

Filling in the Gaps: Seeking an Ethical Framework for Supervision and Consultation of the Forensic Rehabilitation Practitioner

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Recent updates to codes of professional ethics have included expanded sections addressing consultation and supervision. Too, such revisions have further expanded their sections to give more guidance for those rehabilitation counselors practicing in the forensic arena. However, when applying these new consultation and supervision standards to forensic practitioners, there appears to be a “gap” in how these standards may be applied. Several ways for forensic practitioners to address this “gap” are discussed as well as ways for improving one’s forensic practice utilizing consultation and supervision strategies.

During the past decade, there has been an increased attention by various certification and licensing boards in the area of consultation and supervision (King, 2009). This has been more evident in the current rehabilitation counseling professional journals *Journal of Applied Rehabilitation Counseling* (NRCA) and *Rehabilitation Professionals* (IARP) with special issues covering the 2010 CRCC Code of Professional Ethics (CRCC, 2010). For sure, the consultation and supervision section of the CRCC’s revised 2010 code shows an expansion which provides more guidance to certificants and professional members who are involved in pre-service educational fieldwork as well as those who perform supervision in their respective workplace environments. Thus consultation and supervision are now expanded and in more detail in the CRCC’s Code of Professional Ethics to address both pre-service and in-service work environments (CRCC, 2010).

To be discussed below are the various aspects to explore this next expansion of consultation and supervision and its implications for the Forensic Rehabilitation Practitioner. More specifically, the discussion will include the following: (a) defining the forensic rehabilitation practitioner, (b) defining consultation and supervision, (c) synthesizing of pertinent professional and association codes of professional ethics, (d) describing the “gap” in consultation and supervision

within the practice of Forensic rehabilitation practitioners and (e) suggestions to address this “gap”.

Forensic Rehabilitation

The term, “Forensic Rehabilitation” is an area of practice within the private rehabilitation sector. Acknowledging its humble beginnings in the 1960s with the emerging use of psychologists, “forensic rehabilitation” has been consistently used to refer to services provided by Vocational Experts since the late 1980s (Havranek, 2007). Forensic rehabilitation is different from rehabilitation counseling. Although Forensic Rehabilitation Practitioners (or Vocational Experts) utilize specialized skills used for rehabilitation counseling including assessment, they are not functioning in a traditional vocational rehabilitation counselor role.

Several definitions of the term “Expert” have been cited by Havranek (2007) and the following provides a clear description of how the expertise of a forensic rehabilitation practitioner differs from that of a rehabilitation counselor:

Experts, for the purpose of trial testimony, are witnesses in possession of knowledge that is beyond the ken or understanding of the average lay person and which the trial court deems helpful to a jury.

Experts are persons duly and regularly engaged in the practice of a profession who hold professional degrees from a university or college and know have had special professional training and experience, or those possessed of special knowledge or skill regarding the subject upon which their testimony is based. (p. 1)

The National Council on Rehabilitation Education (NCRE) has put forward the following definition of the Vocational Expert,

An individual who has received an academic degree from an accredited education program accepted by the rehabilitation profession as denoting professional status; is certified and/or licensed to practice in accordance with the rehabilitation profession as denoting professional status; is certified by board or commission and/or the state's licensing board; maintains his or her certification and/or license by completing continuing education units approved by the certification/licensure boards for renewal of certification/license; and has completed the amount of time on the job specified by the profession as denoting achievement of journeyman status.

Weed (as cited in Blackwell, Field, Johnson, Kelsay, & Neulicht, 2005), further clarifies the role and function of a Forensic Rehabilitation Practitioner as "the application of rehabilitation principles in legal settings, usually to assess disability related damages" (p. 1). Weed and Field (2001) further explain that a *rehabilitation counselor* is the one that works primarily with individuals with a wide range of disabilities (including psychiatric and physical impairments) providing counseling, vocational, and employment services. Vocational specialists (i.e., forensic rehabilitation practitioners) are called upon to provide assistance to courts and attorneys in evaluating and identifying the impact of injury on an individual's capacity to perform work and earning capacity. In addition, these practitioners must possess specialized knowledge and technical skills that are clearly connected to the professional practice of vocational rehabilitation (Weed & Field, 2001).

The final definitions regarding the practice of Forensic Rehabilitation come from the International Association of Rehabilitation's (IARP) Standards and Code of Ethics (2007). A *Forensic Rehabilitation Expert* refers to a rehabilitation professional, who has been retained and disclosed as an expert for purposes of providing expert testimony (p. 4). Whether considered an "Expert" or a "Consultant", it is clear that the scope of this practice invariably includes required presentations in hearings, depositions, and trials (Field, Barros-Bailey, Riddick-Grisham, & Weed, 2009).

Understanding the differences between *Forensic Rehabilitation Practitioner* and *Rehabilitation Counselor*, is critical to examining the gaps in which are

present supervision and consultation for a *Forensic Rehabilitation Practitioner*.

Supervision and Consultation

Supervision is a central part of training students in Rehabilitation Counselor Education (RCE) programs accredited by the Council on Rehabilitation Education (CORE). CORE accredited programs require the provision of supervision as part of the learning process as graduate students are introduced to the "real hands-on" experiences through both supervised practicum and internship experiences (CORE, 2009). Both, CRCC 2010 Code of Ethics and CORE have provided or are in the process of updating guidelines regarding supervision that includes both pre-service and in-service requirements e.g., supervisors being knowledgeable of both administrative and clinical supervision skills and best practices (CRCC, 2010). Such pre-service experiences admittedly are critical to providing the requisite skills and knowledge as demonstrated when the graduate students achieve their CRC certification. Does the need for ongoing supervision end after pre-service experiences?

Early literature suggests that supervision is not consistently practiced after graduation in most counseling work settings (Remley, Benshoff, & Mowbray, 1987). Although CRCC has provided general guidelines in the Code of Ethics, most supervisors in the work setting are uncertain about supervision roles, processes, models, or techniques (Schultz, Osokie, Fried, Nelson, & Bardos, 2002). For counselors who receive supervision in the work setting, the practice varies from a coherent, model-driven practice to unspecified approaches with limited awareness of supervision models or standards (Scott, Nolin, & Wilburn, 2006). Once the "transition" or "honeymoon" phase of employment is over, the forensic rehabilitation practitioner, who is working in a solo practice or small group, may abandon the need for supervision.

It is common for Forensic Rehabilitation practitioners to be considered more experienced and competent. Matkin (1997) suggested private rehabilitation practices (including forensics) are possibly the most challenging of all rehabilitation counselor work settings. Certain characteristics of CRCs practicing in the private rehabilitation sector have been identified as having:

high expectations of personal and professional achievement, occupational status, and creative expression. They tend to be self confident and self reliant with multiple interests. They enjoy using their analytic abilities, seeking opportunities for personal development, and acting independently and autonomously (Matkin, 1997, p. 149).

It is understandable that the qualities and confidence necessary to be a successful private rehabilitation pro-

professional including a forensic practitioner does not lend itself to the idea that supervision is needed. However, King (2007) argues that no matter the level of self-sufficiency, years of experience, or specialized training and continuing education, all forensic rehabilitation practitioners, including sole practitioners, need to seek out the support, feedback, guidance, and professional development, which comes from formal supervision and/or peer consultation (p. 8). Without a supervisory or consultation structure in place, the forensic rehabilitation practitioner is at risk in terms of professional skill development, ethical practice, and erosion of professional objectivity.

Accordingly, pre-service supervision extends to in-service settings with even more need for consultation on challenging cases as they arise. One begins practicing as a *rehabilitation specialist* in what has been described as a three-year period journeyman's status (Havranek, 2007; Field, Barros-Bailey, Riddick-Grishman, & Weed, 2009; Blackwell, Field, Johnson, Kelsay, & Neulicht, 2005). Havranek (2007) includes additional qualifications, e.g., educational, certifications, and licenses along with the journeyman status as sufficient to begin work as a *vocational expert* (Havranek, 2007).

Unfortunately, there are no specialized models for supervision or consultation within forensic rehabilitation. The following will describe the model of peer supervision and consultation. King (2007) suggested that one way for private rehabilitation professionals to utilize supervision and consultation is to develop peer networks with other forensic rehabilitation professionals to use as a "sounding board" and solicit advice, feedback, and guidance on complex cases and/or ethical issues (p. 8). The peer supervision/consultation model is different from traditional hierarchical supervision (supervisor-supervisee). In peer supervision/consultation, professionals consult with peers to process and problem-solve clinical issues (Powell, 1996). This model is used frequently in clinical settings but is very pertinent the forensic rehabilitation practitioner.

According to King (2009), because a peer supervisor/consultant role is used more frequently with experienced professionals, it is directly applicable to forensic rehabilitation practitioners. It is used to assist the other professional's development by encouraging problem solving skills and promoting professional growth and objectivity. These roles are used by the peer supervisor/consultant based on the needs of the other professional and the presenting supervision issue(s). In addition, the purpose is for peers to leave the supervision/consultation session with new ideas, perspectives, resources, and focus. It also allows for the forensic rehabilitation practitioner to continue improving their professional skills and avoid getting "stuck" or "lost" in cases. According to Powell (1996), the emphasis of the relationship is on positive colle-

gial regard and respect. Moreover, the peer serves as an advisor without the power differential that comes from a traditional supervisor/supervisee relationship. As experienced forensic rehabilitation practitioners embrace a model and practice of peer supervision/consultation, they fulfill important roles of uncompetitive advisers and leaders which perpetuates effective professional practice.

This same sentiment is expressed by McDaniel (2004) who suggests leaders develop leaders in the field. This may be more understood given concerns in the Forensic rehabilitation field with many recognized leaders in the field being within retirement age and how that knowledge will be transmitted or perhaps lost to those remaining and entering the forensic field (personal communication with Angela Heitzman, July, 2010). Peer leaders are needed to pass on the standards of practice and promote professional identity through supervision/consultation. While it seems seeking a means for peer supervision/consultation is more common sense, there are other legal and ethical implications for doing so.

In terms of potential legal ramifications, consultants who do utilize peer supervision/consultation are more likely to be supported in their decisions, when demonstrating they routinely do seek out consultation from peers when they are faced with challenging cases (Shaw, 2004). King recognizes that when peer supervision/consultation is integrated into private rehabilitation settings such as Long Term Disability (LTD) and Disability Management (DM) practices, this can help focus the direction of services, while reducing the distracting aspects of a case or problems that negatively impact service delivery and productivity. She further adds through supervision and consultation, rehabilitation professionals will be more likely to be able to deal with extraneous case issues and personal feelings which impact objectively (King, 2007). Furthermore, King points out that with a structure of supervision and consultation, there is an emphasis and reinforcement of ethical practice through the relevant professional codes of ethics.

Comparisons of Professional Codes: Identifying the Gaps

The synthesizing of pertinent professional codes of ethics as way to identify and describe this "gap" in consultation and supervision and is a major step in creating proposed suggestions for improvement. More specifically, an in-depth review of major codes of ethics associated with forensic rehabilitation, as previously used by Barros-Bailey, Carlisle, and Blackwell (2010) comparison of codes of ethics, was completed using the following eight questions:

1. Does the code include a section on forensic practice?

- Despite this lack of definition and specificity, most of the codes reviewed see consultation as a problem solving technique, and to a lesser extent, a means of resolving ethical dilemmas. Further, most codes describe supervision in the context of providing pre-service supervision to students or trainees. Few codes mention the need for in-service supervision. Additionally, none of the codes reviewed include a section that addresses supervision of sole proprietors or independent contractors. These “gaps” in the codes of ethics clearly indicate that limited guidance exists on the ongoing supervision of forensic practitioners once they’ve completed their journeyman status, especially those with many years of experience and training.

While it is not feasible to include all professional codes of ethics or professional conduct, there appears to be four that often are related to credentials forensic specialists possess that binds them to their respective codes. These certifications include the CRC certification, the CDMS certification, and the ABVE diplomat designation. In addition the primary professional as-

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sociation which most forensic practitioners belong to is the International Association of Rehabilitation Professionals. Thus, the IARP Code of Ethics will be included in this synthesis.

CRCC Code of Professional Ethics

The CRCC (2010) Code of Professional Ethics is an example of the expanding “guidelines” in the consultation and supervision section of their code. Previously, the CRCC Code (2002) primarily limited its discussion in the section to the pre-service guidelines to be used by RCE programs. Much of the new “guidelines” for this area expands the in-service area to include more professional disclosure and informed consent in the process.

In the most recent revision of the CORE Standards for Accreditation (CORE, 2010), there is an additional standard which directly addresses the knowledge area and learning outcomes related to Counselor Supervision within graduate-level RCE curriculum. Although the new standard does not specifically address supervision and consultation in forensic rehabilitation, its inclusion within the accreditation standards acknowledges its importance within the overall rehabilitation profession.

In addition to these standards is the expansion to include the in-service area. More specifically, the CRCC (2010) Code now addresses the need for both administrative and clinical supervision as part of ongoing, in-service supervision. In expanding this standard to include in-service, the CRCC Code essentially recognizes the need for practicing rehabilitation counselors and certificants to expand their scope of practice to include both the administrative and clinical supervision areas. Examples of this expansion might include knowledge of human resource protocols for supervision as well as how to provide clinical supervision. These expanding demands on a new in-service supervisor most likely will require the need for additional graduate coursework on supervision and employment practices as well as on-going CEUs designed specifically to target this standard (Glosoff & Matrone, 2010). Too, RCE programs will no doubt be shortly requiring new standards to address this content supervision and consultation in their required CORE curriculum standards.

As pointed out by Barros-Bailey, Carlisle, and Blackwell (2010), Section F (pertaining to Forensic standards), constitutes one of the major changes to the 2010 CRCC Code. The authors further note that although forensics has existed in practice for a generation of certified rehabilitation counselors, the treatment of ethical codes specific to the kind of services, relationships, and behaviors typical of the practice is relatively new (p. 241). Although the CRCC Code had focused on the supervision of students and graduates in terms of rehabilitation counseling practice, recently

the CRC Code acknowledges the differences in the types of rehabilitation practice including forensic rehabilitation. There is now a separate section within the Code delineating “clients” from “evaluatees” specifically for forensic purposes.

ABVE Code of Professional Ethics

While the CRCC Code of Professional Ethics relates to its certificants, the ABVE and IARP Codes are adhered to by their members of their respective professional associations. In the case of American Board of Vocational Experts (ABVE), members agree to abide by their Ethical Canons and related rules. Two of the Canons appear to have relevance here, e.g., Canon 7 and 8 (ABVE, 2007, p. 2):

Canon 7 states, “*Participate in efforts to expand the knowledge more effectively needed to determine the vocational capacities of injured persons*”.

Canon 8 states, “*Maintain my professional competencies at a level that is consistent with the services being offered*”.

While supervision and consultation may be vehicles as suggested by King (2009) and Shaw (2005) to demonstrate attempts at addressing best practices for challenging cases, supervision and consultation are not specifically addressed in ABVE’s Code of Ethics for *Forensic Specialists*. The only rules that are mentioned are regarding education, training, and presentations for which members make sure their presentations are accurate in the information presented (ABVE, 2007). If there is a “gap” from the standpoint of addressing the importance of supervision and/or consultation in an organization’s code of ethics, it would appear this is the case in ABVE’s Code of Ethics.

IARP Code of Professional Ethics

The next code of ethics to be reviewed in terms of the area of supervision and consultation is the International Association of Rehabilitation Professionals’ Code of Professional Ethics, Standards of Practice, and Competencies (2009). Like the ABVE code, IARP’s Code pertains to its “members who agree as part of their individual professional membership to abide by the code. IARP’s code focuses on both medical and vocational services which are provided under a variety of international, federal, local, and state laws or administrative codes and in a wide variety of public and private venues” (IARP, 2007, p. 1). Within the code is a special section related to *Forensic Consultants* and *Forensic Experts* (previously grouped under the term *Forensic Specialists*). Similarly to the ABVE Code of Ethics (2007), the Code does not address the areas of supervision and consultation other than to require members to adhere to their individual

scope of practice and to maintain their professional knowledge and skills (IARP, 2007, pp. 4-10).

The CDMS Code of Professional Conduct

Like the CRCC Code of Ethics, the CDMS Code of Professional Conduct is adhered to by certificants. The Certification of Disability Management Specialists Commission provides a set of rules related to professional conduct and a section for claim processing procedures. In the professional conduct section of the code, CDMS provides information regarding supervision and consultation. Section A would apply here (CDMS, 2009):

"The certificant will seek professional consultation and supervision themselves and document their decisions to dismiss or refer supervisees for assistance"

"When a certificant has reason to believe that he/she is faced with an ethical dilemma, they are required to seek out peer-to-peer consultation" (p. 8). Unlike ABE Code, CDMS certificants are provided both a section regarding pre-service supervision and consultation, as well as an in-service.

Ethical Decision-Making Models

For those Forensic Experts who are Certified Rehabilitation Counselors (CRCs), there are two decision making models that have been applied to forensic rehabilitation, e.g., the Integrative Tarvydas Decision-making Model of Ethical Behavior (Tarvydas, Cottone, & Clause, 2003) and the earlier model developed by Swartz, Martin, and Blackwell (1996). Each of these decision-making models contains a series of stages or steps that reflect a perspective with which to evaluate ethical practice. The Tarvydas, Cottone, and Clause (2003, p. 89) decision making model consists of four distinct stages with several components within each phase. Its stages include: (a) interpreting the situation through awareness and fact finding; (b) formulating an ethical decision; (c) selecting an action by weighing competing, non-moral values, personal blind spots, or prejudices; and (d) planning and executing the selected courses.

The other model developed by Swartz, Martin, & Blackwell (1996) contains seven steps and reflects an alternative perspective with which to evaluate ethical practice, e.g.,

1. Identify the problem or dilemma.
2. Identify the potential issues involved.
3. Review relevant ethical guidelines.
4. Obtain consultation.
5. Consider the possible courses of action.
6. Enumerate the consequences of various decisions.
7. Decide what appears to be the best course of action

Quite often, either decision-making model is used when scenarios containing ethical dilemmas are used for participant discussion during session involving ethical decision-making (Bourgeois, Decoteau, & King, 2010; Veltri & Decoteau, 2010). In a recent NRCA request for proposals (NRCA, 2010) included a stipulation that scenarios for small group discussions be used when presenting on the topic of ethics (personal communication, NRCA listserve, 2010).

Up until the most recent CRCC 2010 Code of Professional Ethics, forensic practitioners could utilize either of these models as a guide in their respective practices. However, with the recent inclusion of supervision and consultation requirements in the new code (CRCC, 2010), forensic practitioners who possess the CRC need to consider how they will address this area. Bourgeois, Decoteau, and King (2010) suggest that forensic practitioners complete a self-assessment exercise includes two sets of questions. Concerning ethical dilemmas that s/he has faced during the year:

- What ethical dilemmas have you faced in the past year?
- How did you address each of these dilemmas?
- Were you comfortable or satisfied with how you addressed these?

In the second set of questions, these questions address consultation and supervision issues:

- How do you currently receive information or feedback regarding your "clinical skills" as they relate to your performance as a forensic practitioner?
- When you are in need of feedback regarding your work, what steps do you take?
- How do you currently receive information or feedback regarding your "supervision skills" is you supervise others as part of your forensic practice?
- How satisfied are you with how you receive feedback on your clinical and/or administrative skills used in supervision?

To address the self-assessment Bourgeois, Decoteau, and King (2010), suggest several ways for practitioners to address this address any deficits noted in the self-assessment: (a) seeking external peer consultation, if working alone; (b) seeking internal peer consultation if working as part of a forensic practice; (c) team consultation; (d) formal clinical supervision (internal consultant, e.g., Medical Consultant); (e) formulating yearly "Work Plans"; (f) conducting annual "Self-Evaluation"; (g) mentoring by another forensic professional; (h) seeking outside consultation/program review; (i) seeking feedback from "Evaluatees"; (j) seeking feedback from attorneys; (k) submitting questions to CRCC or other credentialing bodies; (l) reviewing archives of ethical dilemmas and how resolved; (m) attending conferences, workshops, and/or

webinars; (n) completing self-study courses; and (o) enrollment in formal graduate courses, etc.

Along with the self-assessment and possible ways to address the consultation and supervision requirements Bourgeois, Decoteau, and King (2010) suggest that forensic practitioners create an action plan for the coming year. Such a plan would include identifying and describing how the expert intends to seek "peer supervision and/or consultation" regarding his/her clinical skills as well as administrative skills? Having done this, forensic experts who are asked how they are addressing these expanded consultation and supervision requirements will be better able to respond to such potential questions under cross-examination.

Conclusion: The "Gap"

Supervision and consultation are no doubt a tools to prepare in pre-service as well graduating rehabilitation counselors enter the workforce. As shown, becoming a Forensic Specialist requires attaining journeyman status. But once achieved and in cases of working for a small company consisting of Forensic Rehabilitation Practitioner requires many years of experience and training journeyman status. However, there seems to be limited guidance in the various codes on the continued use of supervision and consultation beyond the journeyman's stage. As Codes governing its certificants, like the CRCC, the use of in-service and pre-service supervision and consultation appear to be expanding with guidelines into the role of those providing supervision in the in-service area. As with the new CRCC Code, there are important requirements for supervisors to seek additional education in both administrative and clinical supervision skills (CRCC, 2010). Too, these guidelines will no doubt be reflected in current and future efforts to revise CORE accreditation standards to include these administrative changes into graduate RCE program curriculum.

However, while these two entities are clearly expanding in these areas, it would appear that neither ABVE nor IARP have addressed the need for supervision and consultation within its own codes which it holds it professional members thereto (ABVE, 2007; IARP, 2009). Thus a "gap", has been created requiring *Forensic Rehabilitation Practitioners* to guide themselves in their respective practices and perpetuates the attitude that professional experience equates to no supervision or consultation is needed. Assuming that both codes will include such revisions in the coming years, future efforts need to include identifying specific supervision and consultation models for *forensic rehabilitation practitioners* to consider integrating their own practices.

King (2007) has suggested use of "peer supervision and consultation" model as a consideration for those entrepreneurs working in the LTD and Workers' Compensation areas. Smith (2006) suggests that Forensic experts have the responsibility to document what the colleague feels as "unethical" behavior related to substandard reporting or less than competent work product and send it directly to the practitioner. However, this is not a model of supervision or consultation. There is need for additional models to be developed for the forensic practitioner.

Both IARP as well as ABVE have reporting mechanisms in place for those who are reported who break any or all parts of their Canons or rules of their respective codes by its members. When looking at the change in the "evaluee" being used in forensic expert work, CRCC, IARP, and the ABVE Boards of Directors agree with the term and modified their respective professional codes to reflect this change (Barros-Bailey, Carlisle, Neulicht, Taylor, & Wallace, 2008). As with supervision and consultation, it would seem that this identified "gap" should be examined further for expansion by CRCC, CMDs, ABVE, and IARP codes as a means of promoting and maintaining standards and competent forensic services.

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