation counselor is directed to discuss the implications of the role change with the client, complete a new professional disclosure form and review with the client, and explain the right to refuse services related to the change. Further, if the rehabilitation counselor moves forward with the development of the rehabilitation plan, in accordance with Standard A.1.b, the

rehabilitation counselor and client must work together to develop an integrated, individual, mutually agreed-upon, written rehabilitation counseling plan that offers a reasonable promise of success and is consistent with the abilities and circumstances of the client.

The rehabilitation counselor should also consider that when working in a forensic capacity, as noted in Standard F.3.a, a rehabilitation counselor has the right to accept any referral within their area(s) of expertise but they may also decline involvement in a case when, among other factors, they have ethical concerns about the nature of the requested assignment. If they find it necessary to withdraw from a case, rehabilitation counselors make a reasonable effort to assist the evaluatee and/or referral source in locating another forensic rehabilitation counselor to accept the assignment (Standards F.3.b).

Additional inquiries related to a referral received from a defense attorney to conduct an LMS. The independent medical examination (IME) noted work restrictions, however the treating physician provided an off-work note. The question is whether it would be ethical to provide an LMS that included targeted job recommendations that fall within the IME restrictions. The Committee responded that it would be ethical to provide such information with the LMS, but it would be important to note the recommendations provided were based on the IME restrictions.

Another situation relates to receiving a referral to conduct a job search critique (reviewing claimants job search logs) where the claimant has an off-work note from the treating physician and work restrictions noted in the IME. The question is whether it would be ethical to provide with the critique, information regarding job search techniques and methods that would assist the client in the job search, noting in the report that the information provided are only opinions and do not constitute formal job placement services. The Committee responded that it would be ethical to provide the job search recommendations with the critique, but again it would be important to note the recommendations were based on the IME restrictions.

The final question is whether it would be unethical for a rehabilitation counselor to include in their report that another rehabilitation counselor was unethical for providing an opinion based on the IME without providing direct services. The Committee responded that it would be improper for a rehabilitation counselor to comment on the ethical nature of information provided in another's work product. In accordance with Standard F.2.h, when evaluating or commenting upon the work of other professionals, forensic rehabilitation counselors seek to represent their differences of opinion in a professional and respectful tone, and base their opinions on an objective examination of the data, theories, standards, and opinions of the other experts or professionals. (Issued 06/19)

Related Standards: A.1.b, A.5.i, F.2.h, F.3.a, and F.3.b.

Advisory Opinion # 141

The Ethics Committee considered a request addressing a workers' compensation case where a rehabilitation counselor had been asked to provide raw test data in addition to the test scores and interpretations that had already provided in their report. It was noted that the individual requesting the raw test data is a Certified Rehabilitation Counselor (CRC). Further it was noted the claimant signed a release form giving the rehabilitation counselor the authority to release the testing material and report to the client's attorney. Thereafter, the rehabilitation counselor was served with a subpoena that required the release of all records, testing material, and raw data used in the evaluation. The rehabilitation counselor is questioning the following:

1. Is it a breach of Standard G.2.b to release raw data to the CRC when there is uncertainty whether this individual has the ability to interpret the raw data?

The Committee responded that a CRC would be considered qualified to interpret test data and therefore it would be appropriate to release the raw data.

2. Can the copyrighted test materials be released without infringing on the test publishers copyright and without violating Standard G.8?

The Committee responded the release of copyrighted test materials would be considered a legal issue and not ethical, therefore the Committee recommends the rehabilitation counselor consult with legal counselor on this matter.

3. Based on the subpoena, can you release raw data and testing material to the attorney/court that issued the subpoena or only to the CRC requesting the raw data?

The Committee responded that in accordance with Standard B.2.c, when subpoenaed to release information without permission from the client, rehabilitation counselors obtain written consent from the client, take steps to prohibit the disclosure, or have it limited as narrowly as possible due to potential harm to the client. Further the Committee noted Standard L.1.c which states the rehabilitation counselors obey the laws of the legal jurisdiction in which they practice unless there is a conflict with the Code. If conflicts cannot be resolved, rehabilitation counselors may adhere to the requirements of the law. (Issued 06/19)

Related Standards: B.2.c, G.2.b, G.8, and L.1.c.

Advisory Opinion # 142

The Ethics Committee considered a request addressing whether it would be ethical to supplement one's income during semi-retirement, to receive remuneration for referring cases to other qualified individuals. It was noted that the referring rehabilitation counselor would have no involvement with the case after the referral has been made.

The Committee responded that it would be a violation of the Code of Professional Ethics for Rehabilitation Counselors (Code) for an active Certified Rehabilitation Counselor (CRC) to accept any form of remuneration for referring cases to other qualified individuals. The only time that this practice would be allowed is after the CRC has let their certification lapse. (Issued 12/19)

Related Standards: F.4.a and K.3.c.

Advisory Opinion # 143

The Ethics Committee considered a request addressing working with an injured worker that was referred by an insurance company. Upon completion of surgical and physical therapy treatments, the injured worker underwent a functional capacity evaluation. The evaluation determined the injured worker had a standing tolerance of 4-5 hours in 60-minute durations, walking tolerance of 6-7 hours, sitting tolerance of 4-5 hours in 60-minute durations, and workday tolerance of 8 hours, with regular breaks.

The injured worker was also under the care of a pain management physician. The pain management physician issued a lifting restriction of 28 pounds, desk to chair restriction of 25.8 pounds, chair to floor restriction of 23.6 pounds, and carrying restriction of 32 pounds. The interpretation of the

restrictions was that in an 8-hour day, the injured worker would need to take a 20 minute break every hour to lie down or sit in a reclined position, which translates to the individual sitting or standing for 40 minutes and then lying down or reclining for 20 minutes, which would be repeated throughout the work day.

In response to the restrictions, the insurance company independently identified a motorized reclining workstation and directed the rehabilitation counselor to purchase the workstation as a reasonable accommodation.

The questions posed to the Ethics Committee are:

1. Is it ethically appropriate for the rehabilitation counselor to proceed with the purchase of the recommended workstation as identified by the insurance without the treating physician's approval?

The Committee responded that the authorized purchase of the workstation is not governed by the Code; rather, it is a business matter.

2. Is it ethically appropriate to expect or require participation of the injured worker in return to work/job search activities, simulated work activities, employment, and utilization of the workstation, without first obtaining input from the treating physician?

The Committee responded that the client is free to choose to participate in the activities outlined or utilize the workstation. However, the rehabilitation counselor is obligated to advise the client as to the consequences of such refusal, which could impact the continuation of services. (Issued 03/20)

Related Standards: A.3.b.

Advisory Opinion # 144

The Ethics Committee considered a request for an Advisory Opinion on several matters.

The questions posed to the Ethics Committee are:

1. If a CRC was hired as a forensic expert, would it be ethical to critique an individual's job search by contacting employers to follow up on an individual's employment application?

The Committee responded that the primary responsibility of a forensic rehabilitation counselor is to conduct a review of records and/or evaluations and conduct research for the purpose of providing unbiased and objective expert opinions. Therefore, the Committee would consider contacting employers to follow up on an individual's employment application in order to critique an individual's job search, to be outside the boundaries of responsibility for a forensic expert.

2. If a CRC was providing vocational rehabilitation services, would it be ethical to recommend an approved vocational training and then contact the training facility to obtain verbal reports in an effort to monitor the individual's progress?

The Committee responded that if a CRC is providing direct rehabilitation counseling services, it would be appropriate to contact the training facility in order to obtain a verbal progress report, however, it is best practice to obtain consent from the client prior to making such contact.

3. Is it ethical for a CRC to administer and interpret vocational testing or does that need to be administered and interpreted by a Certified Vocational Evaluator (CVE)?

The Committee responded that it is within the boundaries of competence for a CRC to administer and interpret vocational testing only if the rehabilitation counselor is qualified and competent to administer and interpret the specific test/instrument. (Issued 08/20)

Related Standards: A.3.b, F.1.a, G.4.a, and G.4.b

RECOMMENDED CITATION

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