

## Clinical Supervision Series: Ethical and Legal Considerations - Module 5

JOHN WALSH: My name is John Walsh. I'm the project director of the Center for Innovative Training in Vocational Rehabilitation at the George Washington University. Welcome to Module 5, Ethical and Legal Considerations of Clinical Supervision. If you have not viewed our previous modules in this series, I highly encourage you to complete these trainings to gain that additional foundational knowledge in which all the modules are built.

I would like to acknowledge that the contents of this presentation were developed with the support from the Innovative Rehabilitation Training Program funded by the US Department of Education, the Rehabilitation Services Administration. The information contained in this webcast today does not necessarily reflect the position or policy of the US Department of Education, and no official endorsement should be inferred.

The Center for Innovative Training in VR is sponsoring these training modules, and our website has a number of other free trainings as well that provide CRC continuing education hours, including this five-module series by Dr. Herbert on clinical supervision. I highly encourage you to visit our website at [trainvr.org](http://trainvr.org) so you can get involved in our other trainings or join one of our communities of practice or look at some of our training resources. I also encourage you to join our virtual community at [trainvr.ning.com](http://trainvr.ning.com), so that way, you could stay up-to-date on what's happening.

As in our previous training modules in this series, we are fortunate to have Dr. James Herbert from the Pennsylvania State University providing us with this informative training sessions. Dr. Herbert has extensive experience not only as a rehabilitation counselor educator, but also extensive research and training background in the area of clinical supervision. Dr. Herbert, we really want to thank you for all your fine work on this series, and we're really looking forward to the information you're going to share in this session to assist our viewers on how they can enhance their ethical practice of clinical supervision. So Dr. Herbert, I'm going to turn it over to you.

JAMES HERBERT: Thanks, John. I appreciate it. So this is our fifth training module, if you've been with us throughout, and like many training programs, there's always usually an ethical component, and this is our component. And I recognize that I'm sure most, if not all of you,

have had some training in ethics. So I'm not going to spend a lot of time going through the ethical principles.

We'll do a quick review of that. That will set up a context for us with some of our discussions later as it applies to ethical aspects and clinical supervision. So we're going to kind of briefly go through that. We're going to look at how these six principles impact clinical supervision. And we're going to focus specifically on the CRC ethical code as it pertains to clinical supervision.

We'll finish up with, I think, a good model that a colleague of mine, Vilia Tarvydas, has put together on decision-making using ethical principles, and I think it's a good model for us as we negotiate these aspects in providing clinical supervision. We'll then look at-- turn our attention a little bit to the legal aspects as applied to clinical supervision, and in particular, we'll look at certain liability concerns that I want you to be aware of as a clinical supervisor. And then finally, I have a few learning activities. If you want to get more training and more understanding to enhance your knowledge in clinical supervision as it pertains to ethics, then you can do that.

OK. So let's do a quick review of the ethical principles. Again, at this point, I'm sure all of you are familiar with these. But just as a review, the first one being autonomy. And as you know, that means the right to self-government. And one of the things I think probably rehabilitation does more than I think a lot of disciplines, professional disciplines, is that's a principle that we, I think, really take to heart as it relates to client choice and freedom of choice, and so that's something that I think is pretty central to our work as rehab counselors and, by extension, as rehab counselor supervisors.

Second principal, justice, simply means, yeah, being fair to all. So what I do for one person, I do the same for another person. Everyone gets the same model, if you will, the same kind of orientation in terms of how we practice, how we provide service.

Fidelity, particularly with the relationship that you have with your clients, your customers, your colleagues. When you violate this principle, fidelity, it really compromises, I think, the professional relationship. The people know that they can't depend on you.

In the context of providing services, that they know that if you say you're going to do something, in fact, they're going to do that. And again, that's also clear within supervision. We'll talk about that a little bit later in the presentation, but again, if you're saying and you're working with your counselors and you promise to do something and you don't deliver, that's an issue.

Nonmaleficence simply means a fancy term meaning you're not going to do any harm. So as a supervisor, you never want to do anything that's going to harm your counselor and, by extension, harm clients who see voc rehab services. Flip side of that is beneficence. As a clinical supervisor, as you'll hear me talk about in this presentation, it's often been referred to supervisors as being the gatekeeper, the person who safeguards, if you will, to make sure that counselors who provide services are, in fact, competent people who provide quality service for

good outcomes. And that assurance really comes as a result as your role as supervisor. So making sure that good service occurs.

And finally, the last one is veracity, which simply means being honest. Clients have to know that when they're working with counselors and counselors have to know when they're working with you that there's a presumed honesty that exists, which is so important in the relationship that exists. And as you probably know from your understanding of the research, the single most important predictor in good rehab outcomes is the professional relationship between the client and the counselor.

Well, let's talk a little bit about an ethical dilemma and exactly kind of what does that mean? As far as when I talk about ethical dilemma in this presentation, what I'm referring to is a circumstance where it involves an ethical question that either stymies or confuses the supervisor or the supervisee because of one of three conditions. One, and this is-- the first one, actually, is the one I think-- my experience, is the one that occurs most frequently, is when there's competing or conflicting ethical standards that apply.

Oftentimes, when you get into ethical dilemma in supervision, it's not because of, like, one issue, fidelity or beneficence, but it's usually a competing situation between two or more ethical issues. On the one hand, you might really want to be-- you want to be honest with your clients, but you're also competing with the idea, well, if I share this information, would this information I'm going to share hurt or harm the client in any way? So you have that situation.

And I find that in supervision, when I really take a look at it, I often find that it's the competition or conflict between two or more. And also, I'll just tell you, it's funny because as you really kind of dive into this and you struggle with some of these situations that you come up with your supervisees, you almost can find, like, a competing argument for more than two ethical principles. So but at any rate, that's usually what happens. You have a c-- there's confusion between two or more.

Second one is where there's a conflict between a moral and an ethical standard. And let me-- I know a lot of times, I've been to presentations, and I've heard presenters say, well, they're really the same thing. And on some level, I get that, I understand that, but I don't quite agree with that. And so you know where I'm coming from, let me just try to differentiate a little bit.

In this presentation, when I talk about ethics and the ethical code, I'm obviously referring to the CRCC code. But ethics really is what society or profession deems what they consider appropriate. Morals, or morality, if you will, moral standards, those are standards where-- are dictated by our internal beliefs about what's appropriate, OK?

So if I can maybe give an example or two. I may be driving down the highway in a 55 mile zone doing 80 miles an hour. Now, that may be unethical and besides being illegal, which is another issue, but unethical in the sense of wow, I'm putting maybe-- I'm putting not just myself, but other people in harm, so it's a possibility I may be causing harm there.

The morality would say, well, in this situation, that's OK because I'm rushing to the hospital because maybe there's a family member too sick or a serious situation, and I'm OK with breaking the law. Even though I may cause harm to other people, I'm accepting that risk. So in that situation, you can see, well, it's unethical, but it may be moral.

Flip side of that may be first thing just came on my head here is, say, the death penalty. You may believe that that's morally OK, or you may believe that it's immoral, again, based on your personal beliefs. So as you know, different states have different interpretations of the morality of imposing the death penalty. And so there's another situation where what's ethical or not ethical may or may not be moral or immoral.

So my point here is that some people see those terms interchangeably. I make a slight differentiation, and in the context of our presentation today, my distinction is ethics is more something that's dictated by what society or, in this case, a profession indicates of what's appropriate versus what your own personal beliefs are.

And then the third situation, and one that comes up quite a bit, is when it's a pretty complex situation. And so it's sometimes hard to apply specific standards. Sometimes my graduate students or when I do consultation, people will get frustrated because when they look at the CRC code, they'll say, well, it doesn't say that specifically in the code book. And as you'll see in just a minute or two when we start breaking that down, you'll see that many of the codes are pretty broad. And so the interpretation may be like, well, what does that really mean?

And sometimes that can be really frustrating because you want-- like, I want to go specifically in the code and tell me, is this situation OK or not? And when you go into the code book, you find, well, it doesn't really say that. And that's both a blessing and a curse because like many codes and standards, you want to make it broad enough so people can use it as a guideline, but also not so specific that it ties our hands, if you will, in trying to implement an ethical approach, an ethical strategy. So in practice, I find pretty much, those three situations are, for me, it's like, OK, so here's an ethical dilemma.

OK. So now what we're going to do is we're going to look at the CRC Code of Ethics. And again, I recognize that maybe some of you are not CRCs, and you may be thinking, well, boy, does this really apply to me? And even if you're not a CRC, that, of course, doesn't preclude you from using the CRC ethical code. And in fact, I think it's a really useful guide for us, regardless of you're CRC or not.

Now, for those of you that are CRC, and you know this module may be even more important because you need to have, I believe, 10 CEUs in ethics training, we're going to focus on the code, and in particular, we're going to look at Section H. And under Section H of the ethical code, that section specifically refers to clinical supervision. Just a little backdrop on this I just thought of. When they had developed, and there was, many years ago, discussion about the code, they said, well, should we just call it supervision or clinical supervision?

I remember talking with some of my colleagues, and I felt pretty adamant about no, we have to differentiate and call this clinical supervision, not just supervision. Because as you saw, I believe, in our first module, where I differentiated administrative supervision from clinical supervision. So you'll see here that what follows here is very nicely, I think, our conceptual framework of clinical supervision. So let's take a look at that.

So there are four sections under this. The first one is H.1, which refers to supervisor responsibilities, and we'll get to those in a bit. We'll look at competencies that are required to be clinical supervisor. We'll look at the roles and responsibilities between supervisors and supervisees. And then the last component, the evaluation, remediation, and endorsement, so what happens when you have a situation where you have a compromised supervisee or you have someone who's asking for endorsement, letter of recommendation, and maybe you're not really sure, can I provide such?

Well, Supervisor Responsibility, section one. All right. The first one that's listed under this heading, which is not surprising and probably is the most important one, is the notion that client welfare supersedes everything else. So that principle is something that you, as a supervisor, have to make sure that you get that across to your counselor.

Everything that you do as a supervisor, everything that the counselor does in working with a client always has to be predicated on, how is this going to benefit-- beneficence, right? And not do any nonmaleficence, no harm, to the client. So the client welfare is job one. It's as simple as I can put that. And that's something that has to be obvious to your counselors when they work with you, that the needs and the welfare and the benefit of our client, that's what this is all about.

And so supervisors make supervisees aware of these ethical obligations under the code. And so that's H.1.c. But which I think most counselors do. But here's the one that I find that some supervisors kind of fall down on.

You notice, communicate that verbally and in writing the rights and responsibilities of the supervisor and supervisee. So we're going to talk a little bit later, and I have an example that I'll share as one of the resources for all of you, but you'll see that it's not just something that you have to verbalize to your counselors. This has to be in writing about, what are the responsibilities as you as supervisor, the nature of your work, the nature of your relationship? What does that look like?

Following that is supervisors have to communicate those procedures, like how you're going to contact them. What's going to happen-- let's say you're the supervisor and you're sick that day, or you're on vacation. So there have to be written provisions of, well, if you're a counselor, where do I get help? Who's going to-- you're on vacation this week. Who's going to-- if I need some assistance, need some support, where is that?

What happens in a crisis situation? So what's the backup plan? That has to not just be verbally, but also in writing.

The other aspect under the supervisor, your responsibility as a supervisor, is either you or the supervisee has the right to terminate the relationship. And if it's done, the supervisor has to make appropriate referrals to another supervisor. Now, this gets really tricky under state VR because I clearly get that, in many instances, counselors have limited choice about who they're assigned to as a supervisor.

What I think is important here that I want to try to communicate is that if you're working with counselors, supervisees, and you know, boy, it's like, hey, this just isn't working. It might be better to refer this person to another supervisor. Maybe we'll switch supervisees.

And I'm not just talking about, geez, I don't like this person. I'll switch to another. There's something to be said to kind of work through interpersonal conflict, which I can talk about a little bit later.

But for now, just recognize that they do have the right to terminate that relationship, as you do as well. At the end of the-- near the end of the presentation, I'll also talk about maybe some of you who are LPCs and do supervision, I'll talk about that in a little bit more in that instance where I think it becomes a little bit more obvious. So recognizing that you do have certain responsibilities as a supervisor, and the meta message here is it not only has to be communicated verbally, but also in writing.

Now, another section talks about competence, how to be a competent supervisor. And as we, I think, talked about in the first module, you can be a really good rehab counselor and not be a good rehab counselor supervisor. Those two, while there's certainly some overlap, but those two skill sets are independent.

And so as a result, you have to get training in methods and techniques, and you have to continually do that through continuing education, which is part of what you're doing here. So this is good. So we're all for your fulfilling or working towards fulfilling H.2.a, as opposed to H.2O. Bad joke.

The other thing is that in giving supervision, and this is something we might be talking about maybe a module we might develop next year on multicultural aspects in supervision, but CRC also saying that when we provide supervision, we recognize that everything we do, we do in a cultural context, OK? What I bring to supervision as a result of my experience based in being an older white male, heterosexual, Catholic, fairly educated man, with all of that stuff, I bring that into the room. The question for me is, as a supervisor, how do I invite other points of view? How do I promote discussion of people who don't look like me, don't think like me, don't act like me, and how do I do that-- how do I do that in a competent way? And so CRC is saying, as a supervisor, you have to be able to do that.

And then finally, they are also saying is that when it comes to technology, you have to make sure that you competent in using that when providing supervision. So I think where this really comes into play in practice is if you're doing any kind of distance supervision, especially in the COVID area that we're currently living in through, that providing distance supervision and

making sure that when you're using your laptop and cameras and those kinds of things, that we're maintaining confidentiality. And so you've got to be aware of, are there certain limitations of certain technology and also making sure that you are following procedures that promote confidential information that's not being breached.

The third section is talking about roles and responsibilities between you and your supervisors. And chief among them is an awareness of power dynamics. And I'm aware, for example, as an older white guy, that there's certain privilege, there's certain power, if you will, that comes with that. And as it applies to supervision, I'm aware of that dynamic.

And so, like, how my feedback is portrayed, the way that I give the feedback, how it's received, that that's something that I have to be aware of. And so what that means in practice is that me, as the supervisor, because I'm aware of that power dynamic that exists, most likely, I'm the one that's going to have to bring that up. Or sometimes I'll use the term difficult discussion, OK? I'm going to have to be the one to initiate that.

Now, by extension, you'll see that the code also indicates where to refrain from sexual or romantic relationships with current supervisees and in terms of discussing those kinds of-- or thinking about those kinds of relationships or the risks with even former supervisees. So it's just not with respect to current supervisees, but also discuss the potential risks of former supervisees. One of the things that I will just share with you, I know from my work that in about 1% of cases, when I've looked at ethical behavior or unethical behavior between supervisors, supervisees, that unfortunately, it does occur. It occurs infrequently, but it does occur. And when it occurs, almost it always occurs between a older male and younger female.

So those dynamics, we have to recognize, yeah, that it unfortunately does occur. So as supervisors, any kind of exploitive relationship with our supervisees, any form of harassment, including sexual harassment, that has to be avoided. There's no ambiguity about that. And you know this anyway from your training on sexual harassment in the workplace. But if you needed any other evidence or any other support for that from a CRC ethical code point, that's something that, again, cannot occur in the workplace.

You also notice on subsection H.3.f that supervisors are to avoid accepting cases where the people they supervise are close relatives, romantic partners, friends as supervisees. And if that can't be avoided, then they have to use some kind of formal review mechanisms. So and I get it. And this is where it becomes difficult because you remember in, I think, module 2, I believe, was it, when we talk about the developmental process that supervisors go through from working as a counselor to a supervisor.

You know, when you're working with your colleagues, you're working with them as colleagues, peers. And we can be-- a lot of people at work eventually become close friends of ours. We socialize with them outside of work.

Well, this gets a little problematic when you become promoted to a supervisor. Now, your friend, your buddy, your pal is a person you have to supervise. And in some cases, particularly

in smaller field offices, say, well, what other option do I have? So I can't refer that person to another supervisor because I'm the only one in the office.

In those instances, then you have to make sure that you-- and you'll see a little bit later, that you have the appropriate documentation, that in terms of the review, that you're using that because you want to, in good faith, provide ethical supervision. The bottom line of this is avoid any kind of exploitive relationship and, in particular, sexual relationship with your colleagues, with people that you supervise. And again, any situation that would compromise your relationship, you want to try to avoid that.

Another component, and this is the one area that I think my experience has been when I've worked with supervisors at state VR, this is the one area that I think I find that many supervisors fall down with. And that is the evaluation process. Like, how do I document? And what happens if there's a need for remediation and endorsements? But let's just take a look at this first part.

You'll see that CRCC indicates that you have to document, and you've got to provide supervisees with ongoing feedback. So it's good that you do that verbally in your session, but you also have to document. You have to basically write a case note with every supervisor that you meet when you meet with it, OK? There has to be some kind of formal periodic evaluation that occurs.

And I'm not just saying, well, we do annual reviews. An annual review, from a state VR perspective, is much different than a review that you're doing in clinical supervision. Typically, annual reviews often are predicated on more administrative supervisory components. Status 26 is length of time in service, length of time receiving service, those kinds of things.

And so you have to have-- and we'll talk in a few minutes about well, what is it that I should be writing down and recording? But for now, just recognize that you have to have some kind of written documentation on the nature of work that you've been pursuing with your supervisee.

It also indicates that for supervisees that need remedial assistance-- and unfortunately, there are instances-- particularly, I think that this occurs, like, with newer supervisees where they begin, and for a variety of reasons, it's just not going well. They have difficulty maybe developing relationships or there's conflicts things or not following through, and there's some problems here. And so in that instance, again, if you have the documentation, here's what's going on, this is what happened, this is what we did, this is what the outcome was, if that and you find that there's no change, and we're trying to do some remediation and that's not working, well, CRC would say that the person could be dismissed from the training program.

Now, let me just quick aside. When they say the training program, the inference there is oftentimes where you have a master student who's doing a practicum or an internship with a state VR agency. And so if you-- and this, again, is for the documentation. It's really important.

It's like, boy, this student's really, really having some problems here. Then having that documentation is going to be really critical because as a rehab counselor, educator, that's how

we will use to say, well, maybe the person needs to be terminated from the program, or maybe we need to do some other things before we do that. But your role there is really critical to supervise these who are part of a graduate training program.

Now, on a broader context, though, what it also says to you for the state VR counselor who's gone through the process and gone through the provisional process, what it's saying to you, though, is that when there are problems, you have to provide some remediation. You have to document from that. And that, I think, is pretty consistent, at least based on my experience, with state rehab programs that I've worked with. I mean, that's kind of bread and butter stuff. But again, if you need any other justification, CRC would say, yeah, you have to do that.

If counseling is part of the remediation process, then you're helping the person to identify where they might get services. And again, I want to underscore something. It should not mean-- in fact, you should not be the person then providing the counseling services.

Because there, you're getting kind of a dual relationship. You're working as a clinical supervisor, but you're also working as the counselor's counselor, personal counselor. You don't ever want to do that. So if part of the issue, somebody is really struggling at work and you feel like, I think they could benefit from personal counseling, then that's part of the remediation, but that's not something that you provide.

The other aspect is that CRC indicates that you refrain from endorsing supervisors for either certification for CRC or licensure maybe as a professional counselor or recommendation for employment or completion of a graduate training program. If you sincerely believe, and you have the evidence to support that there is some real deficits that you think this person is impaired, which is going to interfere with the conduct or performance of their duties, then you shouldn't endorse. And this sometimes really is a struggle because I've known supervisors who, well, you know, I didn't want to kind of hurt the student. They almost completed their program. I didn't be the one that kind of get in the way.

Well, remember I said when we started, one of your primary roles is to serve as a gatekeeper. And I can tell you from my experience and doing this for 35 years or so, one of the most difficult things is terminating a student from a program. Unfortunately, it doesn't happen. But if you sincerely believe and you have evidence to support that belief that this person is simply not qualified, they're not going to be a good rehab counselor, to simply kind of pass them along or to indicate to the rehab counselor internship coordinator, whoever you work with, that oh yeah, the person's really doing a good job when you know, in fact, that they're not-- and I'm not talking about necessarily, like, skill deficits. That's going to happen.

But I'm saying that's a larger issue here in a sense of what you know what's required to be a good VR counselor, the ability to engage with people, develop and sustain good, professional relationships. If you know that wow, that there's some significant problems here, we've tried to correct them, it's not working, you've got to communicate that information. And so you should not, according to CRC, endorse someone who you know is really incompetent and could, in some cases, actually cause harm to the client.

Now, I'm not going to spend time on this next one, but I just wanted to let you know. Just as you, as rehab counselor supervisors state VR have certain parts, we also, as rehab counselor educators, we have all those things that I just got finished talking with you about, and in addition, we have things that pertain to us as well. I'm not going to break all those things down. I'll just say that they're very much parallel to what I just talked about.

But the reason why I want to bring them up to you here is just also recognize that sometimes too, you know, you have rehab counselor educators that you kind of wonder, wow, I'm not really sure that's ethical or you're uncertain about. Again, it's incumbent upon you to, if there's something there you're not really sure about, discuss it. Bring up. Don't think just because they're a rehab counselor educator, they got it all together, and everything's fine. Well, maybe not. So I just wanted to let you know that as well.

OK. So before we get into the next section, I just want you to maybe just take a little-- think about these two questions. Maybe just kind of take a break. Just take a minute or two and think about that. Because I think this might help you as we kind of go into our next section.

And the two questions I'm going to ask you, the first one is this. There's a picture-- for those with visual impairment, there's a reflection picture that I have. It's kind of a hilly area with some pretty trees that's reflecting the pool of water. I use that as a metaphor for reflecting on questions.

The first question is this. I want you to think about a supervision situation that is resulted in an ethical conflict. And as you're thinking about that situation, I want you to think a little bit about, OK, well, what was the nature of the conflict? What was the ethical principle that I was struggling with? And did that conflict with another ethical principle?

Or maybe there was multiple principles. So I just want to just kind of take a minute to kind of think about that. And as you think about that, I'm going to ask the second question, and then maybe after you reflect on the second question, if you want to just kind of pause the video and just kind of write some notes to yourself, and then we'll continue with this.

I want you to think about, well, when I look at that situation, what was the process that I used to address the conflict? Like, how did that work? Was it a deliberative process that I used? Or was it kind of like flying by the seat of my pants? Or how did that work?

And as you think about that situation, or maybe there's multiple situations, I'm going to ask you to kind of pay attention to a couple things. One is, as we talked about this model, ethical decision-making model proposed by Vilia Tarvydas at the University of Iowa, you're going to see that what this model that I talk about, or her model that I'm going to share, you're going to see that it requires some reflection on your part as a supervisor. You're going to see that there's quite a bit of effort in trying to achieve balance among parties.

And sometimes these ethical situations can be difficult because it's just not you and maybe your counselor or supervisee, but you also have the client. Maybe there's an issue there with

the client. And by extension, maybe someone else, another relationship that the client can have. So it can be pretty complex pretty quickly.

And I ask you, as you think about that situation, think about the context of the situation. And then think about, like, what variables did you use in trying to come up with your decision? And then how did you collaborate with other people? So as we go through this decision-making step process that I will just highlight, I want you-- I'd like you to try to apply that situation.

So this model, Tarvydas Integrated Decision-Making Model of Ethical Behavior. It's a long title. Basically, there are four stages, four steps, if you will. You go back and forth from one to the other. We're going to look at each one of them.

First one is-- the first stage is interpreting the situation. I'll break that down in just a minute. Trying to formulate-- the next stage, trying to formulate, well, what's the ethical decision? Is there a best course of action I can take using, in a context, these six ethical principles that we talked about?

Third stage is, how does whatever action I'm going to take, how does that compete with other non-moral values? We talked about the ethical and moral issues, and they're not all necessarily the same thing. And there may be, as we talked in our earlier example, something that's ethical, but maybe immoral. And then the fourth stage is, well, how do I plan-- what's the action I took-- how did that-- how did that occur?

OK. So let's break down that first stage and trying to get to an ethical solution. Well, one of the things that she talks about in trying to resolve an ethical dilemma is as you listen to your counselor, your supervisee, recognize the fact is that-- and again, this might seem like one of these duh kind of comments, but not just your understanding of the issue from the supervisee perspective, but if it involves the client is to get that perspective with the client as well. Now, much of our supervision occurs through the case management model. So the counselor comes in to you in the office, talks about a situation or a session with a client, but that's always the counselor's interpretation of the situation.

I don't know how many situations where each of you have been or maybe issues have come up, and you get the counselor's understanding, and maybe you also decide, let me kind of hear from the client because I'm getting this perspective, and I'm hearing the counselor's interpretation of what the client said or did or didn't do. But when I talk with the client, maybe I get a different understand. So the point being is if it involves the client, which many of these situations do, then obtain that analysis. Get that understanding.

So that folds nicely into the second issue when she talks about trying to get a balance among the issues, the people, their perspectives. So whatever the issue is, who does it impact? How does it impact? And how have I access to hear that voice?

If I'm relying simply as a function of what the counselor interprets that situation, that's an important perspective, no doubt. But it may not necessarily be one that's shared by the client. So let me get that perspective.

And again, if it involves a family member, then they have to bring the family member into that. Mom's all upset. Maybe there's a transition plan and didn't really kind of work out, but what do we know about what mom's concerns, mom's issues, mom's voice? Many times, I find ethical issues or ethical problems or conflicts often occur because people haven't found their voice, or they haven't been provided the opportunity to express their voice, their point of view.

Third aspect of this is where she talks about trying to get the level of attention within the context of, what's the systems? Is it simply just an individual situation? Is it a group, like such I just mentioned earlier, like a family situation and not only impacts the client, but family members? And then maybe it's a larger systemic thing about agency perspective, agency policies, procedures, why we do the things we do.

And then trying to understand that with each one of those systems. And as I mentioned when we began this presentation, while that process, you want to try to make that collaborative, like, help me understand from your view what the concerns and issues are, always bottom line is the client needs are the most important. That's sacrosanct. So client need always comes first. So no matter what we do, it's always trying to benefit the client and do so in an ethically responsible way.

OK. So when we look at these, we look at that in terms of kind of using that as kind of a backdrop, trying to OK, so let me get that stage one, that awareness, that sensitivity. And most of this has come from her model. I've added a few things, just maybe reframe things a little bit.

And one of the things I kind of reframed a little bit was when you look at a situation that represents an ethical conflict, really important question is like, so who's impacted by this situation, and what are the possible effects or actions that might occur? Something might be happened, but how it's interpreted by different people can make all the difference in terms of its meaning and its importance. And so trying to get the issues and the facts and principal people involved here are really important.

And part of the facts, if you will, means understanding the belief system or the perception that the client, or if someone else is involved, a family member's involved, the counselor's involved, their interpretation of the facts. So it's just not a collection of facts, but what those facts, or how has that impacted the person? What's the meaning that they held?

A client can say, I'm really angry at my counselor because we had two appointments. The counselor missed both of those appointments. OK, well, those are facts if in fact the counselor said, yeah, I did miss those two appointments.

Critical component there is, what's the meaning? How does the client interpret that? So the client might interpret like, you don't really care about me at all. I took time out of my schedule

to meet with you in two situations here. I've been waiting for six weeks to see you. You missed it our first time, and then when I came back again, you missed it again.

So that's communicating something to me. So it's not just the facts, but the interpretation. What does that mean?

And sometimes when I've gotten into these conflict situations with counselors and clients, I may ask that question. So what did that mean, or what did that say to you? Because again, I want to hear that voice. I want to hear what the client is saying and what that meant.

Trying to formulate this next stage of the ethical decision, again, so I go back to those six ethical principles, and I'll say, so how do each one of these principles, how does that impact, or how does it touch this particular situation? And what actions might be taken to try to come to some resolution? With each one of these actions, I have to think about, are there any advantages or disadvantages associated with each one of them? And related to that, are there any risks involved with a given situation?

Third thing, and this is something to be honest with you, I think a lot of supervisors do not do or they don't do as often as, frankly, I would like. Consult with other supervisors. A lot of times, like, we're in this position as supervisors, and we're kind of like, we all know it, and we should know all this kind of stuff. Good supervisors are always trying to get input. Talk with your colleagues, other supervisors.

Hey, I have this situation. What do you think? Am I'm missing something here? If you were me, how would you approach this?

Do you have any thoughts about the way that I did this? Is there anything that you think that I'm missing here? And also, and this is the hard part, being able to kind of hear that, yeah, I think here's something you did miss, or maybe you think about this.

If you can be vulnerable, if you want to use that word or that term, with your colleague, I think that's only going to make you a much better supervisor. So take advantage of those other resources, OK? Particularly when you're working with someone who's been maybe a little bit more experienced in this than you have.

And then what's the final course of action that you're going to select? Now, if you notice, that's not the end point. We're only, like, at the halfway point, OK?

In that next stage, in selecting that course of action, before that final OK, here's what we're going to do, she talks about, is there any kind of potential blind spots or prejudices or non-moral values that might impact in the course of action? And this is where the situation might come up, and I'll discuss it with a colleague, and I've had-- if you do this enough, you get into the situation where your colleagues say, I think you're missing something here. And that's been really-- it's been really valuable to me as a supervisor because it's helped me grow and helped me pay attention to maybe some spots that I might not be aware of because of either beliefs

that I have or understand some perceptions that I have. And so are there-- as you think about that situation, you think about the contextual concern, that's going to impact your course of action.

So for example, if I'm working with a new supervisee, a newer counselor, I might take a different approach in my course of action than I'm working with someone who's been doing this job for 15, 20 years and maybe I have a good relationship with. I've known this person a long time in supervising him or her for five years. In the first case, I might be much more explorative. And you remember the framework I said as a supervisor that you can work as a consultant, teacher, a counselor. I may assume more of a counseling role when I'm discussing this with my counselor.

So I might want to constantly checking in, how are you perceiving this? What's your reaction to what I'm saying? What do you hear that I'm saying? With someone else who's much more experienced about this, I may take a more of a consultant role about well, what did you think about how did you want to handle this? Again, I'll look at that in the context of counseling development, which we talked about in one of the earlier modules.

And then the final aspect is the actual execution, the planning the execution of here's the action I'm going to be taking, OK? One of the questions that the Dr. Tarvydas asks is take a review of decision process and consider countermeasures for possible barriers. In other words, the way I would phrase that is simply say, like, what could possibly go wrong, OK?

I think we've all had situations where we're well-intentioned, well-meaning, trying to come up with good, ethical decisions, and maybe we didn't possibly think about well, what could go wrong? Is there any possible way this could all blow up in our face? And think about, anticipate what could go wrong. And then maybe we need to rethink that. Maybe we need to rethink the action we're going to take.

And then finally, which is consistent what I said earlier, is you're documenting this whole process. Because later on, if there's some question about what was done, and in particular, if there's any-- which fortunately doesn't happen a lot, but when it does happen, it could be pretty disconcerting, if there's any legal action that's going to be taken. So always documenting that within the case record and your supervisee file. Which is, again, another reason why you want to document.

One can always question, and fortunately, I haven't been-- well, I've been deposed in cases. Fortunately, I haven't had to testify in very many. But I can tell you, that's an anxious process.

But one can always question the action that one took, but in operating good faith judgment and documenting that, well, here's what we did, here's what we said, this is the outcome, da, da-da, da-da, you're in much safer and stronger grounds when you have that documentation if something happens and then you're called into question. Someone's well, did you supervise? Yeah, well, where are your notes? Well, it's all up here. Not a good place to start.

OK. Now before we kind of end our session on ethics, I wanted to get maybe some practical considerations that we haven't really talked about that might be useful here. Now, first off, and I'm going to be-- while I'm going to be focusing most of this as state VR counselors, again, I recognize-- and there are more and more of my former students who work in VR who not just get their CRC, but LPC, and a lot of them decide, after years of experience, that they want to do supervision. So as part of their LPC, Licensed Professional Counselor, so there's some questions for you that I would raise.

Well, the first one is, should you even supervise this person? It's gratifying when someone comes to you and said, hey, would you be my supervisor? And again, with state VR, you may not have that option. Like, you're the supervisor. This is part of the job duty. This is the way that it works.

But to some extent, this also applies to you even in that capacity because it may be-- remember I said, think about that situation where maybe you work with a college, your buddy for 10, 15 years. Now you're the supervisor. Maybe you shouldn't be the person to supervise this person. Maybe if there's another supervisor in your district office, they should supervise, and maybe you should supervise someone else.

Another thing is, and I have some specifics, but just as a general introduction, what do you know about this person? What do you know about this supervisee? And make sure that, again, if you're doing this more as a consulting basis, you find this information out before you simply say, oh, yeah, yeah, I'll do that. And then the other thing and that we'll talk about is, well, how do you document our work together? So whether you're in state VR or you do this in private practice or whatever, I want to suggest your framework that you can use in documenting that work.

So should I supervise the person? Well, again, state VR, 99% of the time, this is part of your job duty. So the only question is, maybe there might be some issues that might be better if I don't supervise this person and assign it to someone else.

But also think about, again, it's gratifying, in particular if it's, like, your first time and people ask you to supervise, or you got promoted. Think a little bit about your own motivation for wanting to do this. I'll be honest. Well, I try to be honest. But frankly, I'll just say a lot of counselors I know who are experienced, there's no way they want to be a supervisor.

Maybe some of you who are in the audience are kind of thinking, yeah, that applied to me, but here I am. So you have to think a little bit about your own motivation for wanting to be a supervisor. Maybe some of you are saying, yeah, there are times where you're kind of like, geez, should I have done this? But the fact of the matter is you're here now and hopefully getting some training and hopefully some useful information for you.

Before you're also taking on another person, think about the capacity. Like, how many supervisees can you reasonably accommodate? We talked about doing individual supervision. I provided you a framework in doing that. I also provided you in an earlier module group

supervision, which is a model that, again, as I indicated, is not used as much, but clearly I think is a wonderful tool.

So do you have the capacity to take this person on? So think about the people you already supervise, your availability. Do you have the time to do that?

Also, competence. You may be competent as a VR counselor, but maybe in your particular area, sometimes what happens with larger offices, they'll have specialized caseloads, and maybe your caseload was mental health or transition, but now, you may be working in a smaller office, and you have the occasional person with severe sensory impairment. Well, is that something that, geez, I know something about, or I could find out, I can access? So you have to ask yourself about that and think about your own prior supervision experience.

So the meta message here is, so if you're asked to or if you're going to do any consulting, before you just kind of jump in and say yes, I'll do this, think about some of these questions. And for you, that is a state VR counselor supervisor where that's obviously a part of your job to the extent that it impacts your work and your setting, think about, again, like, should I be taking on this particular person? Are there some other options?

So what do you need to know about a supervisee? What are some questions and things? Well, this material was developed from an author which is Aasheim in the citations at the end of this module. But some things that you want to look at is, well, some are pretty obvious.

Contact information. We'll talk about a contract in just a bit. But the development of that. Again, this is if you do any private consultation, but what's the job description so that you understand that, the nature of the work that they do. Does the person have-- does the supervisee have malpractice insurance?

Getting their resume. I'll share a contact PDF professional disclosure form that you could use. An informed consent so they understand what are the parameters of supervision. Any information with respect to their licensure. Having the code of ethics attached with that.

Any prior assessments of supervisee's work. So if they worked with people before and they present to you, here are areas of strength, here are things I need to work on, this is what I'd like to try to work on in supervision gives you kind of a context on where we start. How attendance, and is that going to be documented?

And then compensation. You know, again, and I'm talking about here is if you're working as a state VR counselor doing outside consultation work, if you have what's your fee schedule. And then your actual session notes.

So now, let's get to something, regardless whether you want to do this as a consultant or just part of your nature, part of your work as a state VR counselor supervisor. I said to you earlier that my experience has been that most supervisors do not document. There was a research study by a colleague of mine, Jared Shultz, a number of years ago. If memory serves me

correctly, I think about 30% of his supervisors actually have written documentation of their notes. So I'm encouraging all of you strongly to document every one of your supervision sessions.

Again, they don't have to be-- you don't have to write book reports here. A paragraph or two. I usually, when I was doing supervision, my rule of thumb was 10 minutes. Whatever I had to say, if I couldn't say it in 10 minutes, then I was going overboard.

So in documenting your notes, when it happened, the session date. What supervision? Was that individual? Was it group?

How long did it last? One hour, 15 minutes, two hours? Were there any risk management concerns? And here, what I'm talking about here, is there an issue that came up that may be that typically, when these do happen, if you work with people who are mental health crises and there's concern in terms of lethality, suicide, or hurting someone else, what's the relevant client treatment or diagnostic information?

What did you tell the supervisor? Here's what we talked about. Here's what I suggested. Here's what we did.

What happened in that session? Are there particular skill or confidence areas that were addressed in your supervision? Maybe your supervision focused on basically listening skills. Maybe your supervision focused on positive confrontation with your client. Maybe your supervision focused on discussions that the client had with an employer. Whatever the content of it was.

Did you provide any homework or say to the supervisee, here's what I want you do. I want you-- I gave you this article or this book chapter or contact. Call this person. Was there any assignment you indicated to the supervisee? Any notes to yourself?

Did the person show up, cancel? Did they miss the appointment? Anything there that-- and again, it seems like a lot, but in reality, my experience is you should be able to write this within 10 minutes. If you're doing more than 10 minutes, you're probably going a little overboard with that. And the way that I like to indicate whether you wrote a good note, and I think is in one of our next slides, that if you were absent tomorrow and something happened, could another supervisor look at your note and say, yeah, I know what you did. I know what the issues were.

So as I write here in this slide, bottom line questions for supervisory notes. If someone unfamiliar with the session, after reading your notes, could they understand what was discussed, and do they know what their plan is for the next session? What'd you talk about? What's the plan? If the answer is like, OK, I got that, you wrote a good supervision note.

If you notice, on the bottom of this slide and at the end of the slide presentation, there'll be a way that you'll be able to click to get access to this PDF. It's a professional disclosure form. I like

this example because it's specifically one developed for people who work in the public sector rehab. And so everything that I have in this slide actually is contained in that PDF.

But just for the benefit of our presentation, that disclosure statement will include your name, your contact information, your qualifications, so your educational years of experience, your background, and/or your orientation. Maybe there's a particular style. Maybe you perceive yourself as person-centered. Maybe you describe yourself as more of a motivational interview supervisor.

Maybe there's some context that you want your supervisor to understand, this is the way that I work. This is how I interact, and this is my orientation when I'm working with counselors. Issue a statement about confidentiality. Who has access? What happens if you're not available? Who the person should be seeing.

What happens if a counselor has a complaint or wants to register some kind of complaint? Again, this is more actually when you do some kind of consulting, but it also extends into state VR. And then the administrative considerations. How often are we going to meet in supervision? When is it going to occur?

If you're doing it privately for consultation, what's the fee that you're charging? When do you want payment? Those kinds of things. All of this basically needs to be kind of spelled out.

So all right. So we've devoted our time to the ethical aspects. Let's spend the remaining time, a few minutes, just on some basic legal aspects. There's a legal term, and I think I actually referred to this in one of the earlier module, respondeat superior, which means let the master answer, OK? What that means is-- that Latin term, what that means is that you, as a supervisor, are legally responsible for the actions of your supervisees within the context of their employment.

So when you-- remember when we were talking about supervisory styles, and one of those was the laissez-faire, hands-off kind of approach? Well, that doesn't mean that you're no longer legally responsible just because you've made the decision, well, I'll let my counselors kind of do whatever they want. If they need it, probably come talk to me. No. You're legally responsible for the actions that they take. And so you need to find out what's going on. All right?

So monitoring, as I've capitalized that, is absolutely required part of clinical supervision. You have to know what's going on. You got to know what's going on with your counselors, OK?

And if there's anything that does go wrong, the fundamental question that's going to be asked, as Koocher talked about in their paper, what did the supervisor know or should have known regarding the supervisee's skill level and client needs of the client? Excuse me. The clinical needs of the client. What did the supervisor know or should have known regarding the supervisee's skill level and clinical needs of the client?

So the only way that you can find that out is you've got to be involved. You have to know what's going on with your counselors, and in turn, what the work that they're doing with their clients. So are you making good faith effort? All right?

I mean, clearly, we understand that each one of your counselors, you have five counselors who in turn have 150 clients, is it reasonable to expect that you're going to know every single thing with all their clients? No, it's not. At the same token, though, what good faith efforts are you making in doing group supervision or individual supervision to make sure that your clients are providing good, ethical rehab counseling and casework?

So if there are problems down the road, it's going to look at much differently if, yeah, I have ongoing supervision. Yes, we did not talk about that specific client, but my counselor knows if there are issues they've got to bring up, they have that option to do that. That's a lot different. We had group supervision.

That's a lot different than, well, we don't do group supervision. I don't really check in with my counselors. You see? I mean, one is, like, hey, I'm making good faith efforts to try to monitor within the limits and the confinement that I operate with and the resources that I have available versus I'm completely hands-off.

Now, as a supervisor, and according to law, is that there are liability concerns, all right? Now, there's what's called direct and indirect liability that's caused to clients or supervisees. So direct liability refers to when your supervisee, the counselor, carries out some kind of action that you suggested as a supervisor but unfortunately caused harm to the client.

Maybe you told your counselor that I don't think you-- I don't think you need to refer them for psychiatric evaluation. I'm feeling like they're pretty stable. And then come to find out, the person attempted suicide. And so as a result of what you told the counselor, there's direct liability. You were the one that said that to the counselor.

While that can happen, my experience is almost, like, 90% the other one, and that's indirect, where the supervisee carries out an action that wasn't suggested or even known by you, OK? So in both instances, simply because maybe a counselor did something but you didn't know about, that doesn't mean that you can't be liable, OK? And again, just to be-- obviously, no, yeah, I'm not an attorney, clearly. But what I'm saying to you, based on my understanding of the literature, courts look differently from supervisors who make the legal term good faith effort in the conduct of the work versus ones who there's no involvement, there's no follow-up, there's no monitoring, or it's extremely minimal, OK?

Really important, and I'm sure all of you remember this in your graduate training, and if not, I'll refresh your memory, is the duty to warn. And this is where the supervisor has a responsibility to advise the supervisee conditions which are appropriate to warn an intended victim. And that's based on the 1976 Tarasoff case, which I won't get into, but basically, the issue is when you know, if a client indicates to your counselor that someone's going to hit a harm or her or they know someone else who's going to be harmed, injured in some way, and the counselor

believes that wow, that that's going to-- that is a strong possibility, you, as the supervisor, have to educate your counselor supervisee, what are their legal requirements, the conditions in which they have to break that confidentiality, and they have a duty to warn a possible victim?

And again, I'm not going to get time to get into the complexity of this case. If you're interested, I know if you just simply Google Tarasoff case, there's just hundreds of articles that have been talked about with that case. For the purposes of today, you just have to realize, as a supervisor, you have the responsibility to advise your counselors about when they have a duty to warn.

Confidentiality. Supervisees have the right to confidentiality and privacy, and that can be broken under a number of conditions and those being as indicated on this slide. One, if it's mandated by court. If the client is at risk of suicide. If the client's someone who's 18 years younger and also a crime victim. If the client initiates malpractice.

If the client expresses intent to commit a crime. If the supervisee's or counselor's mental health is being questioned, or as part of a civil action that's going on, and/or if the client requires hospitalization. So under these circumstances, your supervisees have the right-- they have the right to privacy and confidentiality. Under these conditions, that right can be violated, OK?

OK. So finishing up here, there's a lot that we covered today. And I guess the thing that I would ask you to do is just think about it. Maybe you could just jot down one, two, or three things. How does the information that we presented to you today, how might that approach-- how might that affect how you approach supervision?

Like, OK, so maybe there's one or two things that I took from this, like, so tomorrow, I'm going to be doing this a little bit different. I also want you to think a little bit about, well, was there anything that kind of resonated with you or maybe didn't resonate with you? And particularly in the things where it didn't resonate, think about, like I said, what's the struggle point with that? Why is it, nah, I don't know about that? What's that about?

And I would invite you to talk about this with your colleagues, other supervisors you work with. And maybe as a starting point, you might engage in some conversation with them about maybe some things that they struggle with as supervisors and perhaps might establish either in a informal or maybe even a formal way where you work a little bit closer as peers to get some input.

If that's not enough for you, I've got a few other things that maybe you might want to look at. Using the information on slide number 24, if you compare the headings that you currently use on case notes, what do you write in your case notes? Are there some things that might be missing in your case notes that are on that slide? Think about maybe, how can I make this a little bit more purposeful, more useful?

And again, try to write these in, like, 10 minutes. Again, we don't want full narrative book reports, but something that establishes here's what we did, and here's what we're going to do. Here is what we plan.

If you don't have a written supervision disclosure statement, there's a link below, and there'll be a slide where you'll be able to click that one. It'll take you directly to that. Maybe that's something you might want to use as an example or as a starting point for your own work.

And then if that's not enough, we've got some really good reference citations for you on the next couple slides that go into much detail and amplify some of the points that I talked about on ethical considerations, so you can download one of those articles, maybe even bring it into a supervision session with a college. Here's something. Talk about that. Sometimes that can really be useful because it gives you kind of a structure in which to begin.

And these are the references I was talking about. Some include chapters, some are books, some are research articles. So there's a couple that I've written as well as other folks. So OK. That brings us to a conclusion, and I want to thank each of you for taking time to meet with us today and participate in this training. I recognize the important commitment that you're making.

If you have suggestions for other training modules that you think that would be useful as part of clinical supervision, please share those with John. And if our paths cross again, that would be great. I look forward to working with you, and I wish each of you the best of luck as you pursue good, ethical clinical supervision. Take care.